

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND FOURTEENTH LEGISLATURE
FIRST SPECIAL SESSION

August 21, 1989 to August 22, 1989

and

SECOND REGULAR SESSION

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
July 14, 1990

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Company
Augusta, Maine
1990

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

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not know of the limitation established by subsection 2 and who violate this section shall return all money withheld in excess of that permitted under subsection 2 within 3 days of written or oral demand by the employee, or forfeit any claim to the overcompensation.

4. Application. This section is applied as follows.

A. An employer has the burden of proof, except that, if the overcompensation amounts to less than 15% of the correct net amount of the employee's compensation, the employer must prove by clear and convincing evidence that the employee knowingly accepted the overcompensation.

B. If an employee knowingly accepts the overcompensation, this section does not apply.

C. This section, except for the forfeiture provisions in subsection 3, does not limit or affect an employer's general civil remedies against an employee.

See title page for effective date.

CHAPTER 805

H.P. 1500 - L.D. 2077

An Act to Provide Warranties for Manufactured Housing Purchased from Out-of-state Dealers

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

Sec. 1. 10 MRSA §1401, as amended by PL 1973, c. 788, §42, is repealed and the following enacted in its place:

§1401. Scope

All new mobile homes sold by a dealer are covered by the warranty established by this chapter.

Sec. 2. 10 MRSA §1402, sub-§1, as enacted by PL 1973, c. 435, is repealed and the following enacted in its place:

1. Dealer. "Dealer" includes a person who sells a mobile home and is subject to the jurisdiction of this State under Title 14, section 704-A.

Sec. 3. 10 MRSA §1403, as enacted by PL 1973, c. 435, is repealed and the following enacted in its place:

§1403. Application

The warranty established by this chapter applies to:

1. Manufacturer. The manufacturer of the mobile home;

2. Dealer. The dealer who sells the mobile home to the buyer; and

3. Carrier; installer. A person who, in the ordinary course of business and under contract with, or as an employee or agent of, a dealer located in another state, transports a mobile home into the State or installs a mobile home transported into the State.

Sec. 4. Licensing out-of-state dealers. The Manufactured Housing Board shall study the feasibility of requiring any out-of-state dealer to obtain a license issued by the board prior to selling a mobile home to be transported into and installed in this State and imposing sanctions on a dealer who sells a mobile home without a license or fails to comply with the warranty provisions of the Maine Revised Statutes, Title 10, chapter 213. The board shall report its findings to the Joint Standing Committee on Legal Affairs no later than January 1, 1991.

See title page for effective date.

CHAPTER 806

S.P. 934 - L.D. 2365

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

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 legisla-

tion 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:

<u>9-B. Board of Real Estate Appraisers</u>	<u>§35/Day</u>	<u>32 MRSA §13967</u>
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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. The department is composed of the following bureaus, boards and commissions:

1. Bureau of Banking. Banking, Bureau of;
2. Bureau of Consumer Credit Protection. Consumer Credit Protection, Bureau of;
3. Bureau of Insurance. Insurance, Bureau of;
4. Maine Athletic Commission. Athletic Commission, Maine;
5. Maine State Pilotage Commission. Pilotage Commission, Maine State;
6. Real Estate Commission. Real Estate Commission;
7. Arborist Examining Board. Arborist Examining Board;
8. Board of Licensing of Auctioneers. Auctioneers, Board of Licensing of;
9. State Board of Barbers. Barbers, State Board of;
10. Board of Commercial Driver Education. Commercial Driver Education, Board of;
11. Board of Registration of Dietetic Practice. Dietetic Practice, Board of Registration of;
12. Electricians' Examining Board. Electricians' Examining Board;

13. State Board of Registration for Professional Foresters. Foresters, State Board of Registration for Professional;

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

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

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

17. Manufactured Housing Board. Manufactured Housing Board;

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

19. Board of Occupational Therapy Practice. Occupational Therapy Practice, Board of;

20. Oil and Solid Fuel Board. Oil and Solid Fuel Board;

21. Board of Examiners in Physical Therapy. Physical Therapy, Board of Examiners in;

22. Plumbers' Examining Board. Plumbers' Examining Board;

23. State Board of Examiners of Psychologists. Psychologists, State Board of Examiners of;

24. Radiologic Technology Board of Examiners. Radiologic Technology Board of Examiners;

25. Board of Respiratory Care Practitioners. Respiratory Care Practitioners, Board of;

26. State Board of Social Worker Registration. Social Worker Registration, State Board of;

27. Board of Examiners on Speech Pathology and Audiology. Speech Pathology and Audiology, Board of Examiners on;

28. Board of Registration of Substance Abuse Counselors. Substance Abuse Counselors, Board of Registration of;

29. State Board of Veterinary Medicine. Veterinary Medicine, State Board of;

30. Acupuncture Licensing Board. Acupuncture Licensing Board;

31. Maine State Pharmacy Commission. Pharmacy Commission, Maine State;

32. Board of Licensure for Professional Land Surveyors. Licensure for Professional Land Surveyors, Board of;

33. Board of Chiropractic Examination and Registration. Chiropractic Examination and Registration, Board of;

34. Board of Licensure of Railroad Personnel. Licensure of Railroad Personnel, Board of;

35. Board of Counseling Professionals Licensure. Counseling Professionals Licensure, Board of; and

36. Board of Real Estate Appraisers. Real Estate Appraisers, Board of.

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 written communication of an appraisal.

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

5. Certified appraisal report. "Certified appraisal report" means a written 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.

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.

11. Real estate appraiser. "Real estate appraiser" means a person who engages in real estate appraisal activity for a fee or other valuable consideration but does not include a salaried employee of a real estate owner who, in the regular course of employment, makes appraisals of the real estate of the employer or of real estate under consideration for purchase or exchange by the employer. "Real estate appraiser" includes review appraisers and appraisal administrators.

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

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.

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, or land related thereto, and up to 12 units, or land related thereto, when a net income capitalization analysis is not required by the terms of the assignment, as provided by this Act.

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

§13963. Exemption

This Act does not apply to appraisals or opinions of market value done by real estate licensees licensed by this State rendered for purposes other than for federally related transactions as defined in Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law 101-73, or in the federal Office of Management and Budget Circular A-129.

Any opinion or appraisal of market value rendered under this section must contain the following language in bold print in a prominent location:

"This opinion or appraisal was not prepared by a licensed or certified appraiser and may not be acceptable for use in transactions involving federal funds."

§13964. License required

Except as provided in section 13963, it is unlawful for a person to prepare, for a fee or other valuable considerations, 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 State under any other law from engaging in the practice for which that person is licensed.

§13965. Civil actions

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

§13966. Violation; injunction

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

§13967. Board of Real Estate Appraisers; establishment

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

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

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

4. Timetable. The Governor shall make initial appointments within 30 days of enactment of this Act. The initial appointees, with the exception of the repre-

sentatives of the mortgage lending organization and general public, must be licensed in accordance with this Act on or before July 1, 1991. The board shall elect a chair and secretary at its first meeting of each year, provided that no person may serve as chair for more than 3 years. The commissioner shall call the first meeting of the board which must take place within 30 days of the completion of the appointments of the initial members.

5. Terms of office. Of the first board members, the Governor shall appoint one for a term of one year; one for 2 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 vacancy must be appointed only for the unexpired term of the board member to be succeeded. Upon the expiration of the term of 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.

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

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

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

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

§13968. Powers and duties of board

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

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

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

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

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

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

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

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

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

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

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

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

12. Hearings. The board shall conduct hearings in conformity with the Maine Administrative Procedure Act to assist 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.

§13969. Licensing

1. Individual licensing. Only an individual may be licensed under this Act.

§13970. Transitional licensing

1. Experience required. For purposes of implementing this Act, an individual who demonstrates experience as a real estate appraiser for 2 of the 5 years immediately preceding the effective date of this section,

may be licensed without satisfying the educational and examination requirements for licensure provided by this Act. Any such applicant must satisfy all personal qualifications for licensure.

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

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

4. Course requirements. The courses of study required to satisfy the minimum classroom hours specified in subsection 3 must be approved by the board and be consistent with and equivalent to standards set by the appraisal foundation, whether these courses of study are conducted by an accredited university, college, technical college, junior college or other group.

§13971. Scope of license

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

§13972. Requirements for licensure

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

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

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

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

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

6. Educational requirement. The applicant must have satisfactorily completed a minimum of 50 classroom hours in courses of study approved by the board which relate to real estate appraisal. The required 50 classroom hours must include no fewer than 35 classroom hours of study relating to the basic principles of real estate appraising and no fewer than 15 classroom hours of study spe-

cifically relating to the uniform standards of professional appraisal practice.

A. The courses of study required to satisfy these minimum classroom hours must be approved by the board and be consistent with and equivalent to standards set by the appraisal foundation, whether these courses of study are conducted by an accredited university, college, technical college, junior college or other group.

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

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

§13973. License or certification denial

A license may be denied to any applicant:

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

2. Proof that applicant is trustworthy. Who fails to provide satisfactory proof that the applicant is trustworthy and competent to conduct real estate appraisal activity in a manner to safeguard the interests of the public;

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

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

§13974. Place of business

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

§13975. Changes

The applicant shall report, no later than 10 days after the change, any change of address or name or other material change in the conditions or qualifications set

forth in the original application. Upon proper application and payment of the prescribed fee, the board records must be changed and a new license issued for the unexpired term of the current license, if appropriate.

§13976. Standards of professional appraisal practice

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

§13977. Nonresident licensure

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

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

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

§13978. Temporary licensure

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

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

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

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

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

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

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

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

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

§13979. State-certified real estate appraisers

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

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

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

B. Satisfactorily complete a minimum of 85 classroom hours in courses of study approved by the board. To meet the 85 classroom hour requirement, an applicant must successfully complete no fewer than 70 classroom hours in courses of study approved by the board that relate to real estate appraisal theory and practice, plus 15 classroom hours in 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 approved by the board and be consistent with and equivalent to standards set by the appraisal foundation, whether these courses of study are conducted by an accredited university, college, technical college, junior college or other group;

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

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

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

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

B. Satisfactorily complete no fewer than 165 classroom hours in courses of study approved by the board. To meet the 165 classroom hour requirement, an applicant must successfully complete no fewer than 150 classroom hours in courses of study approved by the board that relate to real estate appraisal theory and practice, plus 15 classroom hours in 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 approved by the board and be consistent with and equivalent to standards set by the appraisal foundation, whether these courses of study are conducted by an accredited university, college, technical college, junior college or other group;

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

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

§13980. Fees

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

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

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

2. Conversion. A licensed appraiser who applies and 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.

§13981. Terms of licenses

1. Biennial renewal. Licenses expire biennially on December 31st or on such other date as the commissioner determines. Notice of expiration must be mailed to each 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.

Licenses may be renewed up to 90 days after the date of expiration upon payment of a late fee of \$50 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license renewal date is subject to 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.

2. Continuing education. As a prerequisite to renewal of a license, applicants must have completed 20 clock hours of continuing education within 2 years prior to the date of application in programs or courses approved by the board. For purposes of this section, the board may establish, by rule, a core educational requirement.

§13982. Disciplinary action; grounds; procedure; complaints

1. Grounds. The board may suspend, revoke or refuse to renew a license pursuant to Title 5, section 10004. In addition, 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.

A. The licensee procures or attempts to procure licensure under this chapter by knowingly making a false statement, 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.

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

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

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

E. The licensee pays a finder's fee or a referral fee to a 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.

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

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

H. The licensee accepts a fee for performing an independent appraisal service when, in fact, the fee is or was contingent upon the appraiser's reporting a predetermined 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.

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

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

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

2. Procedure. Except as provided in Title 5, section 10004, no license may be denied, suspended or revoked nor renewal 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 denied, suspended or revoked under this section except by majority vote of the board.

3. Complaints. Any person may file a complaint with the board seeking disciplinary action against the holder of a license issued by the board. Complaints must be in writing in a form prescribed by the board by rule. If the board determines that a complaint alleges facts that, if true, would require denial, revocation, suspension,

nonrenewal of a license or other disciplinary action, the board shall conduct a hearing pursuant to the Maine Administrative Procedure Act. If the board establishes that a complaint does not state facts that warrant a hearing, the complaint may be dismissed. Persons making complaints must be advised in writing of each formal decision made by the board regarding that complaint.

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

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

§13983. Repeal

This chapter is repealed July 1, 2000.

Sec. 4. Reports. By December 1, 1990, the Board of Real Estate Appraisers shall make a report to the Joint Standing Committee on Business Legislation indicating the accessibility to persons in various parts of the State of the courses required for initial licensure and license renewal.

By December 1, 1990, the board shall provide the Joint Standing Committee on Business Legislation with information as to the number and type of complaints received by the board, the Real Estate Commission and the Department of the Attorney General regarding appraisals made by real estate agents who are not licensed appraisers.

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

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

2. 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;

3. 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

4. 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.

Sec. 6. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1989-90	1990-91
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF		
Division of Licensing and Enforcement		
Positions	(2)	(2)
Personal Services	\$13,000	\$52,000
All Other	12,000	35,600
Capital Expenditures	10,000	5,000

Funds to be used for start-up costs of the Board of Real Estate Appraisers from the available dedicated revenue funds of the Department of Professional and Financial Regulation. The Board of Real Estate Appraisers shall reimburse the Department of Professional and Financial Regulation when sufficient revenues are collected through licensing fees.

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION		
TOTAL	\$35,000	\$92,600

Sec. 7. Effective date. The Maine Revised Statutes, Title 32, section 13964 takes effect January 1, 1991.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved, unless otherwise indicated.

Effective April 10, 1990, unless otherwise indicated.

CHAPTER 807

H.P. 1740 - L.D. 2404

An Act Concerning the Annual License Fee for Overboard Discharges

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

38 MRSA §414, sub-§3-A, as enacted by PL 1989, c. 442, §2, is repealed and the following enacted in its place:

3-A. Inspection of overboard discharges. At least twice each calendar year, the department shall inspect all licensed overboard discharges operated on a year-round