

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 II of II
December 1, 1989**

Commission Members:
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STATE OF MAINE

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

H.P.

**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 are advanced every year to Maine consumers which are secured by real estate for which there are no uniform, consistent guidelines on how the appraised values or the qualifications of the individual conducting the appraisal are established;

Whereas, Consumers are occasionally swept up with the 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;

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

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

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

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

Sec. 1. 5 MRSA Section 12004-A, Sub-section 9-A is enacted to read:

9-A. Board of Real Estate Appraisers \$35/Day 32 MRSA Section 13906

Sec. 2. 10 MRSA Section 8001, as repealed and replaced by PL 1987, c. 395, Pt. A, Section 34 and C. 488, Section 2, is repealed and the following enacted in its place:

Section 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 shall be 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. State Board of Registration for Land Surveyors. Registration for Land Surveyors, State 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; and
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.120 is enacted to read:

CHAPTER 120

REAL ESTATE APPRAISAL LICENSING & CERTIFICATION ACT

Section 13901. 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 that was incorporated as an Illinois not for profit corporation on November 30, 1987.

3. Appraisal Report. "Appraisal Report" means any communication, written or oral, of an appraisal.
4. Board. "Board" means the Board of Real Estate Appraisers.
5. Certified Appraisal Report. "Certified Appraisal Report" means a written or oral appraisal report that is certified as such by a state certified real estate appraiser.
6. Commissioner. "Commissioner" means the Commissioner of Professional and Financial Regulation.
7. Department. "Department" means the Department of Professional and Financial Regulation.
8. Licensed Real Estate Appraiser. "Licensed Real Estate Appraiser" means a person who holds a current, valid real estate appraiser license issued under the provisions of this Act.
9. Real Estate. "Real Estate" means an identified parcel or tract of land, including improvements, if any.
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.
12. Real Property. "Real Property" means one or more defined interests, benefits or rights inherent in the ownership or 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 chapter.
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 four units and up to twelve units when a net income capitalization analysis is not required by the terms of the assignment, as provided by this chapter.

Section 13902. Exceptions to appraisal activity

This chapter shall not apply to real estate licensees licensed by this State who, in the ordinary course of his/her business, give an opinion to a potential seller or third party as to the recommended market price of real estate or an opinion to a potential purchaser or third party as the recommended purchase price of real estate, provided, however, that this opinion as to the market price or the purchase price shall not be referred to as an appraisal and no fee is charged for such service.

Section 13903. License required

Except as provided in Section 13902 of this Chapter, it shall be unlawful for anyone to prepare an appraisal or an appraisal report relating to real estate or real property in this State without first obtaining a Real Estate Appraisal License as provided in this Chapter. This Section shall not be construed to apply to individuals who do not render significant professional assistance in arriving at a real estate appraisal analysis, opinion or conclusion. Nothing in this Chapter, however, shall be construed to prohibit any person who is licensed to practice in this State under any other law from engaging in the practice for which he/she is licensed.

Section 13904. 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 Real Estate Appraisal Board at the time the cause of action arose.

Section 13905. Violation; injunction

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

Section 13906. 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-A, shall carry out the purposes of this chapter.

2. Members. The board shall consist of 5 members appointed by the Governor. Each member shall be a citizen of the United States and a resident of this State. The composition of the board shall consist of one representative of a mortgage lending organization, one public member and three members who specialize in appraisal work: 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 representatives of the mortgage lending organization and general public, shall be licensed in accordance with this chapter 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 shall 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 1 for a term of one year; 1 for 2 years; and 3 for 3 years. Their successors shall be appointed for terms of 3 years each, except that any person chosen to fill a vacancy shall 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. No person may 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 shall be compensated according to the provisions of Title 5, chapter 379, provided that expenses do not exceed the fees collected by the board. If the fees to be collected under this chapter are insufficient to pay the expenses provided by this section, the board members shall be 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 chapter.

9. Receipts and expenses. Money received are to be used for the expenses of administering the provisions of this chapter, which may include, but shall not be 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 chapter for the enforcement of this chapter; and education programs for the benefit of the public and licensees and their employees. The aggregate of payments provided for by this chapter is appropriated for the use of the board. Any balance of said funds shall not lapse but shall be carried forward to be expended for the same purposes in succeeding fiscal years.

Section 13907. Powers and duties of the board

The board shall have the following powers and duties in addition to all other powers and duties otherwise set forth in this chapter.

1. Standards. The board shall administer and enforce this chapter, 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, Title 5, chapter 375, rules necessary to carry out the purposes of this chapter.

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 chapter or any rules adopted by the board.

4. Records. The board shall keep records and minutes as are 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 chapter.

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

8. Register. The department shall make available, at cost, a register that shall contain the names of all individuals licensed and/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 chapter. Any person so employed shall be 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 deems 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, Title 5, Chapter 375, to assist with investigations and to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter.

Section 13908. Licensing

1. Licensing required. Effective January 1, 1991, no person, unless specifically exempted by this chapter, may engage in real estate appraisal activity unless licensed in accordance with this chapter.

2. Individual licensing. Only an individual may be licensed under this chapter.

Section 13909. Grandfathering

1. For purposes of implementing this chapter, an individual who demonstrates 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 provided by this chapter. Applicants must satisfy all personal qualifications for licensure.

2. The time period for applicants to submit applications to qualify under the "grandfathering provision" shall expire on July 1, 1991.

3. Any licensee who was initially licensed under the "grandfathering provision" shall, in addition to the continuing education requirement for his/her first renewal, submit evidence of satisfactory completion of 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

shall include not less than 35 classroom hours of study relating to the basic principles of real estate appraising, and not less than 15 classroom hours of study specifically relating to the Uniform Standards of Professional Appraisal Practice.

4. The courses of study required to satisfy the minimum classroom hours specified in section 13909(3) must be:

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

B. Approved by the Appraisal Foundation.

Section 13910. Scope of License

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

Section 13911. Requirements for Licensure

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

2. Age. The applicant shall have reached his/her 18th birthday at the time of his/her application.

3. Residence. The applicant shall provide evidence of his/her legal residence.

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

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

6. Educational Requirement. The applicant shall 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 shall include not less than 35 classroom hours of study relating to the basic principles of real estate appraising, and not less than 15 classroom hours of study specifically relating to the Uniform Standards of Professional Appraisal Practice.

A. The courses of study required to satisfy the minimum classroom hours specified in Section 13911 (6) must be:

1. Conducted by an accredited university, college, technical college, or junior college; or
2. Approved by the Appraisal Foundation.
7. Examination. All applicants shall be required to pass a written examination in subjects the board deems necessary to determine the fitness of the applicant to practice. The board shall establish the passing score for all examinations. Examinations will be held at such times as the board deems necessary. To qualify for examination an applicant must submit evidence of compliance with the educational requirement as set in Section 13911(6).
8. Other. Comply with such other requirements as may be prescribed by the Board from time to time.

Section 13912. 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 he is trustworthy and competent to conduct real estate appraisal activity in such manner as 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 which bears on the practice of real estate appraising.

Section 13913. Place of business

Each licensee shall designate and maintain a principal place of business and shall conspicuously display his/her license therein. A nonresident licensee shall not be required to maintain a place of business in this State if he/she maintains an active place of business in the State of domicile.

Section 13914. Changes

Any change of address, name or other material change in the conditions or qualifications set forth in the original application shall be reported to the board no later than 10 days after the change. Upon proper application and payment of the prescribed fee, the board records shall be changed and a new license shall be issued for the unexpired term of the current license, if appropriate.

Section 13915. Standards of professional appraisal practice

Each real estate appraiser licensed under this chapter must 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 evidenced by the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Foundation.

Section 13916. Nonresident licensure

1. Consent to Service. Each applicant for licensure and each applicant for certification under this chapter who is not a resident of this State shall submit, with his/her application, an irrevocable consent that service of process upon him/her 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 cannot, in the exercise of due diligence, effect personal service upon the applicant.

2. Reciprocal Licensing. If, in the determination of the board, another jurisdiction is deemed to have substantially equivalent licensure laws for real estate appraisers, an applicant for licensure in this State who is licensed under the law of such 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, provided, however, that the laws of such jurisdiction accord substantially equal reciprocal rights to a licensed and/or certified appraiser in good standing in this State and provided further that disciplinary proceedings are not pending against such applicant in his/her 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 and/or certification of real estate appraisers.

Section 13917. Temporary Licensure

A nonresident of this State, who has filed a consent to service application meeting the provisions of Section 13916, 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, applicant must:

1. Submit an application on a form approved by the board;
2. Submit evidence that he/she is licensed or otherwise authorized to appraise real estate and real property in his/her State of domicile;
3. 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 such contract is in full force and effect;
4. Certify that disciplinary proceedings are not pending against the applicant in the applicant's State of domicile;
5. Pay an application fee in an amount established by the board; and
6. Comply with such other requirements as may be established by the board.

No more than two temporary licenses shall be granted to an individual in any two year period.

A temporary license issued under this Section shall be 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 shall expire upon the completion of the appraisal work required by the contract for appraisal services or upon the expiration of a period of six months from the date of issuance, whichever shall first occur. A temporary license may not be renewed.

Section 13918. State certified real estate appraisers

The certification requirements as set by this chapter 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 meet the following requirements:

A. Experience. Hold a valid Real Estate Appraiser License under this chapter and demonstrate experience as a real estate appraiser for two of the past five years.

B. Education. 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 not less than 70 classroom hours in courses of study approved by the board which relate to real estate appraisal theory and practice, plus 15 classroom hours in courses of study approved by the board which relate specifically to the Uniform Standards of Professional Appraisal Practice.

1. The courses of study required to satisfy the minimum classroom hours specified in section 13918 (1)(B) must be:

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

b. Approved by the Appraisal Foundation.

C. Examination. 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 chapter.

D. Other. 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 meet the following requirements:

A. Experience. Hold a valid Real Estate Appraisal License under this chapter and demonstrate experience as a real estate appraiser for two of the past five years.

B. Education. Satisfactorily complete not less than 165 classroom hours in courses of study approved by the board. To meet the 165 classroom hour requirement, an applicant must

successfully complete not less than 150 classroom hours in courses of study approved by the board which relate to real estate appraisal theory and practice, plus 15 classroom hours in courses of study approved by the board which relate specifically to the Uniform Standards of Professional Appraisal Practice.

1. The courses of study required to satisfy the minimum classroom hours specified in section 13918 (2)(B) must be:

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

b. Approved by the Appraisal Foundation.

C. Examination. 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 chapter.

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

Section 13919 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. Original and renewal fees for licensed appraisers - \$250 biennially.

B. Original and renewal fees for certified appraisers - \$300 biennially.

2. Conversion. A licensed appraiser who applies for and qualifies for certification as a residential or general appraiser shall receive such license status for any unexpired period remaining on the term or the license upon payment of a \$50.00 fee.

Section 13920. Terms of licenses

1. Biennial renewal. Licenses shall expire biennially on December 31st or on such other date as the commissioner determines. Notice of expiration shall be mailed to each licensee's last known address at least 30 days in advance of the expiration of the license. The notice shall 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 shall be subject to all requirements governing new applicants under this chapter, except that the board may, giving due consideration to the protection of the public, waive the education and/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 shall have completed 30 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 regulation, a core educational requirement.

Section 13921. 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. Procuring or attempting 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 procuring or attempting to procure a license through fraud or misrepresentation;

B. An act or omission in the practice of real estate appraising which 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. Entry of a final civil or criminal judgement 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 which is substantially related to the qualifications, functions or duties of a person developing real estate appraisals and communicating real estate appraisals to others;

E. Paying 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. Making 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. Violation of any Section of this chapter, or any rule or regulation promulgated thereunder;

H. Acceptance of a fee for performing an independent appraisal service when, in fact, the fee is or was contingent upon the appraiser 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. Failure or refusal without good cause to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal;

J. Negligence or incompetence in developing an appraisal, preparing an appraisal report, or communicating an appraisal; and

K. Violation of 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 shall be 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 shall 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, Title 5, Chapter 375. Whenever the board establishes that a complaint does not state facts that warrant a hearing, the complaint may be dismissed. Persons making complaints shall 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 shall 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.

Sec. 4. Appropriation. The following funds are appropriated from General Fund to carry out the purposes of this chapter.

	1989-90	1990-91
BOARD OF REAL ESTATE APPRAISERS		
Positions	(2)	(2)
Personal Services	\$26,000	\$52,000
All Other	17,800	35,600
Capital Expenditures	10,000	5,000
<p>Provides funds to cover the start-up costs of the Board of Real Estate Appraisers. The Board will reimburse the General Fund when sufficient revenues are collected through licensing fees.</p>		
BOARD OF REAL ESTATE APPRAISERS		
TOTAL	<u>\$53,800</u>	<u>\$92,600</u>

STATEMENT OF FACT

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

state over the past year highlights the critical need for credible and consistent appraisals. In June, 1989, the 114th Legislature established a commission to study licensing and certification of real estate appraisers. Since that time, the federal Congress passed the Financial Institutions Reform, Recovery, and Enforcement Act (P.L. 101-73), which requires that, after July 1, 1991, all real estate appraisals in connection with federally related transactions must be performed by State certified or licensed appraisers. This bill addresses state concerns regarding the licensing of real estate appraisers in a way that will also meet this federal mandate.

Sections 1 and 2 of this bill establish the Board of Real Estate Appraisers within the Department of Professional and Financial Regulation and fix the per diem allowance for Board members.

Section 3 sets forth the Real Estate Appraisal Licensing and Certification Act, which requires mandatory licensing of any individual who engages in the performance of real estate appraising for a fee. Exempt from this Act are real estate licensees, licensed by the State, who, in the ordinary course of business, give opinions to potential sellers or third parties as to the recommended market price of real estate. Those individuals who are presently engaged in the business of real estate appraising would be grandfathered for two years, at which time all education and experience requirements must be met for licensing.

Section 4 provides for a temporary loan from the General Fund to cover the start-up costs of the Board of Real Estate Appraisers.