

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

## SECOND REGULAR SESSION - 1990

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Legislative Document

No. 2365

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S.P. 934

In Senate, February 26, 1990

Reported by Senator BALDACCI of Penobscot for the Committee on Business Legislation pursuant to Resolve 1989, chapter 39.

Reference to the Committee on Business Legislation suggested and ordered printed pursuant to Joint Rule 18.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

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### STATE OF MAINE

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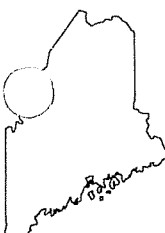
IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY

---

An Act to Provide for the Licensing and Certification of Real Estate Appraisers  
and to Create a Board of Real Estate Appraisers.

---

(EMERGENCY)



Emergency preamble. Whereas, Acts of the Legislature do not  
become effective until 90 days after adjournment unless enacted  
as emergencies; and

Whereas, billions of dollars in loans that are secured by  
real estate are advanced every year to Maine consumers; and

Whereas, there are no uniform guidelines on how the  
appraised values or the qualifications of the individual  
conducting the appraisal are established; and

Whereas, consumers are occasionally swept up with enthusiasm  
over what may be an unrealistically inflated real estate market  
only to find that the resale value of their property is  
substantially lower in some future period; and

Whereas, Title XI of the federal Financial Institutions  
Reform, Recovery, and Enforcement Act of 1989, Public Law 101-73,  
requires that, after July 1, 1991, all real estate appraisals in  
connection with federally related transactions must be performed  
by appraisers certified or licensed by the State; and

Whereas, the State must establish a process for licensing  
real estate appraisers in order to assure that uniform, competent  
guidelines are established for the rendering of real estate  
appraisals and to fulfill the federal mandate; and

Whereas, in the judgment of the Legislature, these facts  
create an emergency within the meaning of the Constitution of  
Maine and require the following legislation as immediately  
necessary for the preservation of the public peace, health and  
safety; now, therefore,

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 5 MRSA §12004-A, sub-§9-B is enacted to read:**

9-B. Board of Real \$35/Day 32 MRSA §13967  
Estate Appraisers

**Sec. 2. 10 MRSA §8001**, as repealed and replaced by PL 1989,  
c. 450, §4; c. 465, §§2 and 5; and c. 502, Pt. A, §31, is  
repealed and the following enacted in its place:

**§8001. Department; organization**

There is created and established the Department of  
Professional and Financial Regulation, in this chapter referred  
to as the "department," to regulate financial institutions,  
insurance companies, commercial sports, grantors of consumer  
credit and to license and regulate professions and occupations.

2        The department is composed of the following bureaus, boards and  
3        commissions:

4                1. Bureau of Banking. Banking, Bureau of;

6                2. Bureau of Consumer Credit Protection. Consumer Credit  
7        Protection, Bureau of;

8                3. Bureau of Insurance. Insurance, Bureau of;

10               4. Maine Athletic Commission. Athletic Commission, Maine;

12               5. Maine State Pilotage Commission. Pilotage Commission,  
14        Maine State;

16               6. Real Estate Commission. Real Estate Commission;

18               7. Arborist Examining Board. Arborist Examining Board;

20               8. Board of Licensing of Auctioneers. Auctioneers, Board  
22        of Licensing of;

24               9. State Board of Barbers. Barbers, State Board of;

26               10. Board of Commercial Driver Education. Commercial  
27        Driver Education, Board of;

28               11. Board of Registration of Dietetic Practice. Dietetic  
30        Practice, Board of Registration of;

32               12. Electricians' Examining Board. Electricians' Examining  
33        Board;

34               13. State Board of Registration for Professional  
36        Foresters. Foresters, State Board of Registration for  
37        Professional;

38               14. State Board of Funeral Service. Funeral Service, State  
39        Board of;

42               15. State Board of Certification for Geologists and Soil  
43        Scientists. Geologists and Soil Scientists, State Board of  
44        Certification for;

46               16. Board of Hearing Aid Dealers and Fitters. Hearing Aid  
47        Dealers and Fitters, Board of;

48               17. Manufactured Housing Board. Manufactured Housing Board;

50               18. Nursing Home Administrators Licensing Board. Nursing  
51        Home Administrators Licensing Board;

- 2            19. Board of Occupational Therapy Practice. Occupational  
              Therapy Practice, Board of;
- 4            20. Oil and Solid Fuel Board. Oil and Solid Fuel Board;
- 6            21. Board of Examiners in Physical Therapy. Physical  
              Therapy, Board of Examiners in;
- 8            22. Plumbers' Examining Board. Plumbers' Examining Board;
- 10           23. State Board of Examiners of Psychologists.  
              Psychologists, State Board of Examiners of;
- 12           24. Radiologic Technology Board of Examiners. Radiologic  
              Technology Board of Examiners;
- 14           25. Board of Respiratory Care Practitioners. Respiratory  
              Care Practitioners, Board of;
- 16           26. State Board of Social Worker Registration. Social  
              Worker Registration, State Board of;
- 18           27. Board of Examiners on Speech Pathology and Audiology.  
              Speech Pathology and Audiology, Board of Examiners on;
- 20           28. Board of Registration of Substance Abuse Counselors.  
              Substance Abuse Counselors, Board of Registration of;
- 22           29. State Board of Veterinary Medicine. Veterinary  
              Medicine, State Board of;
- 24           30. Acupuncture Licensing Board. Acupuncture Licensing  
              Board;
- 26           31. Maine State Pharmacy Commission. Pharmacy Commission,  
              Maine State;
- 28           32. Board of Licensure for Professional Land Surveyors.  
              Licensure for Professional Land Surveyors, Board of;
- 30           33. Board of Chiropractic Examination and Registration.  
              Chiropractic Examination and Registration, Board of;
- 32           34. Board of Licensure of Railroad Personnel. Licensure of  
              Railroad Personnel, Board of;
- 34           35. Board of Counseling Professionals Licensure.  
              Counseling Professionals Licensure, Board of; and
- 36           36. Board of Real Estate Appraisers. Real Estate  
              Appraisers, Board of.

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Sec. 3. 32 MRSA c. 123 is enacted to read:

CHAPTER 123

REAL ESTATE APPRAISAL LICENSING AND CERTIFICATION

§13961. Short title

This chapter may be known and cited as the "Real Estate Appraisal Licensing and Certification Act."

§13962. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Appraisal. "Appraisal" means an analysis, opinion or conclusion prepared by a real estate appraiser relating to the nature, quality, value or utility of specified interests in, or aspects of, identified real estate or identified real property.

2. Appraisal foundation. "Appraisal foundation" means the appraisal foundation incorporated as an Illinois nonprofit corporation on November 30, 1987 and recognized under the federal Financial Institutions Reform, Recovery, and Enforcement Act of 1989 as the organization that establishes the uniform standards of professional appraisal practice.

3. Appraisal report. "Appraisal report" means any communication, written or oral, of an appraisal.

4. Board. "Board" means the Board of Real Estate Appraisers.

5. Certified appraisal report. "Certified appraisal report" means a written or oral appraisal report that is certified as such by a state-certified real estate appraiser.

6. Commissioner. "Commissioner" means the Commissioner of Professional and Financial Regulation.

7. Department. "Department" means the Department of Professional and Financial Regulation.

8. Licensed real estate appraiser. "Licensed real estate appraiser" means a person who holds a current, valid real estate appraiser license issued under the provisions of this Act.

9. Real estate. "Real estate" means an identified parcel or tract of land, including improvements, if any.

2 10. Real estate appraisal activity. "Real estate appraisal  
activity" means the act or process of making an appraisal of real  
estate or real property and preparing a report.

4  
6 11. Real estate appraiser. "Real estate appraiser" means a  
person who engages in real estate appraisal activity for a fee or  
other valuable consideration.

8  
10 12. Real property. "Real property" means one or more  
defined interests, benefits or rights inherent in the ownership  
of real estate.

12  
14 13. State-certified general real estate appraiser. "State-  
certified general real estate appraiser" means a licensed real  
estate appraiser who holds a current, valid certification as an  
appraiser of all types of real estate or real property as  
provided by this Act.

18  
20 14. State-certified residential real estate appraiser.  
"State-certified residential real estate appraiser" means a  
licensed real estate appraiser who holds a current, valid  
certification as an appraiser of residential real estate or real  
property of one to 4 units and up to 12 units when a net income  
capitalization analysis is not required by the terms of the  
assignment, as provided by this Act.

26  
28 15. Uniform standards of professional appraisal practice.  
"Uniform standards of professional appraisal practice" means  
those standards promulgated by the appraisal foundation.

30 **§13963. Exceptions to appraisal activity**

32  
34 This Act does not apply to a real estate licensee licensed  
by this State who, in the ordinary course of business, gives an  
opinion to a potential seller or 3rd party as to the recommended  
market price of real estate or an opinion to a potential  
purchaser or 3rd party as the recommended purchase price of real  
estate; provided that this opinion as to the market price or the  
purchase price may not be referred to as an appraisal and no fee  
is charged for such service.

40  
42 **§13964. License required**

44 Except as provided in section 13963, it is unlawful for a  
person to prepare an appraisal or an appraisal report relating to  
real estate or real property in this State without first  
obtaining a real estate appraisal license as provided in this  
Act. This section does not apply to individuals who do not  
render significant professional assistance in arriving at a real  
estate appraisal analysis, opinion or conclusion. Nothing in  
this Act prohibits any person who is licensed to practice in this

2 State under any other law from engaging in the practice for which  
3 that person is licensed.

4 **§13965. Civil actions**

6 No person may bring or maintain any action in the courts of  
7 this State for the collection of compensation for the performance  
8 of real estate appraisal services, without first proving that the  
9 person was properly licensed by the board at the time the cause  
10 of action arose.

12 **§13966. Violation; injunction**

14 Any person who violates this Act commits a Class E crime.  
15 The State may bring an action in Superior Court to enjoin any  
16 person from violating this Act, regardless of whether proceedings  
17 have been or may be instituted in the Administrative Court or  
18 whether criminal proceedings have been or may be instituted.

20 **§13967. Board of Real Estate Appraisers; establishment**

22 1. Establishment. The Board of Real Estate Appraisers  
23 within the Department of Professional and Financial Regulation as  
24 established by Title 5, section 12004-A, subsection 9-B, shall  
25 carry out the purposes of this Act.

26 2. Members. The board consists of 5 members appointed by  
27 the Governor. Each member must be a citizen of the United States  
28 and a resident of this State. The composition of the board  
29 consists of one representative of a mortgage lending  
30 organization, one public member and 3 members who specialize in  
31 appraisal work, including at least one residential and one  
32 commercial real estate appraiser. After July 1, 1993, the  
33 appraiser positions must be filled by a licensed real estate  
34 appraiser, a state-certified residential appraiser and a state-  
35 certified general appraiser.

36 3. Geographic distribution. The Governor shall, in making  
37 appointments, consider the desirability of having broad  
38 geographic distribution.

39 4. Timetable. The Governor shall make initial appointments  
40 within 30 days of enactment of this Act. The initial appointees,  
41 with the exception of the representatives of the mortgage lending  
42 organization and general public, must be licensed in accordance  
43 with this Act on or before July 1, 1991. The board shall elect a  
44 chair and secretary at its first meeting of each year, provided  
45 that no person may serve as chair for more than 3 years. The  
46 commissioner shall call the first meeting of the board which must  
47 take place within 30 days of the completion of the appointments  
48 of the initial members.



2       5. Terms of office. Of the first board members, the  
Governor shall appoint one for a term of one year; one for 2  
4       years; and 3 for 3 years. Their successors must be appointed for  
terms of 3 years each, except that any person chosen to fill a  
6       vacancy must be appointed only for the unexpired term of the  
board member to be succeeded. Upon the expiration of the term of  
8       office, a board member shall continue to serve until a successor  
has been appointed and qualified. A person may not be appointed  
for more than 2 consecutive terms.

10  
12       6. Removal. The Governor may remove any members of the  
board for cause.

14       7. Compensation. Members of the board are entitled to  
compensation according to the provisions of Title 5, chapter 379,  
16       except that expenses may not exceed the fees collected by the  
board. If the fees collected under this Act are insufficient to  
18       pay the expenses provided by this section, the board members are  
entitled to a pro rata payment in any years in which those fees  
20       are insufficient.

22       8. Meetings; quorum. The board shall hold at least 4  
24       regular meetings each year. Additional meetings may be held upon  
the call of the chair or upon the written request of 2 board  
26       members. A majority of the members of the board constitutes a  
quorum for the transaction of business under this Act.

28       9. Receipts and expenses. Money received must be used for  
30       the expenses of administering the provisions of this Act, which  
may include, but are not limited to, the costs of conducting  
32       investigations and of taking testimony and procuring the  
attendance of witnesses before the board or its committees; all  
34       legal proceedings taken under this Act for the enforcement of  
this Act; and education programs for the benefit of the public  
36       and licensees and their employees. The aggregate of payments  
provided for by this Act is appropriated for the use of the  
38       board. Any balance of these funds may not lapse but must be  
carried forward to be expended for the same purposes in  
40       succeeding fiscal years.

42       §13968. Powers and duties of board

44       The board has the following powers and duties in addition to  
all other powers and duties otherwise set forth in this Act.

46       1. Standards. The board shall administer and enforce this  
Act, set forth education and examination standards and evaluate  
48       the qualifications for licensure and certification.

50       2. Rules. The board may adopt, in accordance with the  
Maine Administrative Procedure Act, rules necessary to carry out  
52       the purposes of this Act.

2           3. Complaints. The board shall investigate or cause to be  
4           investigated all complaints made on its own motion or on written  
6           complaint filed with the board and all cases of noncompliance  
            with or violation of this Act or any rules adopted by the board.

8           4. Records. The board shall keep records and minutes  
            necessary to the ordinary dispatch of its functions.

10          5. Reports. The board shall submit to the commissioner its  
12          annual report of its operations for the preceding fiscal year no  
            later than August 1 of each year.

14          6. Contracts. The board may enter into contracts to carry  
16          out its responsibilities under this Act.

18          7. Budget. The board shall submit to the commissioner its  
20          budgetary requirements in the manner provided in Title 5, section  
            1665.

22          8. Register. The department shall make available, at cost,  
24          a register containing the names of all individuals licensed or  
            certified by the board.

26          9. Employees. The commissioner may appoint, subject to the  
28          Civil Service Law, such employees as may be necessary to carry  
30          out this Act. Any person so employed is in the department and  
            under the administrative and supervisory direction of the  
            commissioner.

32          10. Officers. The board shall elect from among its members  
34          a chair, a secretary and other officers as it determines  
            necessary. The secretary shall keep records and minutes of all  
            activities and meetings.

36          11. Code of ethics. The board shall adopt a code of ethics  
38          generally in keeping with standards established by the national  
40          professional associations concerned with the areas of board  
            responsibility.

42          12. Hearings. The board shall conduct hearings in  
44          conformity with the Maine Administrative Procedure Act to assist  
46          with investigations and to determine whether grounds exist for  
            suspension, revocation or denial of a license, or as otherwise  
            determined necessary to the fulfillment of its responsibilities  
            under this Act.

48         **§13969. Licensing**

50           1. Licensing required. Effective January 1, 1991, a  
            person, unless specifically exempted by this Act, may not engage

2 in real estate appraisal activity unless licensed in accordance  
3 with this Act.

4 2. Individual licensing. Only an individual may be  
5 licensed under this Act.

6 **§13970. Exception; experienced appraisers**

7  
8 1. Experience required. For purposes of implementing this  
9 Act, an individual who demonstrates experience as a real estate  
10 appraiser for 2 of the 5 years immediately preceding the  
11 effective date of this section, may be licensed without  
12 satisfying the educational and examination requirements for  
13 licensure provided by this Act. Any such applicant must satisfy  
14 all personal qualifications for licensure.

15  
16 2. Deadline. The time period for applicants to submit  
17 applications to qualify under this section expires on July 1,  
18 1991.

19  
20 3. Evidence of study. Any licensee who is initially  
21 licensed under this section must, in addition to the continuing  
22 education requirement for a first renewal, submit evidence of  
23 satisfactory completion of a minimum of 50 classroom hours in  
24 courses of study approved by the board that relate to real estate  
25 appraisal. The required 50 classroom hours must include no fewer  
26 than 35 classroom hours of study relating to the basic principles  
27 of real estate appraising and no fewer than 15 classroom hours of  
28 study specifically relating to the uniform standards of  
29 professional appraisal practice.

30  
31 4. Course requirements. The course of study required to  
32 satisfy the minimum classroom hours specified in subsection 3  
33 must be:

34  
35 A. Conducted by an accredited university, college,  
36 technical college or junior college; or

37  
38 B. Approved by the appraisal foundation.

39  
40 **§13971. Scope of license**

41  
42 A licensed real estate appraiser may appraise all types of  
43 real estate and real property in this State, including, but not  
44 limited to, commercial, industrial, residential and special  
45 purpose.

46  
47 **§13972. Requirements for licensure**

48  
49 1. Application. Applicants shall submit a properly  
50 completed application on forms furnished by the board, together  
51 with the prescribed fee.

2           2. Age. The applicant must be at least 18 years of age at  
4           the time of application.

6           3. Residence. The applicant must provide evidence of the  
8           applicant's legal residence.

10           4. High school. The applicant must be a high school  
12           graduate or hold an equivalency certificate.

14           5. Reputation. The applicant must have a reputation for  
16           honesty, truthfulness, fair dealing and competency.

18           6. Educational requirement. The applicant must have  
20           satisfactorily completed a minimum of 50 classroom hours in  
22           courses of study approved by the board which relate to real  
24           estate appraisal. The required 50 classroom hours must include  
26           no fewer than 35 classroom hours of study relating to the basic  
28           principles of real estate appraising and no fewer than 15  
30           classroom hours of study specifically relating to the uniform  
32           standards of professional appraisal practice.

34           A. The courses of study required to satisfy these minimum  
36           classroom hours must be:

38                   (1) Conducted by an accredited university, college,  
40                   technical college, or junior college; or

42                   (2) Approved by the appraisal foundation.

44           7. Examination. All applications are required to pass a  
46           written examination in subjects the board considers necessary to  
48           determine the fitness of the applicant to practice. The board  
50           shall establish the passing score for all examinations.  
52           Examinations are held at such times as the board determines  
54           necessary. To qualify for examination an applicant must submit  
56           evidence of compliance with the educational requirement set forth  
58           in subsection 6.

60           8. Other. The applicant must comply with such other  
62           requirements as may be prescribed by the board from time to time.

64           §13973. License or certification denial

66                   A license may be denied to any applicant:

68                   1. Complete application. Who fails to submit a complete  
70                   application within 30 days after being notified of the materials  
72                   needed to complete the application;

74                   2. Proof that applicant is trustworthy. Who fails to  
76                   provide satisfactory proof that the applicant is trustworthy and

2 competent to conduct real estate appraisal activity in a manner  
3 to safeguard the interests of the public;

4 **3. Revocation of license.** Who has had any professional or  
5 occupational license revoked for disciplinary reasons or any  
6 application rejected for reasons relating to untrustworthiness  
7 within 3 years prior to the date of application; or

8 **4. Conviction of crime.** Subject to Title 5, chapter 341,  
9 who has been convicted of any Class A, B or C crime or any crime  
10 that bears on the practice of real estate appraising.

11 **§13974. Place of business**

12 Each licensee shall designate and maintain a principal place  
13 of business and shall conspicuously display the license therein.  
14 A nonresident licensee is not required to maintain a place of  
15 business in this State if the applicant maintains an active place  
16 of business in the state of domicile.

17 **§13975. Changes**

18 The applicant shall report, no later than 10 days after the  
19 change, any change of address or name or other material change in  
20 the conditions or qualifications set forth in the original  
21 application. Upon proper application and payment of the  
22 prescribed fee, the board records must be changed and a new  
23 license issued for the unexpired term of the current license, if  
24 appropriate.

25 **§13976. Standards of professional appraisal practice**

26 Each real estate appraiser licensed under this Act shall  
27 comply with generally accepted standards of professional  
28 appraisal practice and generally accepted ethical rules to be  
29 observed by a real estate appraiser. Generally accepted  
30 standards of professional appraisal practice are currently, at a  
31 minimum, those evidenced by uniform standards of professional  
32 appraisal practice.

33 **§13977. Nonresident licensure**

34 **1. Consent to service.** Each applicant for licensure and  
35 each applicant for certification under this Act who is not a  
36 resident of this State shall submit, with the application, an  
37 irrevocable consent that service of process on the applicant may  
38 be made by delivery of the process to the commissioner if, in an  
39 action against the applicant in a court of this State arising out  
40 of the applicant's activities as a real estate appraiser in this  
41 State, the plaintiff can not, in the exercise of due diligence,  
42 effect personal service upon the applicant.

2       2. Reciprocal licensing. If, in the determination of the  
4       board, another jurisdiction has substantially equivalent  
6       licensure laws for real estate appraisers, an applicant for  
8       licensure in this State who is licensed under the law of that  
10      other jurisdiction may obtain a license or be certified as a real  
12      estate appraiser in this State upon such terms and conditions as  
14      may be determined by the board, if the laws of that jurisdiction  
16      accord substantially equal reciprocal rights to a licensed or  
18      certified appraiser in good standing in this State and if  
20      disciplinary proceedings are not pending against the applicant in  
22      that other jurisdiction.

24      3. Nonresident qualifications. A nonresident of this State  
26      who has filed a consent to service application meeting the  
28      provisions of this section may obtain a license or be certified  
30      as a real estate appraiser in this State by complying with all of  
32      the provisions of this Act relating to the licensing or  
34      certification of real estate appraisers.

36      §13978. Temporary licensure

38      A nonresident of this State, who has filed a consent to  
40      service application meeting the provisions of section 13977, may  
42      obtain a temporary license to perform a contract relating to the  
44      appraisal of real estate or real property in this State. To  
46      qualify for the issuance of a temporary license, the applicant  
48      must:

50      1. Application. Submit an application on a form approved  
52      by the board;

54      2. Evidence of authorization. Submit evidence that the  
56      applicant is licensed or otherwise authorized to appraise real  
58      estate and real property in the applicant's state of domicile;

60      3. Contract copy. Submit a copy of the contract for  
62      appraisal services that requires the applicant to appraise real  
64      estate or real property in this State and certify that the  
66      contract is in full force and effect;

68      4. Disciplinary proceeding. Certify that disciplinary  
70      proceedings are not pending against the applicant in the  
72      applicant's state of domicile;

74      5. Fee. Pay an application fee in an amount established by  
76      the board; and

78      6. Other. Comply with such other requirements as may be  
80      established by the board.

82      No more than 2 temporary licenses may be granted to an  
84      individual in any 2-year period.

2        A temporary license issued under this section is expressly  
4        limited to a grant of authority to perform the appraisal work  
6        required by the contract for appraisal services that is submitted  
8        with the application for a temporary license. Each temporary  
10       license expires upon the completion of the appraisal work  
12       required by the contract for appraisal services or upon the  
14       expiration of a period of 6 months from the date of issuance,  
16       whichever occurs first. A temporary license may not be renewed.

18       **§13979. State-certified real estate appraisers**

20       The certification requirements as set by this Act are  
22       intended to satisfy the minimum requirements for certification  
24       established by the appraisal qualification board of the appraisal  
26       foundation.

28       **1. State-certified residential real estate appraiser. To**  
30       **qualify as a state-certified residential real estate appraiser,**  
32       **an applicant must:**

34       A. Hold a valid real estate appraiser license under this  
36       Act and demonstrate experience as a real estate appraiser  
38       for 2 of the 5 years immediately preceding application;

40       B. Satisfactorily complete a minimum of 85 classroom hours  
42       in courses of study approved by the board. To meet the 85  
44       classroom hour requirement, an applicant must successfully  
46       complete no fewer than 70 classroom hours in courses of  
48       study approved by the board that relate to real estate  
50       appraisal theory and practice, plus 15 classroom hours in  
52       courses of study approved by the board that relate  
       specifically to the uniform standards of professional  
       appraisal practice.

(1) The courses of study required to satisfy these  
       minimum classroom hours must be:

(a) Conducted by an accredited university,  
         college, technical college or junior college; or

(b) Approved by the appraisal foundation;

C. Pass an examination administered by the board designed  
         to test an individual's knowledge of basic principles of  
         land economics, real estate appraising, the uniform  
         standards of professional appraisal practice and the ethical  
         rules to be observed by a real estate appraiser. To qualify  
         for examination, an applicant must submit evidence of  
         compliance with the experience and educational requirements  
         of this Act; and

2 D. Comply with such other requirements as may be prescribed  
3 by the board from time to time.

4 2. State-certified general appraiser. To qualify as a  
5 state-certified general appraiser, an applicant must:

6 A. Hold a valid real estate appraisal license under this  
7 Act and demonstrate experience as a real estate appraiser  
8 for 2 of the 5 years immediately preceding application;

9 B. Satisfactorily complete no fewer than 165 classroom  
10 hours in courses of study approved by the board. To meet  
11 the 165 classroom hour requirement, an applicant must  
12 successfully complete no fewer than 150 classroom hours in  
13 courses of study approved by the board that relate to real  
14 estate appraisal theory and practice, plus 15 classroom  
15 hours in course of study approved by the board that relate  
16 specifically to the uniform standards of professional  
17 appraisal practice.

18 (1) The courses of study required to satisfy these  
19 minimum classroom hours must be:

20 (a) Conducted by an accredited university,  
21 college, technical college or junior college; or

22 (b) Approved by the appraisal foundation;

23 C. Pass an examination administered by the board designed  
24 to test an individual's knowledge of basic principles of  
25 land economics, real estate appraising, the uniform  
26 standards of professional appraisal practice and the ethical  
27 rules to be observed by a real estate appraiser. To qualify  
28 for examination, an applicant must submit evidence of  
29 compliance with the experience and educational requirements  
30 of this Act; and

31 D. Comply with such other requirements as may be prescribed  
32 by the board from time to time.

33 **§13980. Fees**

34 1. Amount. Application and examination fees may be  
35 established by the board in amounts which are reasonable and  
36 necessary for their respective purposes. License fees may not  
37 exceed the following amounts:

38 A. For original and renewal fees for licensed appraisers,  
39 \$250 biennially; and

40 B. For original and renewal fees for certified appraisers,  
41 \$300 biennially.



2           2. Conversion. A licensed appraiser who applies and  
4           qualifies for certification as a residential or general appraiser  
          receives license status for any unexpired period remaining on the  
          term of the license upon payment of a \$50 fee.

6           **§13981. Terms of licenses**

8           1. Biennial renewal. Licenses expire biennially on  
10          December 31 or on such other date as the commissioner  
12          determines. Notice of expiration must be mailed to each  
14          licensee's last known address at least 30 days in advance of the  
          expiration of the license. The notice must include any requests  
          for information necessary for renewal.

16          Licenses may be renewed up to 90 days after the date of  
18          expiration upon payment of a late fee of \$50 in addition to the  
20          renewal fee. Any person who submits an application for renewal  
22          more than 90 days after the license renewal date is subject to  
24          all requirements governing new applicants under this Act, except  
          that the board may, giving due consideration to the protection of  
          the public, waive the education or examination requirements if  
          that renewal application is made within 2 years from the date of  
          that expiration.

26          2. Continuing education. As a prerequisite to renewal of a  
28          license, applicants must have completed 30 clock hours of  
30          continuing education within 2 years prior to the date of  
32          application in programs or courses approved by the board. For  
          purposes of this section, the board may establish, by rule, a  
          core educational requirement.

34          **§13982. Disciplinary action; grounds; procedure; complaints**

36          1. Grounds. The board may suspend, revoke or refuse to  
38          renew a license pursuant to Title 5, section 10004. In addition,  
40          the board may take any other action pursuant to Title 10, section  
          8003, subsection 5. The board's actions may be taken based on  
          any of the following grounds.

42           A. The licensee procures or attempts to procure licensure  
44           under this chapter by knowingly making a false statement,  
46           submitting false information or making a material  
          misrepresentation in an application filed with the board, or  
          procures or attempts to procure a license through fraud or  
          misrepresentation.

48           B. The licensee commits an act or omission in the practice  
50           of real estate appraising that constitutes dishonesty, fraud  
52           or misrepresentation with the intent to substantially  
          benefit the licensee or another person or with the intent to  
          substantially injure another person.

2 C. There is entry of a final civil or criminal judgment  
4 against a licensee on grounds of fraud, misrepresentation or  
deceit in the making of an appraisal of real estate.

6 D. Subject to Title 5, chapter 341, the licensee is  
8 convicted in any court of any Class A, B or C crime or a  
10 crime that is substantially related to the qualifications,  
12 functions or duties of a person developing real estate  
appraisals and communicating real estate appraisals to  
others.

14 E. The licensee pays a finder's fee or a referral fee to a  
16 person who does not have an appraiser license in this State  
in connection with an appraisal of real estate or real  
property in this State.

18 F. The licensee makes a false or misleading statement in  
20 that portion of a written appraisal report that deals with  
22 professional qualifications or in any testimony concerning  
professional qualifications.

24 G. The licensee violates this Act, or any rule promulgated  
under this Act.

26 H. The licensee accepts a fee for performing an independent  
28 appraisal service when, in fact, the fee is or was  
30 contingent upon the appraiser's reporting a predetermined  
32 analysis, opinion or conclusion, or is or was contingent  
upon the analysis, opinion, conclusion or valuation reached,  
or upon the consequences resulting from the appraisal  
assignment.

34 I. The licensee fails or refuses without good cause to  
36 exercise reasonable diligence in developing an appraisal,  
preparing an appraisal report or communicating an appraisal.

38 J. The licensee demonstrates negligence or incompetence in  
40 developing an appraisal, preparing an appraisal report or  
communicating an appraisal.

42 K. The licensee violates the confidential nature of  
44 individual, business or governmental records to which a  
46 licensee gained access through employment or engagement as  
an appraiser.

48 2. Procedure. Except as provided in Title 5, section  
50 10004, no license may be denied, suspended or revoked nor renewal  
52 refused for the reasons set forth in subsection 1, without prior  
written notice and opportunity for hearing on that denial,  
suspension or revocation. The burden of proof is on the board in  
any proceeding to suspend or revoke a license. No license may be

2 denied, suspended or revoked under this section except by  
3 majority vote of the board.

4 3. Complaints. Any person may file a complaint with the  
5 board seeking disciplinary action against the holder of a license  
6 issued by the board. Complaints must be in writing in a form  
7 prescribed by the board by rule. If the board determines that a  
8 complaint alleges facts that, if true, would require denial,  
9 revocation, suspension, nonrenewal of a license or other  
10 disciplinary action, the board shall conduct a hearing pursuant  
11 to the Maine Administrative Procedure Act. If the board  
12 establishes that a complaint does not state facts that warrant a  
13 hearing, the complaint may be dismissed. Persons making  
14 complaints must be advised in writing of each formal decision  
15 made by the board regarding that complaint.

16 Any individual whose license has been denied, suspended or  
17 revoked may apply to the board for licensure reinstatement one  
18 year after the date of the board's original action. A competency  
19 review must be a condition of reinstatement. The board shall  
20 determine the nature of this review.

21 The board shall conduct its proceedings in accordance with  
22 the provisions of Title 5, chapter 375, subchapter IV.

23 **§13983. Repeal**

24 This Act is repealed July 1, 2000.

25 **Sec. 4. Preauthorization review.** For purposes of the evaluation  
26 required by the Maine Revised Statutes, Title 5, section 12015,  
27 subsection 3, the results of the evaluation by the Joint Standing  
28 Committee on Business Legislation are that:

29 1. Billions of dollars in loans that are secured by real  
30 estate are advanced every year to Maine consumers for which there  
31 are no uniform guidelines on how the appraised values or the  
32 qualifications of the individual conducting the appraisal are  
33 established;

34 2. Consumers are occasionally swept up with enthusiasm over  
35 what may be an unrealistically inflated real estate market only  
36 to find that the resale value of their property is substantially  
37 lower in some future period;

38 3. Title XI of the federal Financial Institutions Reform,  
39 Recovery, and Enforcement Act of 1989, Public Law 101-73,  
40 requires that, after July 1, 1991, all real estate appraisals in  
41 connection with federally related transactions must be performed  
42 by appraisers certified or licensed by the State; and  
43

2 4. The State must establish a process for licensing real  
estate appraisers in order to assure that uniform, competent  
4 guidelines are established for the rendering of real estate  
appraisals and to fulfill the federal mandate.

6 **Sec. 5. Appropriation.** The following funds are appropriated  
from the Other Special Revenue funds to carry out the purposes of  
8 this Act.

10		1989-90	1990-91
12	<b>PROFESSIONAL AND FINANCIAL REGULATION,</b>		
14	<b>DEPARTMENT OF</b>		
	<b>Division of Licensing and Enforcement</b>		
16			
	Positions	(2)	(2)
18	Personal Services	\$26,000	\$52,000
	All Other	17,800	35,600
20	Capital Expenditures	10,000	5,000
22	Funds to be used to pay for		
24	start-up costs of the Board		
26	of Real Estate Appraisers		
	from the available dedicated		
28	revenue funds of the		
	Department of Professional		
30	and Financial Regulation.		
	The Board of Real Estate		
32	Appraisers shall reimburse		
	the Department of		
34	Professional and Financial		
	Regulation when sufficient		
	revenues are collected		
	through licensing fees.		
36			
38	<b>DEPARTMENT OF PROFESSIONAL AND</b>		
	<b>FINANCIAL REGULATION</b>		
	<b>TOTAL</b>	<u>\$53,800</u>	<u>\$92,600</u>

40 **Emergency clause.** In view of the emergency cited in the  
42 preamble, this Act takes effect approved

44

46 **STATEMENT OF FACT**

48 There are presently 239 financial institutions, credit  
unions and other supervised lenders operating in the State.  
50 These organizations have advanced over \$9 billion in loans  
secured by real estate during the past year. At this time, there  
52 are no uniform standards or qualifications for real estate

2 appraisals. The deterioration of the real estate market in  
several areas of the State over the past year highlights the  
4 critical need for credible and consistent appraisals. In June  
1989, the 114th Legislature established the Commission to Study  
6 Real Estate Appraiser Certification and Licensing. Since that  
time, the United States Congress passed the Federal Financial  
8 Institutions Reform, Recovery, and Enforcement Act (PL 101-73),  
which requires that, after July 1, 1991, all real estate  
10 appraisals in connection with federally related transactions must  
be performed by state-certified or licensed appraisers. This  
12 bill addresses state concerns regarding the licensing of real  
estate appraisers in a way that will also meet this federal  
mandate.

14  
16 This bill establishes the Board of Real Estate Appraisers  
within the Department of Professional and Financial Regulation  
and fixes the per diem allowance for board members.

18  
20 The bill establishes the Real Estate Appraisal Licensing and  
Certification Act, which requires mandatory licensing of any  
22 individual who engages in the performance of real estate  
appraising for a fee. Exempt from this Act are real estate  
24 licensees, licensed by the State who, in the ordinary course of  
business, give opinions to potential sellers or 3rd parties as to  
the recommended market price of real estate. Those individuals  
26 who are presently engaged in the business of real estate  
appraising would be grandfathered for 2 years, at which time all  
28 education and experience requirements must be met for licensing.  
The Act is repealed July 1, 2000.

30  
32 This bill provides for a temporary loan from available  
dedicated revenue funds of the Department of Professional and  
34 Financial Regulation to cover the start-up costs of the Board of  
Real Estate Appraisers.