

MAINE STATE LEGISLATURE

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**REPORT OF
THE COMMISSION TO STUDY REAL ESTATE
APPRAISER CERTIFICATION
AND LICENSING**

**Submitted to the
Joint Standing Committee on Business Legislation
Pursuant to the Requirements of
Chapter 39 Resolves**

**Volume I of II
December 1, 1989**

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Michael Austin, Vice Chairman
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PART I

INTRODUCTION

There is a growing national concern regarding quality and consistency of real estate appraisals. Substantial real estate related losses suffered by financial institutions, located principally in the Southwest, and the consequential losses suffered by the federal insurance funds protecting depositors of those institutions, prompted the Office of Management and Budget to establish 1988 guidelines for real estate appraisals that support financing involving federal funds. These guidelines were incorporated in the federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA). The final FIRREA legislation (see Appendix Item #1) requires each state to establish a licensing/certification program for real estate appraisers prior to July 1, 1991.

All appraisals which involve federal funds, including mortgages held in bank portfolios and those sold in the secondary market to Federal National Mortgage Corporation (Fannie Mae) or Federal Home Loan Mortgage Corporation (Freddie Mac) or those guaranteed by the Farmers Home Administration, Veterans Administration, etc. must be conducted by state licensed appraiserS in accordance with the Uniform Standards of Professional Appraisal Practice established by the Appraisal Foundation. For any property with a value in excess of \$1,000,000 a certified appraiser must be utilized. (Certification standards for education and experience are higher than those for licensing.) The licensing/certification programs of all states will be overseen by a federal Appraisal Subcommittee; this

subcommittee would maintain a master list of all licensed/certified appraisers, and their operating expenses will be funded by an assessment fee paid by the states for each licensee.

By resolve of the Legislature, as enacted by Chapter 39 Resolves (see Appendix Item #2), a Commission was established to study the licensing/certification of real estate appraisers in Maine. The Governor signed the bill on June 22, 1989 and announced the selection of the following members of the Commission:

John Appleton
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Michael Austin
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55 Front Street
Bath, Maine 04530

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Susan M. Collins, Commissioner of the Department of Professional and Financial Regulation, convened the first meeting on August 9, 1989 in Gardiner, Maine (see Commission Minutes, Appendix Item #3). At that meeting, H. Donald DeMatteis was elected Chairman and Michael Austin was elected Vice Chairman. The Commission agreed to meet twice each month in order to aggressively address the many substantive issues involved in the licensing/certification process. The following staff personnel of the Department of Professional and Financial Regulation were assigned to the Commission:

Carol J. Leighton
Director, Real Estate Commission

Colette L. Mooney
Deputy Superintendent, Bureau of Banking

Sue Ellen Cote
Administrative Secretary, Bureau of Banking

Although the Commission members possessed significant knowledge of the

appraisal process from private sector, state government and municipal government perspectives, there was strong interest in obtaining as broad a view as possible reflecting the preferences of those individuals most significantly impacted by the licensing/certification process. To that end the Commission developed a survey and distributed it to approximately 13,000 individuals who might be affected by the licensing/certification process. Over 1,200 responses were received and tabulated; the detailed results of this survey are contained in Part III of this report. In addition to the survey, a public hearing was held on October 17, 1989 to gather additional information; approximately 75 individuals participated in the public hearing. A summary of that proceeding is contained in Part IV of this report.

Once all written and oral comments were available, the Commission utilized "A Guide to State Legislation Relating to the Licensing and Certification of Real Estate Appraisers" dated November, 1988 as a structural format for drafting a proposed bill for the licensing/certification of real estate appraisers in Maine. Public comments and concerns, existing state laws, rules and policies, as well as the combined wisdom of the Commission members, guided the drafting of the proposed legislation contained in Volume II of this report. We believe this legislation will equitably satisfy the need for consistent quality real estate appraisals, provide adequate opportunity for the continued employment of current practitioners, assure the availability of appraisal services to all Maine citizens and businesses, and meet the prescribed requirements of federal law.

PART II

MAJOR COMPONENTS OF THE LICENSING/CERTIFICATION PROGRAM

A. ORGANIZATION AND FINANCES

Basic organizational requirements must be considered when determining the structure and finances of the agency which will assume the responsibilities for regulatory oversight of real estate appraisers. In considering these matters, the Commission determined that there were two viable options for the structure of the organization that would administer the State's new appraisal licensing function:

(1) Create a division within the Real Estate Commission; licensing fees to be segregated in a special dedicated revenue account to fund the Real Estate Appraisal Division.

(2) Establish a separate Board within the Division of Licensing and Enforcement of the Department of Professional and Financial Regulation. A special dedicated revenue account would be established to fund this Board.

Option (1) was considered attractive in that it would utilize an existing agency within the department. This would eliminate some of the initial organizational burden and could lower personal services' costs for the long term.

In reviewing this option, the Commission considered the language found in the federal law (Title IX of FIRREA) which established the mandate for state licensing/certification of appraisers. That law recognized the potential conflicts of interest which may arise when the officials charged with licensing and certifying appraisers are found in the state agency that licenses real estate brokers or promotes real estate development. That law required that adequate safeguards must be established to ensure that conflicts of interest are avoided between these two functions.

Option (2) would establish a Board that is autonomous. The Board would be administratively placed in the Division of Licensing and Enforcement, however, it would retain independent authority for administering and making policy decisions under the law. The investigative unit of the division would handle complaints and additional support staff could be provided as needed.

RECOMMENDATION

The Commission recognized that the potential for conflict of interest would be an overriding concern should the appraisal function be administered through an affiliation with the Real Estate Commission. While some of the concern on the State level could be addressed through legislation, the Commission recognized that the federal oversight in this area could produce on-going compliance problems. Therefore, it was recommended that a separate Real Estate Appraiser Board be established within the Division of Licensing and Enforcement of the Department of Professional and Financial Regulation.

A special dedicated revenue account should be established to fund this Board from revenue derived through the assessment of licensing fees, fines, etc. It is recognized that there will be a period of time before the income stream from licensing fees will be adequate to cover costs of operation. Therefore, enabling legislation should contain a fiscal note that will appropriate funds sufficient to cover start-up costs; these funds will be repaid to the General Fund once a sufficient foundation of revenue is established.

B. DESCRIPTION OF PROGRAM: LICENSING/CERTIFICATION

Maine must decide between a mandatory or voluntary licensing program. The federal law stipulates that any federally related transaction entered into after July 1, 1991, must involve a state certified or licensed appraiser. Should the State of Maine opt for the voluntary certification program only, this could substantially diminish the pool of individuals who would qualify to provide real estate appraisal services in a federally related transaction. For any transaction involving property with a value of \$1,000,000, the federal law clearly stipulates that a certified appraiser must be involved.

The Commission reviewed the federal mandate, how other states have provided for the regulation of real estate appraisers, and other relevant issues. With respect to the type of licensing/certification program, the Commission recommends that:

RECOMMENDATION

The State of Maine should establish a two tiered system for certifying and licensing of real estate appraisers. Any individual who wishes to engage in the business of real estate appraising, for a fee, must be licensed. Such licensed individuals may be certified to provide real estate appraisal services in federally related transactions if they meet the criteria for certification. There should be two classes of certification:

(1) Residential Classification. Residential classification would apply primarily to appraisers of residential real estate or real property of one to four units and up to twelve units when a net income capitalization analysis is not required by the terms of the assignment.

(2) General Classification. General classification would apply to appraisers of all types of real estate or real property.

C. BASIC REQUIREMENTS FOR LICENSING/CERTIFICATION

Several issues surround the establishment of a new state licensing requirements. The Commission considered such areas as: minimum education and experience requirements, grandfathering of individuals presently engaged in the real estate appraisal business, continuing education necessary for renewal, and any exemptions from licensing. It is recognized that minimum appraiser qualification criteria for certified appraisers have been adopted by the Appraiser

Qualifications Board of the Appraisal Foundation. This minimum federal requirement must be met in any state program which endeavors to certify appraisers for federally related transactions. In addition, the adequacy of any state requirements for licensing will continually be scrutinized on the federal level. With respect to these issues and using federal criteria as a guideline, the following recommendations are made:

RECOMMENDATION

(1) Minimum education and experience:

(a) Licensing.

Applicant must satisfactorily complete a minimum of 50 classroom hours in courses of study approved by the board. The 50 hours must be comprised of, at a minimum, 35 hours of study relating to the basic principles of real estate appraising and 15 hours of study specifically relating to the Uniform Standards of Professional Appraisal Practice. No experience is required; however, applicant must pass a written examination.

(b) Residential Certification.

Applicant must satisfactorily complete a minimum of 85 classroom hours in courses of study approved by the board. These classroom hours

must be comprised of, at a minimum, at least 70 hours in courses of study which relate to real estate appraisal theory and practice plus 15 hours in courses which relate specifically to the Uniform Standards of Professional Appraisal Practice. An applicant for residential certification must hold a valid real estate appraiser license, demonstrate experience as a real estate appraiser for two of the past five years, and pass a written examination.

(c) General Certification.

Applicant must satisfactorily complete a minimum of 165 classroom hours in courses of study approved by the board. These classroom hours must be comprised of, at a minimum, at least 150 hours in courses of study which relate to real estate appraisal theory and practice plus 15 hours in courses which relate specifically to the Uniform Standards of Professional Appraisal Practice. An applicant for general certification must hold a valid real estate appraiser license, demonstrate experience as a real estate appraiser for two of the past five years, and pass a written examination.

(2) Exemptions.

A real estate appraiser's license would not be required for a real estate licensee who, in the ordinary course of his/her business, gives an opinion to a potential seller or third party as the recommended market price of real estate. The opinion as to the market price or the purchase price

may not be referred to as an appraisal and no fee may be charged for this service.

(3) Grandfathering.

For purposes of licensing, those individuals who can demonstrate experience as a real estate appraiser for two of the past five years, may be licensed without satisfying the educational and examination requirements for licensure. Educational requirements must be satisfied at the time of first renewal. Applicants for licensure under the "grandfathering" provision must submit applications by July 1, 1991.

(4) Continuing Education.

As a prerequisite to renewal of a license, an applicant must complete 30 clock hours of continuing education in program or courses approved by the board.

D. OTHER ISSUES

There were several other areas that the Commission felt should be addressed in the proposed legislation:

- (1) Provide the Real Estate Appraisal Board with broad authority to

promulgate rules within the guidelines of the Maine Administrative Procedures Act.

(2) Enumerate grounds for denial of license, assessment of penalties and fines, grounds for disciplinary actions, and other administrative procedures. Statutory language should closely track that found in other licensing statutes established by the Legislature.

(3) Establish standard application requirements, terms of licenses, and fees for application and testing. Licenses should be issued for a term of two years, consistent with other professional licenses issued by the Department of Professional and Financial Regulation. Fees for application and testing should be flexible in order to cover costs of these functions and anticipate the pass-through of fees on the federal level for registration of Maine appraisers.

PART III

SURVEY

As an important part of its study of real estate appraiser licensing/certification, the Commission developed a survey to determine the number of individuals in Maine who were engaged in real estate appraisal work and their professional/educational background. This survey was mailed out to 13,000 individuals on September 5, 1989. Those receiving the survey were licensed real estate brokers, appraisers listed with banks, state and federal agencies, and individuals designated as real estate appraisers in the telephone book.

Appendix Item #4 contains the survey questionnaire and cover letter, and tabulation of responses. With over 1,200 people submitting completed questionnaires, the Commission was able to obtain a reasonable estimate of the number of potential licensees. It is anticipated that approximately 600 individuals will apply for real estate appraiser licenses. The majority of the respondents reported educational background beyond high school; many have completed courses specific to real estate appraisal practices and ethics. There are many individuals who engage in the appraisal business on less than a full-time basis, particularly with regards to properties with values less than \$1,000,000. Almost half of the respondents have been engaged in the business of appraising for over five years.

It is apparent from this survey that there is a substantial group of individuals in Maine who engage in the practice of real estate appraising. The

results of this survey assisted the Commission in establishing reasonable minimum criteria for licensing.

PART IV

PUBLIC HEARING

At the Commission's first meeting it was determined that public comment was an important component of its study of real estate appraiser licensing and certification. It was decided to conduct a public hearing, at 10:00 A.M. on October 17, 1989, to gather information and obtain reaction to the Commission's preliminary position on key issues relating to licensing and certification. A notice of the hearing (see Appendix Item #5) was placed in six Maine newspapers; information about the hearing was also sent to the 13,000 individuals who were involved in the survey discussed in the Introduction of this report. In addition, several newspaper articles and trade association publications advised interested parties of the hearing date.

In order to solicit comment on the issues that the Commission believed key to the licensing/certification process, a preliminary position paper (see Appendix Item #6) was distributed to all individuals attending the public hearing. The proceeding was conducted at the State of Maine Gardiner Annex which houses the Department of Professional and Financial Regulation. Approximately 75 individuals participated in the hearing; 52 of those individuals were employed in the profession of real estate appraisal. Other participants included bankers, foresters, attorneys, real estate brokers, press and trade association representatives. Seventeen individuals provided oral testimony, virtually all of whom were directly involved in real estate appraisal in the State of Maine.

The testimony covered a broad spectrum of topics and varied in scope from the extreme of questioning the necessity of any state licensing program to the other extreme of recommending requirements so stringent that some individuals claimed you would need a Ph.D to qualify. However, the bulk of the testimony generally tracked the preliminary recommendations of the Commission and suggested minor modifications that might make the program more effective and practical in the State of Maine. A straw poll of those attending was conducted regarding several important issues. The results were:

1. Do you favor a licensing/certification program or a pure certification program:

	<u>#</u>	<u>%</u>
Licensing and certification	26	68%
Certification	12	32%

2. Do you favor grandfathering of existing appraisers?

	<u>#</u>	<u>%</u>
Yes	23	56%
No	18	44%

3. Do you favor continued education requirements for all appraisers?

	<u>#</u>	<u>%</u>
Yes	37	100%
No	0	0%

Following the close of the public hearing, the official record was kept open for written comments; the written comment period was closed on October 27, 1989. Seven individuals provided written comments for consideration by the Commission. Some interested parties also contacted individual Commission members and provided some additional insights.

All comments received were given serious consideration by the Commission in developing its final recommendations. While it appeared impossible to satisfy all concerns, this report incorporates most of the suggestions and concerns brought to the attention of the Commission.

A tape of the official record of the public hearing is available, at cost, from the Commission.

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performing any function under the Act, or any Act amended by the Act, providing goods and services or receiving financial assistance under the Act. It also provides the Comptroller General with access to the information needed to conduct any such audits. There are two exceptions to this very general provision. First, the Act does not change existing law with respect to the Comptroller's audit authority over the Federal Reserve. Second, GAO's audit authority over the Federal National Mortgage Association, is limited to FNMA's mortgage transactions (Title XII).

Government Sponsored Enterprises

The House bill contained a provision not included in the Senate amendment directing the Controller General to undertake a study regarding the capital requirements of the FHLMC, the FNMA, the Federal Farm Credit System, the Federal Agriculture Mortgage Corporation, the College Construction Loan Insurance Corporation, and the Student Loan Marketing Association, (government-sponsored enterprises). The Conference Report contains the House provision with an amendment to expand this GAO study to include two reports—one to be submitted to Congress 9 months after enactment, one to be submitted 21 months after enactment. The evaluation of risks related to each GSE would include: the volume and type of securities outstanding which are issued or guaranteed by each GSE; the capitalization of each GSE; and the degree of risk involved in the operation of each GSE due to factors such as credit risk, interest risk, management and operations risk, and business risk.

GAO would also report on the quality and timeliness of information currently available to the public and the Federal Government concerning the extent and nature of the activities of GSEs and the financial risk associated with such activities.

GAO would design the study in consultation and cooperation with each GSE and the appropriate agency and department with respect to each GSE (Farm Credit Administration and the Departments of Agriculture, Education, and Housing and Urban Development). If the Administrator or Secretaries disagree with the results of the study, their views would be included as an addendum to the report. The report would be due 9 months after enactment of the Act. When the report is forwarded to the Congress, it is the intention of the conferees that such report be referred to the appropriate Committees of Congress with jurisdiction over such GSEs. In addition, the Comptroller General would be required to consult with each of the government-sponsored enterprises. The GSEs must be active participants in the study and cooperate with the GAO in the development of the study and its conclusions. It is understood that some of the information to which the GAO may be given access in the course of the study may be commercially or financially sensitive. The GAO must assure that it does not make public disclosure of such commercially or financially sensitive information. This consultation requirement is not intended to expand the regulatory rule or authority of any of the GSEs' regulators. It recognizes that Treasury's regulatory role is solely to ensure the orderly function of the securities market with respect to Treasury and GSE securities issuances. The role of the other regulators with respect to the report is solely to ensure the production of a study that will have maximum utility to the Congress.

Credit Unions

GAO shall study the nation's credit union system, including credit unions' capital and

condition, their role in the marketplace, the adequacy of their regulation and supervision, rules governing the common bond, and the structure and financial condition of the National Credit Union Share Insurance Fund and report to the Banking Committees within 18 months (Title XII).

Appraisal Standards

The Appraisal Subcommittee of FFIEC shall conduct a study to determine a) whether available real estate sales and financing data are sufficient to permit appraisers to properly estimate the values of properties in federally related transactions, and b) the feasibility and desirability of extending the provisions of the title to personal property appraising and appraisers related to Federal financial and public policy interests. The study is due 18 months after enactment and is submitted to Congress (Title XI).

LIMITING THE COST OF FEDERAL ASSISTANCE

The Secretary of the Treasury shall submit an annual report to the House Committee on Ways and Means and to the Senate on federal financial assistance transactions, the amount of assistance provided, and any tax benefits resulting from these transactions (Title XIV).

RTC shall review insolvent financial institution cases resolved by FSLIC since January 1, 1988, and identify means by which it can reduce costs under these agreements. The report is directed to the Oversight Board and Congress (Title V).

In addition, GAO shall conduct a review of the 1988 FSLIC cases and provide cost estimates for these agreements. The report will be submitted to Congress (Title V).

MINORITY ISSUES

Four studies, three to be included in the appropriate agencies' annual reports, are designed to further the interests of women and/or minorities.

For example, the Treasury Department, OTS and FDIC will include a section in each of their annual reports on actions taken to preserve the present number of minority institutions, and to establish priorities for these institutions in mergers and acquisitions and the resolution of failed thrifts (Title III).

The RTC shall include a section in its annual report on the inclusion of women and minorities in the bidding process for failed institutions (Title V).

A provision in Title XII requires the banking and failure resolution agencies to establish an outreach program to encourage the inclusion of minorities and women in all contracts that they make and requires each agency to report its progress to Congress.

The Treasury Department, in consultation with the appropriate Federal banking agencies and the NCUA, shall also include a section in its annual report on the results of a one-time study of methods for increasing the use of under-utilized minority and women's banks, and limited income credit unions, as depositories or financial agents of federal agencies (Title XII).

HOUSING REPORT AND STUDIES

Five studies reflect Congress' concern over the availability and affordability of housing in the U.S.

In its annual report to Congress, HUD will include a section on RTC use of secondary market agencies to provide housing for low- and moderate-income families, including development of risk sharing structures (Title V).

HUD shall submit to Congress its reasons for denying any FHLMC request for approval (Title VII).

The Federal Housing Finance Board shall annually report on each FHLBank's use of

advances for low-income housing and community development. The reports are submitted to the Bank Advisory Councils and Congress (Title VII).

GAO shall audit and evaluate the Affordable Housing Program after it has been operating for two years. GAO shall report to Congress its conclusions and recommended improvements or modifications to the program (Title VII).

The appropriate Federal regulatory agencies (the Federal Reserve, FDIC, OCC, DOTS, NCUA, and HUD) are required by the Act to collect and publish data on mortgage applicants (in addition to mortgagors who are already covered by existing legislation). The data are to be categorized by income levels, racial characteristics, and gender. The Federal Reserve is to report annually to Congress on the utility of these requirements (Title XII).

COMPENSATION COMPARABILITY

FDIC, OCC, NCUA, FHFB, RTC, OTS, and the Farm Credit Administration should try to maintain comparability in compensation schedules, and inform the other agency heads and Congress when establishing and adjusting the schedules (Title XII).

CONSUMER ISSUES

Two studies seek to protect the interests of consumers.

The Federal Reserve will conduct an examination of trends in the provision of retail banking services. To contain the cost of the study and any reporting burden on institutions, the Federal Reserve may focus on certain bank services and the fees charges for their provision at a sample of financial institutions of differing sizes located in different regions of the country. The Federal Reserve shall use these data to determine whether the additional insurance premiums imposed by the act are passed on to consumers or whether they decrease the availability of banking services. The Federal Reserve will report the results of the study annually for seven years (Title X).

The Treasury Department will conduct a study, due 18 months after enactment, on the possibility of issuing U.S. securities in small denominations to benefit the small investor and encourage savings (Title XII).

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 non-profit 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 553 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 pro-

motes 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 inordinate 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 8(i) of the FDIA and section 206(k) of the FCUA.

Definitions

This section provides definitions of terms used in the section, including the term "written appraisal" referred to in section 1110.

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 XII. MISCELLANEOUS PROVISIONS

OCC COMPENSATION PROVISIONS

The House version is adopted with modifications. Under this provision, the Comptroller is given the authority to appoint persons as employees of the OCC and to direct their activities. The Comptroller is also authorized to fix the number and compensation of all OCC employees. The term employees is intended to include examiners, attorneys, and all other employees of the Office. The conferees emphasize that, while many of the activities of the OCC are subject to the general direction of the Secretary of the Treasury, all personnel-related matters, including determinations regarding the number of employees to be hired, their status, pay, and functions to be performed, are within the exclusive authority of the Comptroller to determine. Treasury may not veto or block the implementation of the Comptroller's decisions on these matters.

The authority to fix compensation under this provision includes the authority to fix total compensation, including pay and benefits. (The exemption from chapter 51 and subchapter 3 of chapter 53 confirms OCC's current exclusion from these provisions based on its nonappropriated status.) The guiding standard is comparability in total compensation and benefits with compensation and benefits offered by the other Federal bank regulatory agencies. To further this objective, the Comptroller is given the same authorities as the Federal Reserve System and the Federal Deposit Insurance Corporation to establish compensation and benefits programs. Thus, for instance, a 401k offered like that offered by the Fed-r-

	<u>Item #2</u>	
APPROVED		CHAPTER
JUN 22'89		39
BY GOVERNOR		RESOLVES

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE
—

H.P. 1069 - L.D. 1491

Resolve, to Establish the Commission to Study Real
Estate Appraiser Certification and Licensing

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

Whereas, the Commission to Study Real Estate Appraiser Certification and Licensing is to report to the committee having jurisdiction over business legislation by December 1, 1989; and

Whereas, without placing this legislation on an emergency basis, the committee will not be able to begin its study until September; and

Whereas, a September start would not provide adequate time for the committee to adequately study the subject; 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

Sec. 1. Commission established; study. Resolved: That there is established the Commission to Study Real Estate Appraiser Certification and Licensing. The commission shall study and recommend the best way to implement the requirements of the United States Office of Management and Budget regulations contained in OMB Circular A-129. The regulations state that beginning July 1, 1991, all real estate transactions involving federal funds will require the use of a state licensed or certified appraiser, depending on the complexity of the

transaction. The commission is charged with recommending the best way to set up a state licensing and certification program for real estate appraisers; and be it further

Sec. 2. Membership; appointment. Resolved: That the commission shall be comprised of the following 9 members all appointed by the Governor: one person from the Real Estate Commission; one person from the Bureau of Banking; one person from the Department of Transportation; 3 persons from the appraisal industry; one person from the real estate industry; one person from the banking industry; and one person from the consuming public. The Governor shall complete appointments by July 15, 1989, and call the first meeting of the commission no later than August 10, 1989. The commission shall appoint a chair at its first meeting; and be it further

Sec. 3. Compensation. Resolved: That commission members shall receive no compensation; and be it further

Sec. 4. Staff assistance. Resolved: That any needed staff assistance shall be provided by the Department of Professional and Financial Regulation; and be it further

Sec. 5. Report. Resolved: That the commission shall report its findings and recommendations, including any implementing legislation, to the joint standing committee of the Legislature having jurisdiction over business legislation by December 1, 1989.

Emergency clause. In view of the emergency cited in the preamble, this resolve shall take effect when approved.

**COMMISSION TO STUDY REAL ESTATE APPRAISER
CERTIFICATION AND LICENSING**

MINUTES

**MEETING ON NOVEMBER 15, 1989
GARDINER, MAINE**

The seventh, and final, meeting of the Commission to Study Real Estate Appraiser Certification and Licensing was called to order at 9:00 A.M. on Wednesday, November 15, 1989 by Chairman H. Donald DeMatteis.

Members present were John Appleton, Michael Austin, E. Shippen Bright, Stephen A. Etzel, Walter H. Foster, Jr., Norman A. Gosline, Rosa Prime, and Andrew P. Scontras. Staff members present were Sue Cote, Carol Leighton, and Colette Mooney. Susan M. Collins, Commissioner of the Department of Professional and Financial Regulation, joined the meeting at 9:40 A.M.

Upon motion by Andrew Scontras and seconded by John Appleton, the minutes of the November 1, 1989 meeting were accepted.

Carol Leighton and Colette Mooney distributed revised copies of the proposed document to be presented to the Legislature. Commission members further refined the language and enhanced the draft legislation. Modifications are to be incorporated into the draft bill with revised copies sent to Commission members for final approval.

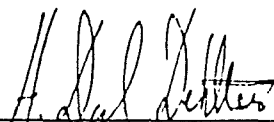
Don DeMatteis presented documents received from Norman Gosline showing initial budgets and fee structures proposed for other states. After review by the Commission, it was determined that the biennial licensing fees for Maine should be \$250 for licensing and \$300 for certification.

Don DeMatteis relayed suggestions he had received from Senator John Baldacci concerning the presentation of draft legislation to the Committee on Business Legislation. Senator Baldacci recommended that the Commission stress why appraisers need to be licensed in Maine; he also suggested that testimony presented to the Committee be brief and to the point.

Susan Collins indicated that the Commission should be certain the Legislature is also aware that the proposed legislation is mandated by the federal law. She also thanked Commission and staff members for doing an excellent job and accomplishing so much in a short period of time.

Don DeMatteis assured Commission members that he would complete the final report and forward copies to each member for approval. Submission to the Committee would be done by December 1, 1989 as required.

The meeting adjourned at 10:40 A.M.



H. DONALD DeMATTEIS
Chairman

COMMISSION TO STUDY REAL ESTATE APPRAISER
CERTIFICATION AND LICENSING

MINUTES

MEETING ON NOVEMBER 1, 1989
GARDINER, MAINE

The sixth meeting of the Commission to Study Real Estate Appraiser Certification and Licensing was called to order at 9:00 A.M. on Wednesday, November 1, 1989 by Chairman H. Donald DeMatteis.

Members present were John Appleton, Michael Austin, Stephen A. Etzel, Walter H. Foster, Jr., Norman A. Gosline, and Andrew P. Scontras; E. Shippen Bright and Rosa Prime were absent. Staff members present were Sue Cote, Carol Leighton, and Colette Mooney.

Upon motion by Michael Austin and seconded by Stephen Etzel, the minutes of the October 17, 1989 meeting were accepted.

Don DeMatteis distributed copies of letters received from George Koutalakis of Sterling Appraisal Company, Duane Ford of Professional Appraisal Associates, Randolph Dominic, an appraiser from Searsport, and Russell Brown, an Augusta real estate broker and appraiser. All individuals voiced their interests and offered suggestions for the Commission to consider.

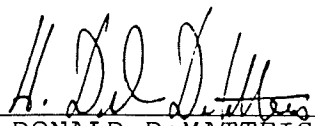
Carol Leighton and Colette Mooney distributed copies of the proposed document to be presented to the Legislature. Commission members refined the language and made recommendations to enhance the draft; all changes are reflected in the revised proposal. It was noted that an emergency preamble, fiscal note and statement of fact were missing from the original document; Carol and Colette agreed to draft these sections.

Alternative provisions were considered if the will of the Business Legislation Committee differs from the Commission's recommendations.

Don DeMatteis suggested that Senator John Baldacci and Representative Carol Allen, Chairs of the Committee on Business Legislation, and Commissioner Susan Collins be invited to participate in the next meeting.

The next meeting of the Commission was scheduled for Wednesday, November 15, 1989 at 9:00 A.M. in the Real Estate Commission Conference Room.

The meeting adjourned at 11:50 A.M.



H. DONALD DeMATTEIS
Chairman

COMMISSION TO STUDY REAL ESTATE APPRAISER
CERTIFICATION AND LICENSING

MINUTES

MEETING ON OCTOBER 17, 1989
GARDINER, MAINE

The fifth meeting of the Commission to Study Real Estate Appraiser Certification and Licensing was called to order at 9:00 A.M. on Tuesday, October 17, 1989 by Chairman H. Donald DeMatteis.

Members present were John Appleton, Michael Austin, E. Shippen Bright, Stephen A. Etzel, Walter H. Foster, Jr., Norman A. Gosline, Rosa Prime, and Andrew P. Scontras. Staff members present were Sue Cote, Carol Leighton, and Colette Mooney.

Don DeMatteis distributed copies of letters received from Valerie Puddington of Atlantic Appraisal Associates, David St. Peter of Associated Appraisal Services, and Bret Vicary of The Irland Group. All expressed their concerns and made suggestions for the Commission to consider.

The format of the hearing was discussed. Don DeMatteis recommended that the period for comment remain open until October 27 in order to allow adequate time for interested parties to respond. The Commission agreed with this suggestion.

At 9:45 A.M., the meeting was recessed and Commission members conducted a public hearing to obtain information from interested parties.

At 12:55 P.M., the meeting of the Commission was reconvened. Upon motion by Stephen Etzel and seconded by Norman Gosline, the minutes of the September 27, 1989 meeting were accepted.

The Commission discussed the membership requirements of the Licensing/Certification Board. It was determined that initially the Board should have representatives who have residential, commercial and industrial appraisal experience. The importance of trying to achieve geographic balance within the Board was also stressed.

It was suggested that licensing and certification should have a one time fee payable with the first application; then each individual would be required to pay a relicense fee. The original application fee was suggested to be \$150.

The Commission agreed that certification would be two-tier, general and residential. Andrew Scontras suggested, and the Commission concurred, that residential certification would require successful completion of 70 classroom hours of courses in subjects related to real estate appraisal and 15 classroom hours

related to the standards of Professional Practice. General certification would require 150 classroom hours in subjects related to real estate appraisal plus 15 hours related the standards of Professional Practice.

Qualifications for certification and licensing were also discussed. Norman Gosline suggested that successful completion of 50 hours of course work should be necessary for licensing; 35 hours would be classroom hours related to real estate appraisal and 15 would be hours related to the standards of Professional Practice. For the initial licensing period, individuals who demonstrate experience as real estate appraisers for two of the past five years may be licensed without satisfying the educational requirements. Rosa Prime questioned how the Board would rate experience. The general consensus was that the experience criteria must be established by the appointed Licensing Board.

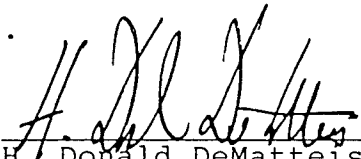
Don DeMatteis asked the Commission if there should be provision for a trainee license. The Commission felt that no provision should be made.

The continuing education requirements for licensing and certification were discussed; it was agreed that requirements would be equal. The Commission determined that 30 hours of study in approved courses per biennial renewal period would be required. Andrew Scontras suggested, and the Commission agreed, that every third renewal period, 15 hours of the required 30 hours must be related to the standards of Professional Practice.

Carol Leighton questioned if the Commission wanted there to be provision for those individuals who would seek inactive status. Andrew Scontras recommended that individuals who are on inactive status must complete 50 hours of continuing education to return to active status. Thirty-five of the required hours would be in classroom hours related to real estate appraisal and 15 hours would be related to the standards of Professional Practice. Norman Gosline suggested that individuals who return to active status should take 15 hours of standards of Professional Practice and course work as determined by certification and licensing requirements. A general consensus was not reached.

The next meetings of the Commission were scheduled for Wednesday, November 1, 1989 and November 15, 1989 at 9:00 A.M. in the Real Estate Commission Conference Room.

The meeting adjourned at 1:30 P.M.


H. Donald DeMatteis
Chairman

COMMISSION TO STUDY REAL ESTATE APPRAISERS
CERTIFICATION AND LICENSING

MINUTES

MEETING ON SEPTEMBER 27, 1989
GARDINER, MAINE

The fourth meeting of the Commission to Study Real Estate Appraiser Certification and Licensing was called to order at 9:00 A.M. on September 27, 1989 by Chairman H. Donald DeMatteis.

Members present were John Appleton, E. Shippen Bright, Stephen A. Etzel, Walter H. Foster, Jr., Norman A. Gosline, Rosa Prime, and Andrew P. Scontras; Michael Austin was absent. Staff members present were Carol Leighton and Colette Mooney.

Upon motion by Stephen Etzel and seconded by Walter Foster, the minutes of the September 13, 1989 meeting were accepted.

Don DeMatteis distributed a copy of a letter received from Ronald Roy, Chief Counsel of the State Claims Commission voicing their interest in the process of state licensing or certification of appraisers. The Commission will have representation at the public hearing in October.

Colette Mooney distributed a pro forma income and expense sheet which projects sources and uses of funds for the proposed board. The Commission discussed at length the potential number of licensees and threshold fee requirements necessary to assure an adequate funding of the organization. It was agreed that licensing fees should be capped at \$400 with the Board to have discretion through rulemaking to establish the biennial fee. It was agreed that there should be at least a \$50 differential between the licensing and certification fees. In addition, the federal registration fee (\$25 - \$50) should be passed through to the licensee. Applicants for testing should pay an examination fee sufficient to cover the cost of testing material.

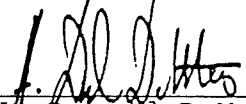
The Commission discussed continuing education requirements. Pages 20-21 of the NORELLO draft [Section 010(B)] contain language addressing continuing education. It was agreed that the requirement would be set at 30 credit hours taken over the two-year period preceding renewal. The time frame in Section 010(C) should also be changed to two years. Norman Gosline suggested that the language found on page 51 of the proposed NORELLO bill be modified. It was agreed that the proposed bill would provide the Board with the discretion to accept any other school, provided that the courses would meet the federal requirements established by the Appraisal Qualifications Board of the Appraisal Foundation.

Language regarding the education requirements for licensing must be modified to comply with the two-year licensing term. The Commission agreed that those individuals with two years' appraisal experience in the last five years be grandfathered with respect to the educational requirements in order to apply for the exam. However, by the time the license must be renewed, the requisite classroom hours must have been taken. In light of this broad waiver, Andrew Scontras recommended that the special waiver found in Section 021 of the NORELLO model be eliminated. All members present agreed.

The Commission discussed the minimum federal requirements for certification which must be adopted. It was suggested that the college degree utilized to meet minimum requirements be in a field that is related to real estate. The Commission agreed that we must get a better understanding of the federal requirements in this area before proceeding. This topic will be placed on the agenda for the October meeting.

The next meeting will be held October 17, 1989 at 9:00 A.M. before the public hearing at 10:00 A.M. It is expected that representatives from the lending community, realtors, and the Society of Real Estate Appraisers will be present. Chairman DeMatteis agreed to prepare a synopsis of those issues for which the Commission has arrived at a consensus. That report will be distributed to interested parties at the hearing. It was agreed that the first two Wednesdays in November (11/1 and 11/15) be set aside for further Commission meetings as necessary.

The meeting adjourned at 11:10 A.M.



H. Donald DeMatteis
Chairman

COMMISSION TO STUDY REAL ESTATE APPRAISER
CERTIFICATION AND LICENSING

MINUTES

MEETING ON SEPTEMBER 13, 1989
GARDINER, MAINE

The third meeting of the Commission to Study Real Estate Appraiser Certification and Licensing was called to order at 9:00 A.M. on September 13, 1989 by Chairman H. Donald DeMatteis.

Members present were John Appleton, Michael Austin, E. Shippen Bright, Stephen A. Etzel, Walter H. Foster, Jr., Norman A. Gosline, Rosa Prime, and Andrew P. Scontras. Staff members present were Carol Leighton and Colette Mooney. Susan Collins, Commissioner of the Department of Professional and Financial Regulation, joined the meeting at 10:30 A.M.

Upon motion by Norman Gosline and seconded by E. Shippen Bright, the minutes of the August 30, 1989 meeting were accepted. Norman Gosline suggested that paragraphs 6 and 7 of attachments be modified to more closely parallel the provisions of the model bill. These issues will be considered when the Commission discusses licensing provisions.

The survey and cover letter for the survey were distributed and discussed. Carol Leighton reported that there were 200 responses so far.

Colette Mooney presented a synopsis of the provisions in the model bill that related to rule-making, disciplinary, and licensing authority.

Model language provides broad rule-making powers as well as specific authority to set standards for continuing education and responses to changes in Appraisal Standards as set forth by the Appraisal Foundation.

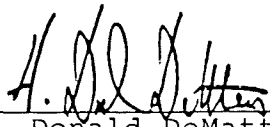
With respect to disciplinary proceedings, it was agreed that the Board should conduct any hearings; Administrative Court would be the forum for appeals. Carol Leighton suggested that we should look to Chapter 450 for guidance in establishing penalties, including fines. In reviewing sections on prohibited acts and omissions, Norman Gosline suggested that there be one section which would cover both licensed and certified appraisers; all agreed. There was discussion regarding "incompetency"; it was agreed that this was covered under the Standards of Professional Practice. Paragraph 10 should be rewritten to encompass any violation of the federal Standards of Professional Practice. It was also agreed that paragraph 7 be expanded to include finder's fees or referral fees paid to any out of state resident. We should look to the Real Estate law for language.

Susan Collins presented recommendations on organization structure and staff for the Board. It was recognized that sharing of Real Estate Commission staff in any manner would always raise questions of potential conflicts of interest. The Commissioner recommended that the Board and support staff be placed within the Division of Licensing and Enforcement. The Board would be independent with statutory authority for administering and making policy decisions required under the law; there would be no appeal process to the Commissioner. The Commissioner would be responsible for filling any staff vacancies. The Investigative Unit of the Division would handle any complaints. It may be necessary to hire someone on a short-time contractual basis to assist in the initial stage of organization. It was the consensus of the Commission to follow the Commissioner's recommendation.

Susan Collins also addressed fees, suggesting that the proposed bill provide application and examination fees, the amount of which should be left up to the Board's discretion. Licensing fees should contain a cap; the most prevalent cap now used is \$200 and should be in addition to any fees assessed under the federal law. Shippen Bright suggested that the Commission not act on setting fees until we estimate the number of potential licensees (as reflected in the survey). The Commissioner further offered that enabling legislation should create a dedicated fund in which fees and fines be placed to support the operation of the Board. The bill should also contain a loan provision to fund the start-up cost of the Board. It was also suggested that there be an emergency preamble to the bill in order to provide for timely licensing under the federal mandate.

The following issues should be considered at the next meeting: survey findings, licensing fees, preparation for the public hearing, license examination, and continued education requirements.

The meeting adjourned at 11:20 A.M.



H. Donald DeMatteis
Chairman

COMMISSION TO STUDY REAL ESTATE APPRAISER
CERTIFICATION AND LICENSING

MINUTES

MEETING ON AUGUST 30, 1989
GARDINER, MAINE

The second meeting of the Commission to Study Real Estate Appraiser Certification and Licensing was called to order at 9:00 A.M. on August 30, 1989 by Chairman H. Donald DeMatteis.

Members present were John Appleton, Michael Austin, E. Shippen Bright, Stephen A. Etzel, Walter H. Foster, Jr., Norman A. Gosline, and Andrew P. Scontras. Rosa Prime was absent. Staff members present were Sue Cote, Carol Leighton, and Colette Mooney.

Upon motion by Norman Gosline and seconded by John Appleton, the minutes of the August 9, 1989 meeting were accepted; Michael Austin abstained from voting.

The questionnaire and procedures for survey of interested parties were discussed in detail. Commission members recommended many enhancements to the questionnaire. After much discussion, changes were implemented.

Michael Austin presented an overview of the standards and qualifications for the licensing of appraisers in other states and provided information on provisions currently in effect in many other states.

A public hearing was scheduled for Tuesday, October 17, 1989 at the Department of Professional and Financial Regulation. After discussion, it was agreed that announcement would be made in five newspapers of general circulation. It was also decided that the major factions, i.e. appraisers, real estate brokers, bankers and assessors, should be present. Prior to the hearing, a brief meeting of the commission will be held in the Real Estate Conference Room commencing at 9:00 A.M.


Exemptions, reciprocity and temporary licenses for real estate appraisers were discussed. The general consensus was that non-resident requirements would be parallel to those expected of Maine residents and that reciprocity would be determined by rulemaking. It was further decided that temporary licenses would outline a specific job or contract.

It was agreed that Susan Collins be invited to the next meeting to discuss the organization, structure and staff of the commission.

It was further decided that the following issues should be considered at upcoming meetings: licensing fees, rulemaking sections of proposed bill and discipline section of proposed bill.

Meetings were scheduled for September 13, September 27, and October 17 with a public hearing to be scheduled for October 17.

The meeting adjourned at 11:05 A.M.



H. Donald DeMatteis
Chairman

COMMISSION TO STUDY REAL ESTATE APPRAISER
CERTIFICATION AND LICENSING

MINUTES

MEETING ON AUGUST 9, 1989
GARDINER, MAINE

The first meeting of the Commission to Study Real Estate Appraiser Certification and Licensing was called to order at 9:00 A.M. on August 9, 1989 by Susan M. Collins, Commissioner of the Department of Professional and Financial Regulation.

Members present were John Appleton, H. Donald DeMatteis, Stephen A. Etzel, Walter H. Foster, Jr., Norman A. Gosline, Rosa Prime and Andrew P. Scontras. Members absent were Mike Austin and E. Shippen Bright. Staff members present were Ann Clark, Carol Leighton and Colette Mooney.

The Commission's statutory charge was explained to the members by Commissioner Collins. The members were also informed that the Commission must report back to the Business Legislation Committee by December 1, 1989.

Carol Leighton presented an overview of the issues facing the Commission and provided information on regulatory systems in other states.

The members agreed to conduct a survey of appraisers. The members also agreed to hold a public hearing in mid-October. Members were asked to provide lists of potential sources of information. Staff will request copies of surveys from other states.

The structure of the Commission was discussed. The members agreed that the Commission should be a separate board with membership to be geographically balanced to include a licensed appraiser, a residential certified appraiser, a general certified appraiser, a public member and a member from the lending industry. The members further agreed that the members would be appointed by the Governor without requiring legislative confirmation.

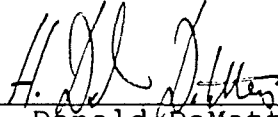
Upon motion by Steve Etzel and seconded by Walter Foster, Don DeMatteis was unanimously elected chairman of the Commission.

Upon motion by Norman Gosline and seconded by Andrew Scontras, Mike Austin was unanimously elected vice-chairman.

By general consent, it was agreed that the following issues should be considered at upcoming meetings: licensing standards, staffing, grandfathering, the survey, the public hearing, exemptions, rulemaking, fees, and reciprocity.

Meetings were scheduled for August 30, September 13, and September 27 with a public hearing to be scheduled in mid-October.

The meeting adjourned at 10:50 A.M.



H. Donald DeMatteis
Chairman

John R. McKernan, Jr.

Governor



COMMISSION TO STUDY REAL ESTATE APPRAISER
CERTIFICATION AND LICENSING

(207) 582-8713

Item #4

H. Donald DeMatteis
Chairman
Michael Austin
Vice Chairman
John Appleton
E. Shippen Bright
Stephen A. Etzel
Walter H. Foster, Jr.
Norman A. Gosline
Rosa Prime
Andrew P. Scontras

September 5, 1989

Dear Interested Party:

In June, Governor John R. McKernan, Jr. signed into law a bill establishing a Commission to Study Real Estate Appraiser Certification and Licensing. This Commission will study and recommend the best means to implement requirements recently enacted into federal law regarding the licensing and certification of real estate appraisers. This federal law requires that a state licensed or certified appraiser must be used in all real estate transactions that involve federal funds after July 1, 1991. The Commission will recommend the means of establishing the state licensing and certification program for real estate appraisers.

As an important part of its study, the Commission developed the attached survey to determine the number of individuals in this state who are presently engaged in real estate appraisal work and their professional/educational background. If you perform real estate appraisals, please take a few moments to complete the survey and return it to the Commission by September 20, 1989 in the attached postage paid envelope. You need not identify yourself in the questionnaire.

In addition to this study, the Commission will hold a hearing on Tuesday, October 17, 1989 at 10:00 a.m., at the Department of Professional and Financial Regulation, Gardiner Annex, 124 Northern Avenue, Gardiner, Maine. The public is invited to comment at this hearing regarding the process of certification/licensing of real estate appraisers.

Very truly yours,

A handwritten signature in dark ink, appearing to read "H. Donald DeMatteis".

H. Donald DeMatteis
Chairman

HDD/sec
Enc.

COMMISSION TO STUDY THE CERTIFICATION AND LICENSING
OF REAL ESTATE APPRAISERS

QUESTIONNAIRE

Instructions:

- Please check the appropriate boxes and return this questionnaire in the enclosed postage paid envelope. If you receive more than one copy of this questionnaire, please complete and return only one copy.
- If you have not engaged in real estate appraisal work, nor do you intend to do so, do not complete this questionnaire and do not return it.

Note: As used in this questionnaire, the term "real estate appraisal" means an analysis, opinion or conclusion prepared by an individual, relating to the nature, quality, value or utility of specific interests in, or aspects of, identified real estate or identified real property.

Real estate appraisal does not include market analysis prepared by real estate brokers or agents in concert with listing activities.

1. Prior to receipt of this survey, were you aware of the recently passed federal legislation requiring state licensing/certification of real estate appraisers by July, 1991?

(a) ☐ Yes
(b) ☐ No

2. I own or am employed by a firm which is primarily engaged in real estate appraising (as defined above).

(a) ☐ Yes
(b) ☐ No

3. I presently hold the following license(s) and/or certification(s):

(a) ☐ Real estate broker
(b) ☐ Associate real estate broker
(c) ☐ Real estate sales agent
(d) ☐ Certified Maine assessor

4. Please indicate the highest completed level of education:

(a) ☐ 1 - 3 years of high school
(b) ☐ high school graduate
(c) ☐ some college
(d) ☐ 4 year college degree
(e) ☐ post graduate work

5. Within the past ten years, I have completed the following number of classroom hours relating to real estate appraisal:
- (a) ☐ 0 - 44 hours
 - (b) ☐ 45 - 74 hours
 - (c) ☐ 75 - 164 hours
 - (d) ☐ over 165 hours
 - (e) ☐ additional classroom hours taken over 10 years ago;
_____ (specify number of hours)
6. Of the classroom hours indicated above, were at least 15 classroom hours of study specifically relating to the Standards of Profession Appraisal Practice?
- (a) ☐ Yes
 - (b) ☐ No
7. My place of business is located in the following county (check 1):
- | | |
|---|--|
| (a) <input type="checkbox"/> Androscoggin | (i) <input type="checkbox"/> Oxford |
| (b) <input type="checkbox"/> Aroostook | (j) <input type="checkbox"/> Penobscot |
| (c) <input type="checkbox"/> Cumberland | (k) <input type="checkbox"/> Piscataquis |
| (d) <input type="checkbox"/> Franklin | (l) <input type="checkbox"/> Sagadahoc |
| (e) <input type="checkbox"/> Hancock | (m) <input type="checkbox"/> Somerset |
| (f) <input type="checkbox"/> Kennebec | (n) <input type="checkbox"/> Waldo |
| (g) <input type="checkbox"/> Knox | (o) <input type="checkbox"/> Washington |
| (h) <input type="checkbox"/> Lincoln | (p) <input type="checkbox"/> York |
8. My place of business is located outside of the State of Maine?
- (a) ☐ Yes
 - (b) ☐ No
9. I have been engaged in the business of real estate appraising for:
- (a) ☐ less than 1 year
 - (b) ☐ 1 to 2 years
 - (c) ☐ 2 to 5 years
 - (d) ☐ more than 5 years
10. The percentage of my time and/or income derived from appraisal business is:
- (a) ☐ 0 to 25%
 - (b) ☐ 25% to 50%
 - (c) ☐ over 50%
11. During the past 12 months, the majority of my appraisal work has been in:
- (a) ☐ Properties with individual values of less than \$1,000,000.
 - (b) ☐ Properties with individual values of more than \$1,000,000.

DEPARTMENT OF PROFESSIONAL & FINANCIAL REGULATION

Inter-Departmental Memorandum

Date: November 28, 1989

TO: Carol J. Leighton, Director Real Estate Commission

FROM: Vickey L. Gray, Secretary Real Estate Commission

Subject: Supplemental Appraisal Questionnaire Results

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1. Of those whose percentage of time/income derived from appraisal business is 25% - 50%, the following is a breakdown of number of classroom hours completed within the past 10 years:

0-44 hours.	33	37.5%
45-74 hours	24	27%
75-164 hours.	19	21.5%
over 165 hours.	12	14%

2. Of those whose percentage of time/income derived from appraisal business is over 50%, the following is a breakdown of number of classroom hours completed within the past 10 years:

0-44 hours.	27	10%
45-74 hours	30	12%
75-164 hours.	89	35%
over 165 hours.	111	43%

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3. Of those whose percentage of time/income derived from appraisal business is 25% - 50%, 59 (or 67%) have had at least 15 classroom hours of study specifically relating to the Standards of Profession Appraisal Practice.

4. Of those whose percentage of time/income derived from appraisal business is over 50%, 197 (or 79%) have had at least 15 classroom hours of study specifically relating to the Standards of Profession Appraisal Practice.

5. Of those who own or are employed by a firm which is primarily engaged in real estate appraising, following is a breakdown of the percentage of time/income derived from appraisal business:

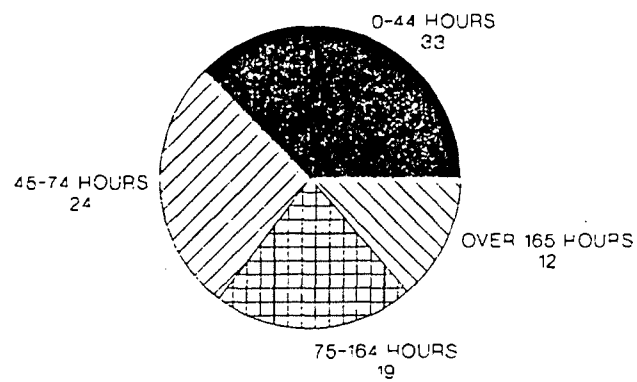
0-25%	160	35%
25%-50%	54	12%
over 50%.	240	53%

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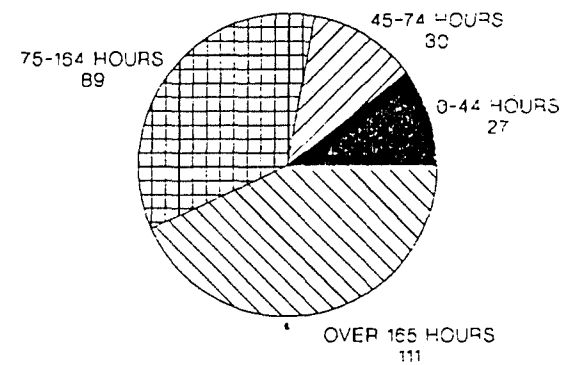
6. Additional classroom hours taken over 10 years ago:

Minimum # of hours	3
Maximum # of hours	500
Average # of hours	99

Hours of Education Completed
For Those in the 25%-50% Business Range



Hours of Education Completed
For Those in the Over 50% Business Range



DEPARTMENT OF PROFESSIONAL & FINANCIAL REGULATION

Inter-Departmental Memorandum

Date: September 22, 1989

TO: Carol J. Leighton, Director Real Estate Commission

FROM: ~~W~~ickey L. Gray, Secretary Real Estate Commission

Subject: Results from Appraisal Questionnaire
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As of this date there have been 1178 surveys received. The following is a tally of the results.

1. Prior to receipt of this survey, were you aware of the recently passed federal legislation requiring state licensing/certification of real estate appraisers by July 6, 1991?

A. Yes = 726
B. No = 447
0 responses = 5

2. I own or am employed by a firm which is primarily engaged in real estate appraising (as defined above).

A. Yes = 463
B. No = 697
0 responses = 18

3. I presently hold the following license(s) and/or certification(s):

A. Real Estate Broker = 739
B. Associate R.E. Broker = 272
C. Real Est. Sales Agent = 55
D. Cert. ME. Assessor = 31
0 responses = 81

4. Please indicate the highest completed level of education

A. 1-3 years of high school = 9
B. high school graduate = 116
C. some college = 471
D. 4 year college degree = 319
E. post graduate work = 261
0 responses = 2

5. Within the past ten years, I have completed the following number of classroom hours relating to real estate appraisal.

A. 0 - 44 = 601
 B. 45 - 74 = 220
 C. 75 - 164 = 187
 D. over 165 = 158
 E. additional hrs. = 3
 0 responses = 9

5A. Additional classroom hours taken over 10 years ago

cehours		cehours		cehours	
-----		-----		-----	
3	2	45	1	164	1
5	1	48	2	180	1
6	2	50	5	194	1
10	3	60	6	200	7
12	1	64	1	230	1
15	2	75	1	240	2
16	2	80	1	250	3
20	3	85	1	260	1
21	1			300	3
24	1			500	1
25	1			-0-	1070
26	1				
30	2				
32	1				
35	1				
36	1				
40	12				
44	1				

6. Of the classroom hours indicated above, were at least 15 classroom hours of study specifically relating to the Standards of Professional Appraisal Practice?

A. yes = 643
 B. no = 494
 0 responses = 41

7. My place of business is located in the following county.

Androscoggin	66	Oxford	39
Aroostook	46	Penobscot	121
Cumberland	235	Piscataquis	25
Franklin	33	Sagadahoc	19
Hancock	65	Somerset	44
Kennebec	134	Waldo	19
Knox	45	Washington	31
Lincoln	56	York	143

0 responses = 47

8. My place of business is located outside of the State of Maine.

A. yes	=	61
B. no	=	1085
0 responses	=	32

9. I have been engaged in the business of real estate appraising for:

A. Less than 1 year	=	116
B. 1 to 2 years	=	123
C. 2 to 5 years	=	268
D. more than 5 years	=	575
0 responses	=	96

10. The percentage of my time and/or income derived from appraisal business is.

A. 0 to 25%	=	783
B. 25% to 50%	=	90
C. over 50%	=	258
0 responses	=	47

11. During the past 12 months, the majority of my appraisal work has been in:

A. less than \$1,000,000	=	1023
B. more than \$1,000,000	=	46
0 responses	=	109

**State of Maine
Department of Professional and
Financial Regulation**

Notice of Public Hearing

In June, Governor John R. McKernan, Jr. signed into law a bill establishing the Commission to Study Real Estate Appraiser Certification and Licensing. This Commission will study and recommend the best means to implement requirements recently enacted into federal law regarding the licensing and certification of real estate appraisers. Federal law requires state licensed or certified appraisers be used in all real estate transactions that involve federal funds, after July 1, 1991. The Commission will recommend to the Legislature the means to establish the state licensing and certification program for real estate appraisers.

The Commission will hold a public hearing on Tuesday, October 17, 1989 at 10:00 A.M., at the Department of Professional and Financial Regulation, Gardiner Annex, 124 Northern Avenue, Gardiner, Maine. The public is invited to comment at this hearing regarding the process of certification/licensing of real estate appraisers.

For further information, please contact: H. Donald DeMatteis, Chairman, Commission to Study Real Estate Appraiser Certification and Licensing, State House Station 35, Augusta, Maine 04333, (207) 582-8713.

COMMISSION TO STUDY REAL ESTATE APPRAISER
CERTIFICATION AND LICENSING

Preliminary Position of Commission on Key Issues

After three months of independent study and analysis, the Commission has drafted a preliminary position regarding the issues of importance in the certification and licensing of real estate appraisers. A public hearing will be held on October 17, 1989 to obtain information from interested parties. This information, plus additional research, will be the foundation for the Commission's report to the Legislature.

Organization

1. The authority to license/certify real estate appraisers shall be vested in a board constituted for that purpose.
 - a. The Licensing/Certification Board shall contain five members:
 1. Three appraisers;
 2. One representative of a mortgage lending organization; and
 3. One public member.
 - b. The board composition should attempt to strike some geographic balance within the state and have representatives familiar with appraisal of residential, commercial and industrial properties.
 - c. The board shall have rulemaking authority.
 - d. The board shall be appointed by the governor and be a part of the Department of Professional and Financial Regulation. The administrator shall be appointed by the commissioner of that department.
2. The Licensing/Certification Board would be organized under the Division of Licensing and Enforcement. It would be a dedicated revenue agency fully funded by application and licensing fees. A loan from the general fund would be necessary to establish the agency. Legislation would have an emergency preamble, due to deadline for implementation.
3. Fees for licensing and certification would be established by rule of the Board, within a legislative cap. The state fee would be added to the federal assessment made by the Appraisal Sub-Committee. Due to the relatively small number of prospective licensees and the high initial costs of establishing the program, the cap on biennial fee should be set at \$400. The fee for certification should be set \$50 above the licensing fee. Examination fees should be set by the Board at an amount commensurate with the expense of providing the examination.

License Criteria

4. Appraisers may be licensed or certified. Certification may be residential or general certification (two tier as defined in the "Guide for State Legislation"). The qualifications for certification will parallel those established by the Appraisal Foundation. Residential certification will require successful completion of 60 classroom hours of courses in subjects related to real estate appraisal and 15 classroom hours related to standards of Professional Practice; general certification will require 150 classroom hours in subjects related to real estate appraisal plus 15 classroom hours related to the standards of Professional Practice.
5. Qualifications for certification and licensing should generally track those proposed in "A Guide for State Legislation Relating to the Licensing and Certification of Real Estate Appraisers" dated November 15, 1988. Successful completion of 45 hours of course work and a finding of good moral character are necessary for licensing. For the initial licensing period, which will run for two years, individuals who demonstrate experience as real estate appraisers for two of the past five years may be licensed without satisfying the educational requirements. However, the educational requirements must be satisfied in order to obtain license renewal.
6. Exemptions from licensing will only be granted to real estate agents and brokers who perform "market analysis." The term appraisal shall not be used and no fee shall be charged. Use of the terms licensed and certified should also be limited.
7. Temporary licenses and reciprocal certification should be available and track the provisions of "A Guide for State Legislation Relating to the Licensing and Certification of Real Estate Appraisers." Some consideration should also be given to actions taken by the Appraisal Sub-Committee regarding reciprocity.
8. Continuing education for licensing will require 30 hours of study in approved courses, per biennial renewal period; for certification, continuing education requirements would be set at 40 hours of study in approved courses per biennial renewal period.

Administrative

9. The rule-making authority of the board would track the "Guide for State Legislation", but would reference the Maine Administrative Procedure Act format.
10. The disciplinary provisions would also track the Guide for State Legislation, but with substantial modification. The board would directly take all disciplinary action; the appeals process would be to the Administrative Court. A single violation and a disciplinary procedure section applicable to licensing and certification would be drafted. Criminal conviction of a Class A, B, or C crime would be grounds for license denial. Penalties would be made consistent with existing Maine statutes.
11. This Act would become effective January 1990, with licensing beginning on January 1991 and the period for "Grandfathering" ending on July 1, 1991.