

CS FOR HOUSE BILL NO. 33(FIN) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 3/2/98

Offered: 2/20/98

Sponsor(s): REPRESENTATIVES ROKEBERG BY REQUEST, Porter

SENATORS Taylor, Duncan, Donley

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to real estate licensees and to the real estate surety fund;
2 relating to the Real Estate Commission; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 08.67.010 is amended to read:

5 **Sec. 08.67.010. Registration of mobile home dealers.** A mobile home dealer
6 may not do business in the state unless the dealer is registered with the department.

7 **However, a person licensed under AS 08.88 may, without registering under this**
8 **chapter, perform the same activities with respect to mobile homes, except for**
9 **property management, as are authorized for that person to perform under**
10 **AS 08.88 with respect to real estate.**

11 * **Sec. 2.** AS 08.88.051(c) is amended to read:

12 (c) The commission shall elect its officers **at the first meeting of each fiscal**
13 **year.**

14 * **Sec. 3.** AS 08.88.061 is amended to read:

1 **Sec. 08.88.061. Assistants. Notwithstanding contrary provisions of**
 2 **AS 08.01.050, the** [THE] commission may **assign or designate** [USE] assistants to
 3 (1) **issue licenses to applicants who meet the qualifications for**
 4 **licensure established under this chapter;**
 5 (2) prepare questions on examinations;
 6 (3) **administer and** [(2)] grade examinations;
 7 (4) **certify courses required under this chapter;**
 8 (5) **approve instructors to teach courses required under this**
 9 **chapter; and**
 10 (6) **negotiate terms for payment of fines and other money due**
 11 **under this chapter.**

12 * **Sec. 4.** AS 08.88.071 is amended to read:

13 **Sec. 08.88.071. Duties of the commission.** (a) The commission shall
 14 (1) **determine whether** [PASS ON QUALIFICATIONS OF] applicants
 15 **meet requirements** for licenses **under this chapter** and issue licenses to those who
 16 qualify;
 17 (2) prepare and grade examinations;
 18 (3) after hearing, have the authority to suspend or revoke the license
 19 of a licensee **or impose other disciplinary sanctions authorized under AS 08.01.075**
 20 **on a licensee** who
 21 (A) with respect to a real estate transaction
 22 (i) made a substantial misrepresentation;
 23 (ii) made a false promise likely to influence, persuade,
 24 or induce;
 25 (iii) in the case of a real estate broker, pursued a
 26 flagrant course of misrepresentation or made a false promise through
 27 **another** [AN AGENT, ASSOCIATE REAL ESTATE BROKER, OR]
 28 real estate **licensee** [SALESMAN];
 29 (iv) has engaged in conduct that is fraudulent or
 30 dishonest;
 31 (v) violates AS 08.88.391;

(B) procures a license by deceiving the commission, or aids another to do so;

(C) has engaged in conduct of [IN] which the commission had no knowledge at the time the licensee was licensed demonstrating the licensee's unfitness to engage in the business for which the licensee is licensed;

(D) knowingly authorizes, directs, connives at or aids in publishing, distributing, or circulating a material false statement or misrepresentation concerning the licensee's business or concerning real estate offered for sale, rent, or lease, or managed in the course of the licensee's business in this or any other state or concerning the management of an association in the course of a licensee's business in this or another state;

(E) if a real estate broker, wilfully violates AS 08.88.171(d) or 08.88.291;

(F) if an associate real estate broker, claims to be a real estate broker, or, if a real estate salesperson [SALESMAN], claims to be a real estate broker or associate real estate broker;

(G) if a real estate broker, employs an unlicensed person to perform activities for which a real estate license is required [ASSOCIATE REAL ESTATE BROKER OR REAL ESTATE SALESMAN];

(H) if an employed real estate licensee of a [ASSOCIATE] real estate broker [OR REAL ESTATE SALESMAN], fails immediately to turn money or other property collected in a real estate transaction over to the employing real estate broker;

(4) prosecute, through the Department of Law, violations of the provisions of this chapter or lawful regulations adopted under this chapter;

(5) release for publication [PUBLISH, ON THREE CONSECUTIVE WEEKENDS] in a newspaper of general circulation in the locale of the offending person's principal office registered with the commission notice of [LICENSED UNDER THIS CHAPTER,] disciplinary action taken by the commission against a person licensed under this chapter;

(6) issue a temporary permit to the personal representative of the estate

of a deceased real estate broker or to another [SOME OTHER] person designated by the commission with the approval of the personal representative of the estate in order to secure proper administration in concluding the affairs of the decedent broker's real estate business;

(7) issue a temporary permit to the personal representative of a legally incompetent real estate broker or to another person designated by the commission with the approval of the personal representative of the broker in order to secure proper administration in temporarily managing the real estate business of the broker;

(8) establish and periodically revise the form of the seller's property disclosure statement required by AS 34.70.010;

(9) have the authority to levy civil fines as established in this chapter;

(10) revoke the license of a broker or associate broker who is convicted of forgery, theft, extortion, conspiracy to defraud creditors, or a felony involving moral turpitude committed while licensed under this chapter; notwithstanding AS 08.88.171, a person whose license is revoked under this paragraph is not qualified for a license under AS 08.88.171(a) or (b) until seven years have elapsed since the person completed the sentence imposed for the conviction.

(b) When an award is made from the real estate surety fund under this chapter [IN REIMBURSEMENT OF LOSSES SUFFERED BY A CLAIMANT AS A RESULT OF FRAUD, MISREPRESENTATION, DECEIT, OR CONVERSION OF TRUST FUNDS ON THE PART OF A LICENSED BROKER, ASSOCIATE BROKER, OR SALESMAN], the commission may suspend [CONSIDER THE HEARING ON THE CLAIM TO BE A HEARING ON THE SUSPENSION OF] the license of the real estate licensee whose actions formed the basis of the award [BROKER, ASSOCIATE BROKER, OR SALESMAN, AND MAY SUSPEND THE LICENSE OF THE BROKER, ASSOCIATE BROKER, OR SALESMAN]. A suspension ordered under this subsection shall be lifted if the licensee [BROKER, ASSOCIATE BROKER, OR SALESMAN] reaches an agreement with the commission

on terms and conditions for the repayment to the real estate surety fund of the money awarded to the claimant and the costs of hearing the claim under AS 08.88.465. The suspension shall be reimposed if the licensee [BROKER, ASSOCIATE BROKER, OR SALESMAN] violates the terms of a repayment agreement entered into under this subsection.

(c) For the purposes of (a)(3) of this section, the conduct of an employee is [NOT] attributable to a real estate broker if [UNLESS] the real estate broker has actual knowledge that the employee is going to engage in the conduct and agrees to the conduct, either actively or by remaining silent, or ratifies the conduct after it is engaged in.

* **Sec. 5.** AS 08.88.091(d) is amended to read:

(d) A person who is licensed under this chapter must complete 20 hours of continuing education approved by the commission before the person's license may be renewed. The commission may not establish limits that prevent a person from satisfying this continuing education requirement within a two-day period.

* **Sec. 6.** AS 08.88.091(e) is amended to read:

(e) Except for a course described in (f)(1) or (3) of this section, in order for an educational course to be recognized for credit under this section, [THE COMMISSION MAY NOT APPROVE AN EDUCATION OR CONTINUING EDUCATION COURSE REQUIRED UNDER THIS SECTION UNLESS THE COMMISSION CERTIFIES] the course outline and [APPROVES] the instructor of the course must have been approved by the commission or the commission's designee before the course was [IS] conducted. A course outline or instructor is considered approved if the commission or the commission's designee does not disapprove the outline or instructor within 45 days after the date on which complete application was made for approval. Each approved contact hour of a submitted course outline constitutes one credit hour of continuing education. The fee for continuing education course certification under AS 08.88.221 shall be based on the hours approved for credit not hours submitted.

* **Sec. 7.** AS 08.88.091 is amended by adding new subsections to read:

(f) The commission shall establish by regulation the educational and continuing

educational requirements for licenses issued by the commission. The regulations for continuing education requirements must allow the following types of courses to qualify for the appropriate number of credit hours, as determined by the commission:

(1) courses that are developed by national organizations, as identified for the purpose of this paragraph in the commission's regulations, that are delivered by nationally certified instructors and that are required in order to earn professional designations from a national organization in specialized areas of licensed real estate practice; notwithstanding other provisions of this chapter, the commission may not charge a fee for these courses;

(2) technology courses directly related to real estate practice that are designed to enhance the skills and performance of a real estate licensee; and

(3) courses offered by an accredited college or university as part of a real estate curriculum that are available for at least one quarter-hour or one-half semester-hour of academic credit; the commission may not charge a fee for these courses.

(g) The commission shall establish core curricula for continuing education in the following areas: real estate sales, property management, community association management, and commercial sales. A licensee shall complete at least one of the four core curricula during each biennial licensing period as part of the licensee's continuing education.

* **Sec. 8.** AS 08.88.161 is amended to read:

Sec. 08.88.161. License required. Unless licensed as a real estate broker, associate real estate broker, or real estate salesperson in this state [SALESMAN], a [NATURAL] person [, FOREIGN OR DOMESTIC CORPORATION, OR PARTNERSHIP, OR LIMITED PARTNERSHIP, OR OTHER ENTITY] may not, except as otherwise provided in this chapter,

(1) sell, exchange, rent, lease, auction, or purchase real estate;

(2) list real estate for sale, exchange, rent, lease, auction, or purchase;

(3) collect rent for the use of real estate or collect fees for property management;

(4) practice, or negotiate for a contract to practice, property

management;

(5) collect fees for community association management;

(6) practice, or negotiate for a contract to practice, community association management;

(7) as a business, buy, sell, or deal in

(A) options in real estate; or

(B) options in improvements to real estate;

(8) [(5)] assist in or direct the procuring of prospective buyers and sellers of real estate, communicate with prospective buyers and sellers of real estate, or assist in the negotiation of a transaction that [WHICH] results or is calculated to result in the sale, exchange, rent, lease, auction, or purchase of real estate;

(9) accept or pay a fee for the performance of any of the activities listed in this section except as otherwise specifically provided in this chapter;

(10) [(6)] hold out to the public as being engaged in the business of doing any of the things listed in this section; or

(11) [(7)] attempt or offer to do any of the things listed in this section
[.

(8) REPEALED].

* **Sec. 9.** AS 08.88 is amended by adding a new section to read:

Sec. 08.88.167. Civil penalty for unlicensed or unauthorized practice. (a)

In addition to penalties prescribed by any other provision of law, if a person engages or offers to engage in an activity for which a license is required under AS 08.88.161 without being licensed or authorized to engage in the activity in accordance with the provisions of this chapter, the commission may enter an order levying a civil penalty.

(b) A civil penalty levied under this section may not exceed \$5,000, or the amount of gain realized plus \$5,000, whichever is greater, for each offense. In levying a civil penalty, the commission shall set the amount of the penalty imposed under this section after taking into account the seriousness of the violation, the economic benefit resulting from the violation, the history of violations, and other facts the commission considers relevant.

(c) Before entering an order under (a) of this section, the commission shall send the person written notice of the proposed order that grants the person a 30-day period during which the person may request a hearing on the record.

(d) In connection with proceedings under (a) - (c) of this section, the commission may issue subpoenas to compel the attendance and testimony of witnesses and the disclosure of evidence and may request the department to bring an action to enforce a subpoena.

(e) A person aggrieved by the levy of a civil penalty under this section may file an appeal with the superior court for judicial review of the penalty under AS 44.62.560.

(f) If a person fails to pay a civil penalty within 30 days after entry of an order under (a) of this section, or within 10 days after the court enters a final judgment in favor of the commission of an order stayed pending an appeal under (e) of this section, the commission may initiate other action to recover the amount of the penalty.

(g) An action to enforce an order under this section may be combined with an action for an injunction under AS 08.88.037.

* **Sec. 10.** AS 08.88.171 is amended to read:

Sec. 08.88.171. Entitlement to license. (a) A natural person qualifies [IS ELIGIBLE] for a real estate broker license if the person passes the [REAL ESTATE] brokers examination, [IF THE PERSON] applies for a license within six months after passing the [PERSON HAS TAKEN THE REAL ESTATE BROKERS] examination, [IF THE PERSON] furnishes satisfactory proof of successful completion of the education requirements of AS 08.88.091, [IF THE PERSON] has had at least 24 months of active and continuous experience as a licensed real estate salesperson within the 36 months immediately preceding application for the broker license, [SALESMAN, IF THE PERSON] is not under indictment for, or seven years have elapsed since the person has completed a sentence imposed upon conviction of, forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving moral turpitude, and [IF THE PERSON] is an owner of a real estate business or employed as a real estate broker by a foreign or domestic corporation, [OR A] partnership, limited partnership, or limited liability company [AND IF THAT

CORPORATION OR PARTNERSHIP DOES NOT HAVE AN EXISTING LICENSED BROKER]. Unless the broker fails to renew the license [PAY THE BIENNIAL RENEWAL FEE] or unless the broker's license is suspended or revoked [UNDER AS 08.88.071(a)(3)], the [REAL ESTATE] broker's license continues in effect as [SO] long as the broker's license is active [BROKER IS AN OWNER OF A REAL ESTATE BUSINESS, OR THE BROKER IS EMPLOYED AS A REAL ESTATE BROKER BY A CORPORATION OR A PARTNERSHIP]. If the broker stops being an owner of a real estate business [,] or stops being employed as a real estate broker by a foreign or domestic corporation, [OR] partnership, limited partnership, or limited liability company, the broker's license is suspended from the time the broker stops until

(1) the broker again becomes an owner of a real estate business or is again employed as a real estate broker by a foreign or domestic corporation, [OR A] partnership, limited partnership, or limited liability company; or

(2) the broker is employed by another [A LICENSED REAL ESTATE] broker as an associate [REAL ESTATE] broker, in which case the real estate broker license shall be [IS] returned to the commission by the broker, and the commission shall issue [ISSUES] the broker an associate real estate broker license.

(b) A natural person qualifies [IS ELIGIBLE] for an associate real estate broker license if the person passes the [REAL ESTATE] brokers examination, [IF THE PERSON] applies for the [A] license within six months after passing [THE PERSON HAS TAKEN] the examination, [IF THE PERSON] submits satisfactory proof of successful completion of the education requirements of AS 08.88.091, [IF THE PERSON] has had at least 24 months of active and continuous experience as a licensed real estate salesperson within the 36 months immediately preceding application for the license, [SALESMAN, IF THE PERSON] is not under indictment for, or five years have elapsed since the person has completed a sentence imposed upon conviction of, forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving moral turpitude, and [IF THE PERSON] is employed by a licensed real estate broker as an associate real estate broker. Unless the associate broker fails to renew the license [PAY THE BIENNIAL RENEWAL FEE] or unless the associate

broker's license is suspended or revoked [UNDER AS 08.88.071(a)(3)], the associate [REAL ESTATE] broker's license continues in effect as [SO] long as the associate broker is employed by a licensed real estate broker as an associate broker. If the associate broker stops being employed by a licensed real estate broker, the associate broker's license is suspended from the time the associate broker stops until

(1) the associate broker again is employed by a real estate broker as an associate broker; or

(2) the associate broker becomes an owner of a real estate business or is employed as a real estate broker by a foreign or domestic corporation, partnership, limited partnership, or limited liability company, in which case the associate broker's [ASSOCIATE REAL ESTATE BROKER] license shall be [IS] returned to the commission by the associate broker, and the commission shall issue [ISSUES] the licensee [ASSOCIATE BROKER] a broker's [REAL ESTATE BROKER] license.

(c) A natural person qualifies [IS ELIGIBLE] for a real estate salesperson [SALESMAN] license if the person passes the real estate salesperson [SALESMAN] examination, [IF THE PERSON] applies for the [A] license within six months after passing [THE PERSON HAS TAKEN] the examination, [IF THE PERSON] submits satisfactory proof of successful completion of the education requirements of AS 08.88.091, [IF THE PERSON] is at least 19 years old, [IF THE PERSON] is not under indictment for forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving moral turpitude, or, if convicted of such an offense, the person has completed the sentence imposed upon conviction, and [IF THE PERSON] is employed by a real estate broker. Unless the salesperson [SALESMAN] fails to renew the license [PAY THE BIENNIAL RENEWAL FEE] or unless the real estate salesperson's [SALESMAN'S] license is suspended or revoked [UNDER AS 08.88.071(A)(3)], a real estate salesperson's [SALESMAN'S] license continues in effect as [SO] long as the salesperson [SALESMAN] is employed as a salesperson [SALESMAN] by a licensed real estate broker. If the salesperson [SALESMAN] stops being employed as a real estate salesperson [SALESMAN], the real estate salesperson's [SALESMAN'S] license is suspended from the time the salesperson

[SALESMAN] stops until the salesperson [SALESMAN] again is employed as a real estate salesperson [SALESMAN] by a licensed real estate broker.

(d) A real estate licensee shall promptly inform the commission of a change in business association that affects the status of the licensee's license under this section.

* **Sec. 11.** AS 08.88.171 is amended by adding new subsections to read:

(e) Notwithstanding (a) - (d) of this section, a natural person qualifies for a limited license to practice community association management under (f) of this section if the person

(1) applies by January 1, 1999;

(2) pays the required fees;

(3) demonstrates to the commission's satisfaction that the person has engaged in the practice of community association management for at least 24 months before January 1, 1999; and

(4) meets other requirements that may be established by the commission in its regulations for issuance of a license under this subsection.

(f) A person who qualifies under (e) of this section shall be issued an associate broker license if, at the time of issuance, the person is employed by a broker. A person who qualifies under (e) of this section shall be issued a broker license if, at the time of issuance, the person is the owner of a community association management business or is employed as a community association manager by a foreign or domestic corporation, partnership, limited partnership, or limited liability company. After initial issuance of a license to a person under this subsection, the person is subject to the same requirements that exist for other brokers and associate brokers licensed under this chapter. However, notwithstanding other provisions of this chapter, under a license issued under this subsection, a person may practice only community association management and does not qualify as a broker or associate broker for purposes of AS 08.88.161(1) - (4), (7), or (8) or 08.88.165(2). A person issued a limited license to practice community association management under this section may not use the terms "salesperson," "broker," or "associate broker" for any business purpose unless the person is also licensed appropriately under other provisions of this chapter.

* **Sec. 12.** AS 08.88 is amended by adding new sections to read:

Sec. 08.88.173. Fidelity bond for community association managers. (a) If the board of directors of a community association allows a broker to exercise control over community association fees or other community association funds, the broker must provide evidence to the commission that the broker is covered by a blanket fidelity insurance bond. The bond may be in the name of the broker with the association as an additional insured or in the name of the association with the broker as an additional insured. The bond must cover the maximum funds that will be within the control of the community association manager at any time while the bond is in force. The commission may grant an exemption from the bonding requirement of this subsection if the commission determines that the community association manager has equivalent comparable coverage or that coverage is unavailable. The commission may adopt regulations to implement this subsection, including regulations concerning the minimum coverage and terms of coverage that are required and proof of bond and the granting of exemptions.

(b) If a loss covered by the fidelity bond required under this section is also reimbursable from the real estate surety fund, the owners' association that suffered the loss may not recover under the bond until the association has filed a claim for reimbursement under AS 08.88.460 and proceedings relating to the claim are concluded.

Sec. 08.88.175. Limitations on community association managers. A licensee may not, within the practice of community association management, exercise control over the

(1) reserves or investment accounts of a community association;

(2) operating account of a community association unless

(A) allowed under a contract that has been approved by the association's board of directors; and

(B) duplicate financial statements concerning the account are sent by the institution holding the account to the licensee and the association's board of directors at separate addresses.

* **Sec. 13.** AS 08.88.181(a) is amended to read:

(a) The real estate examinations [EXAMINATION] may include [, BUT IS NOT NECESSARILY LIMITED TO,] questions on real estate business ethics and standards; arithmetic and accounting; elementary principles of land economics and appraisal; the general principles in state statutes relating to deeds, mortgages, real estate contracts, subdivisions, common interest communities, legal descriptions, building restrictions, agency, [AND] brokerage, disclosure requirements, trust accounting requirements, and landlord and tenant law; property management ethics and standards; community association management operations, ethics, and standards; and the general provisions of this chapter and of the regulations of the commission.

* **Sec. 14.** AS 08.88.191(b) is amended to read:

(b) If the commission authorizes the department to contract with a national testing service to prepare, administer, and grade examinations,

(1) the commission or its designee shall review the examination and approve its contents;

(2) application for an [THE] examination [, ACCOMPANIED BY THE PROPER FILING FEE,] may be transmitted by the applicant directly to the national testing service; payment of an examination fee shall be made by the applicant directly to the national testing service's designated representative before the examination is taken by the applicant.

* **Sec. 15.** AS 08.88.201 is amended to read:

Sec. 08.88.201. Reexamination. A person who fails an examination may apply for a subsequent examination, but shall pay the application fee with [FOR] each application.

* **Sec. 16.** AS 08.88.221 is amended to read:

Sec. 08.88.221. Fees. The Department of Commerce and Economic Development shall set fees under AS 08.01.065 for a real estate broker, associate broker, or salesperson [SALESMAN] licensee or applicant for the following:

(1) examination;

(2) [RECIPROCITY;

(3)] initial license;

- (3) [(4)] renewal of an active license;
- (4) [(5)] renewal of an inactive license;
- (5) [(6)] amending or transferring a license;
- (6) [(7)] publications offered by the commission;
- (7) [(8)] seminars offered by the commission;
- (8) reinstatement of a lapsed license;
- (9) changes to registered office information;
- (10) course certification and recertification; and
- (11) instructor approval and renewal of approval.

* **Sec. 17.** AS 08.88.241 is repealed and reenacted to read:

Sec. 08.88.241. Reinstatement of lapsed license. (a) A person whose real estate license has lapsed less than 24 months is eligible for reinstatement of the license if the person provides the required application, license fees, proof of continuing education as required by AS 08.88.091 for licensing periods during which the license was inactive or lapsed.

(b) A real estate licensee whose license has been lapsed for more than 24 months is not eligible for reinstatement of the license and is eligible for the license only by meeting the qualifications applicable to initial licensure under AS 08.88.171.

* **Sec. 18.** AS 08.88.251 is amended to read:

Sec. 08.88.251. Inactive license. (a) A real estate licensee who intends to [PERSON LICENSED BY THE COMMISSION MAY] become inactive shall return [BY RETURNING] to the commission the person's license certificate and a completed inactivation form provided by the commission along with any applicable fees. [IN THE FORM, THE PERSON SHALL STATE THE DATE ON WHICH THE PERSON INTENDS TO BECOME INACTIVE. THE PERSON'S INACTIVE STATUS BEGINS ON THE DATE STATED.] The commission shall issue the person an inactive license certificate.

(b) An inactive licensee may not attempt or offer to do any of the activities listed in AS 08.88.161, but may receive commissions or other payments from the broker who previously contracted with or employed the licensee for services performed while actively licensed [EXCEPT AS OTHERWISE ALLOWED FOR

UNLICENSED PERSONS UNDER AS 08.88.165].

(c) A person who has an [IS] inactive license certificate under (a) of this section may reactivate the license [BECOME ACTIVE] by applying for an active license and paying the required fees. [IN THE APPLICATION FORM THE PERSON SHALL STATE THE DATE ON WHICH THE PERSON INTENDS TO BECOME ACTIVE. THE PERSON'S ACTIVE STATUS BEGINS ON THE DATE STATED. THE COMMISSION SHALL SEND THE PERSON A LICENSE CERTIFICATE.] A person is eligible for change from an inactive to an active status under this subsection only [WITHOUT EXAMINATION] if the person has [NOT] been in inactive status for less [MORE] than 24 months [TWO YEARS]. If the person has been in inactive status for 24 months or for more than 24 months [TWO YEARS], the person is required to meet the requirements for initial licensure in order to be licensed under this chapter again [TAKE AN EXAMINATION].

* Sec. 19. AS 08.88.281 is amended to read:

Sec. 08.88.281. Real estate surety fund. Before issuing a license to an applicant under this chapter, the commission shall ensure [DETERMINE] that the applicant has complied with the provisions of AS 08.88.455 and is covered by the real estate surety fund established in AS 08.88.450.

* Sec. 20. AS 08.88.291 is amended to read:

Sec. 08.88.291. Location. A person licensed as a real estate broker shall, by registering with the commission, inform the commission of the person's [BROKER'S] principal office and of any branch offices of the person's real estate business and include in the information the names of the real estate licensees who are employed at each office. A [BROKER HAS. THE BROKER AND THE ASSOCIATE] real estate licensee [BROKERS AND REAL ESTATE SALESMEN THE BROKER EMPLOYS] may do real estate business only through a [IN OR OUT OF THE BROKER'S] principal office or from a [AND THE BROKER'S] branch office registered by the broker by whom the licensee is employed [OFFICES]. Failure of a real estate broker to maintain a place of business or to inform the commission of its location and the names and addresses of all real estate licensees employed at each location by the broker is [UNDER THE BROKER'S

JURISDICTION AT THE LOCATION ARE] grounds for the suspension or revocation of the broker's license.

* **Sec. 21.** AS 08.88.301 is amended to read:

Sec. 08.88.301. Change of location. Before [IF] a real estate broker changes the location of the broker's principal office or of a branch office, the broker shall [IMMEDIATELY] notify the commission of the new address and any other office changes on a form provided by the commission and pay the applicable fees.

* **Sec. 22.** AS 08.88.311 is amended to read:

Sec. 08.88.311. Branch offices. (a) A branch office shall be under the direct supervision of a real estate associate broker whose principal place of business is that office and who is licensed under this chapter. An associate [REAL ESTATE] broker may serve in the capacity of direct supervisor at only one office [ONLY].

(b) A [ALL] branch office [OFFICES] shall bear and be advertised only in the name of the principal office but may also indicate that it is a [THEY ARE] branch [OFFICES OF THE PRINCIPAL] office.

* **Sec. 23.** AS 08.88.321 is repealed and reenacted to read:

Sec. 08.88.321. Possession and display of license certificates. (a) The license certificate of a real estate broker shall be displayed in the broker's principal office.

(b) The license certificate of each licensee working in the broker's principal office shall be displayed in that office.

(c) The license certificate of the designated associate broker who is in charge of a branch office and the certificate of each licensee working in a branch office shall be displayed in the branch office indicated as the office of the licensees' employment in the registration required under AS 08.88.291.

(d) Certificates displayed under this section must be displayed where they are available for public clients and customers to verify the current active status of licensees working in the office.

* **Sec. 24.** AS 08.88.331 is amended to read:

Sec. 08.88.331. Making of transactions. An active [A] real estate salesperson [SALESMAN] or associate real estate broker may perform activities for

which a real estate license is required [MAKE A REAL ESTATE TRANSACTION] only through the real estate broker who employs **or contracts with** the **licensee** [REAL ESTATE SALESMAN OR ASSOCIATE REAL ESTATE BROKER]. All money **or other proceeds** collected **in trust and related to a real estate transaction** [ON BEHALF OF THE BROKER] shall immediately be turned over to the broker or the broker's **authorized representative** [AGENT. ALL TRANSACTIONS IN REAL ESTATE BY A REAL ESTATE SALESMAN OR ASSOCIATE REAL ESTATE BROKER SHALL BE PROCESSED THROUGH THE REAL ESTATE SALESMAN'S OR THE ASSOCIATE REAL ESTATE BROKER'S EMPLOYING REAL ESTATE BROKER'S OFFICE, WHETHER THE TRANSACTIONS ARE FOR THE REAL ESTATE SALESMAN'S OR ASSOCIATE REAL ESTATE BROKER'S OWN USE OR THE USE OF A CLIENT].

* Sec. 25. AS 08.88.341 is amended to read:

Sec. 08.88.341. Listings or management contracts. All real estate listings **or management contracts** must be in writing and must be signed by the **broker** [SELLER] or **associated licensee** [BY AN AGENT] of the **broker and by the client or an authorized representative of the client for whose benefit the real estate licensee will act** [SELLER]. All **real estate** exclusive listings **or management contracts** must have a definite expiration date **that may be renewed or extended only by a written agreement signed by the client or the client's authorized representative**.

* Sec. 26. AS 08.88.351 is amended to read:

Sec. 08.88.351. Accounts; records of transactions [RECORD OF TRANSACTION]. A real estate broker shall

(1) keep a complete record, [OF ALL REAL ESTATE TRANSACTIONS MADE BY THE BROKER OR EMPLOYEES OF THE BROKER] for [AT LEAST] three years, **of all real estate transactions in which the broker or employed licensees of the broker engaged;**

(2) **provide upon request to any principal in a transaction an** [MAKE A CLOSING STATEMENT SHOWING DISBURSEMENTS AND] accounting for all money **or other property collected or held** in the **course of each**

1 transaction;

2 (3) keep a separate trust account in a bank [,] into which the broker
3 shall deposit all earnest money deposits, [AND] purchase money, security deposits,
4 contingency funds, collected rental money, rental receipts, or other money
5 collected in trust until it is appropriate [PROPER] for the broker to distribute the
6 money to the proper persons;

7 (4) if authorized by the board of directors of a community
8 association to collect, control, or disburse association funds, keep a separate
9 account in a financial institution for the funds;

10 (5) make available to the commission, on request, account records and
11 all other documents [RELATING TO TRANSACTIONS UNDER (3) OF THIS
12 SECTION] that the commission may require in order to conduct an investigation or
13 to [A COMPLETE] audit an account required under this section;

14 (6) if records are delivered to a partnership, corporation, or
15 business entity other than another licensed broker upon termination of
16 employment, ensure by contract the maintenance and availability of those records
17 for a minimum of three years in accordance with this section [OF TRUST
18 ACCOUNTS].

19 * **Sec. 27.** AS 08.88.351 is amended by adding new subsections to read:

20 (b) A real estate licensee

21 (1) shall keep, for a minimum of three years, a complete record of all
22 real estate transactions in which the licensee was a principal;

23 (2) who maintains records concerning management or sale of the
24 licensee's own properties or the licensee's client properties separate from the broker's
25 file, shall retain those records for a minimum of three years;

26 (3) shall make available to the commission, on request, records and
27 other documents that the commission may require to conduct an investigation;

28 (4) shall promptly deposit community association funds or proceeds
29 from periodic community association assessments into either a community association
30 reserve account or a community association operating account; if, at any time, the
31 community association operating account contains more money than is estimated to be

needed for budgeted expenditures for the subsequent three months, the licensee shall transfer the excess funds to the community association reserve account as soon as practicable;

(5) may not commingle funds of a community association with funds of another community association or with the licensee's funds.

(c) For the purposes of this section, the three-year requirement for records maintenance begins at the initiation of a transaction and continues, as applicable, until three years after the date

(1) a listing agreement ends;

(2) a sales transaction closes or otherwise ends;

(3) a management contract ends; or

(4) another contractual or fiduciary obligation ends.

* **Sec. 28.** AS 08.88.381 is amended to read:

Sec. 08.88.381. Signs. A [LICENSED] real estate broker shall maintain a sign at each of the [REAL ESTATE] broker's registered real estate offices [,] prominently showing the name of the real estate [BROKER'S] business as registered with the commission. The required size, content, and location of signs under this section may be determined by the commission under regulations. The regulations must allow signs in offices located on premises with more restrictive sign requirements than would otherwise be applicable under the commission's regulations to be considered to be in compliance with the regulations if the signs meet the requirements of the premises and the licensee submits a copy of the sign requirements of the premises to the commission.

* **Sec. 29.** AS 08.88.391 is amended to read:

Sec. 08.88.391. Conflict of interest. A [LICENSED] real estate licensee [BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE SALESMAN] who has a conflict of interest relating to [PERSONAL FINANCIAL INTEREST IN] a real estate transaction shall disclose that conflict of interest at the time of initial substantive contact with the principals or agents of the principals and confirm the conflict of interest in writing to the principals or agents of the principals [EVERY PERSON] involved in the transaction as soon as possible after

the initial substantive contact.

* **Sec. 30.** AS 08.88.391 is amended by adding new subsections to read:

(b) The failure of a licensee to disclose a conflict of interest as required under this section does not give rise to a cause of action by a private person. However, the commission may, under AS 08.88.071, impose a disciplinary sanction for violation of this section, and a claim may be filed by a private person under AS 08.88.460 if the violation constituted fraud, misrepresentation, or deceit and the person suffered a loss as a result of the violation.

(c) In this section, "conflict of interest" is when a licensee

(1) has a present ownership or leasehold interest in the property that is the subject of a transaction;

(2) is whole or part owner of a business interest in the property being marketed or considered for purchase or lease;

(3) represents a relative, as defined in AS 08.88.900(19), or a person with whom the licensee has a financial relationship if the relative or person has a present financial interest in the property being marketed or considered for purchase or lease;

(4) receives compensation from someone other than a party to the contract or another party having a financial interest in the transaction; or

(5) receives compensation for community association management while simultaneously engaged as a property manager for a unit within the community association.

* **Sec. 31.** AS 08.88.396 is amended to read:

Sec. 08.88.396. Disclosure of agency to prospective buyers and sellers. (a)

A person **licensed** [HOLDING A LICENSE] under this chapter shall, when acting as an agent for a prospective seller of real estate,

(1) disclose in writing the **licensee's** [PERSON'S] agency relationship with the seller to each prospective buyer at the time that the **licensee** [PERSON] begins to provide specific assistance to locate or acquire real estate for the buyer, and obtain from each prospective buyer a signed acknowledgement that the buyer is aware of the agency relationship between the **licensee** [PERSON LICENSED UNDER THIS

CHAPTER] and the seller; and

(2) include in the purchase agreement a statement of the agency relationship between the licensee [PERSON LICENSED UNDER THIS CHAPTER] and the seller.

(b) A person licensed [HOLDING A LICENSE] under this chapter shall, when acting as an agent for a prospective buyer of real estate,

(1) disclose the licensee's [PERSON'S] relationship with the buyer to a prospective seller of real estate, or to the seller's agent, at the time of the initial contact between the licensee [PERSON LICENSED UNDER THIS CHAPTER] and the prospective seller or the seller's agent, and confirm the relationship in writing as soon as possible after the initial contact;

(2) include in the purchase agreement a statement of the agency relationship between the licensee [PERSON LICENSED UNDER THIS CHAPTER] and the buyer;

(3) if the prospective seller has an unexpired exclusive listing contract for a property, present all offers [AN OFFER] to purchase that property through [TO] the seller's agent; and

(4) disclose in writing to all parties to a transaction when the licensee's [PERSON'S] compensation as agent for the buyer is to be paid by anyone other than the buyer being represented by the licensee [PERSON].

(c) A person licensed under this chapter may [NOT] act as an agent for both a prospective seller and a prospective buyer of real estate only after [UNLESS] the licensee [PERSON] informs both the seller and the buyer of the dual agency and obtains written consent to the dual [JOINT] agency from both principals.

(d) When a change occurs during a transaction that makes a prior written disclosure required by this section incomplete, misleading, or inaccurate, the licensee [PERSON LICENSED UNDER THIS CHAPTER] shall make a revised disclosure, in writing, to all parties to the transaction as soon as possible. The revised disclosure must include the date of the revision and shall be acknowledged in writing by all the parties.

* **Sec. 32.** AS 08.88 is amended by adding a new section to read:

Sec. 08.88.398. Licensed assistants. A licensed real estate salesperson or licensed associate real estate broker may act as a licensed assistant to a real estate licensee other than the broker who employs the salesperson or associate broker if

(1) the employment arrangement between the licensed assistant and the other licensee is in writing and conforms to the applicable state and federal regulations regarding employment;

(2) the employment of the licensed assistant is approved in writing by the broker of the licensee who employs the assistant;

(3) the licensee who employs the assistant agrees to be responsible for paying the licensed assistant's wages and appropriate taxes and completing the appropriate state and federal tax forms;

(4) the broker of the licensee who employs the assistant agrees to be liable for the actions of the licensed assistant.

* **Sec. 33.** AS 08.88.401 is amended to read:

Sec. 08.88.401. Prohibited conduct. (a) A person licensed under this chapter may not falsely represent to

(1) have been awarded a degree or other designation;

(2) [OR TO] be a member or an affiliate of a professional organization;

or

(3) be a member of a franchise or other business association.

(b) A person

(1) who is not a real estate broker licensed in this state may not accept a fee or a commission for performance of an act for which a license is required by this chapter except that a real estate broker validly licensed in another state may accept a fee or commission or a portion of a fee or commission for assisting a real estate broker licensed in this state in the performance of an act for which a license is required by this chapter;

(2) who is **an associate broker or** a real estate **salesperson** [SALESMAN] licensed in this state may [NOT] accept a fee or commission for performance of an act for which a license is required by this chapter **only from** [UNLESS ACCEPTANCE IS AUTHORIZED BY] the **licensee's employing** broker,

1 except that the wages of a person who is engaged as a licensed assistant under
 2 AS 08.88.398 may be accepted by the person from the assistant's employer [WHO
 3 EMPLOYS THE SALESMAN].

4 (c) A person licensed under this chapter may not knowingly make, authorize,
 5 direct, or aid in the publication of a false statement or misrepresentation concerning
 6 land or a subdivision or other real estate offered for sale, [OR] lease, or rent or
 7 concerning an association being managed.

8 (d) A person who violates [A PROVISION OF] this section, AS 08.88.161,
 9 or 08.88.396 is guilty of a class A misdemeanor.

10 * **Sec. 34.** AS 08.88.401 is amended by adding new subsections to read:

11 (e) A person licensed under this chapter may not knowingly pay any part of
 12 a fee, commission, or other compensation received by the licensee in buying, selling,
 13 exchanging, leasing, auctioning, or renting real estate to

14 (1) a person who is not licensed under this chapter, except as provided
 15 in (f) of this section;

16 (2) another licensee, except through the licensee's responsible broker;
 17 or

18 (3) another licensee knowing that the other licensee intends to pay all
 19 or a portion of that which is received to a person who is not licensed under this
 20 chapter.

21 (f) The prohibition of (e)(1) of this section does not prohibit

22 (1) payments by a licensee to a person licensed to perform real estate
 23 activities in another jurisdiction if the other person has assisted the licensee in the
 24 performance of an act for which a license is required by this chapter; or

25 (2) payments from a real estate licensee to a principal as part of the
 26 resolution of a dispute regarding the terms of a transaction or regarding the property
 27 transferred.

28 (g) A person may not

29 (1) use or attempt to use a license issued under this chapter that was
 30 issued to another person;

31 (2) give false or forged evidence to the commission or to a

representative of the commission in an attempt to obtain a license;

(3) impersonate an applicant under this chapter;

(4) knowingly use or attempt to use an expired, suspended, revoked, or nonexistent license; or

(5) falsely claim to be licensed and authorized to practice under this chapter.

* **Sec. 35.** AS 08.88.450 is amended to read:

Sec. 08.88.450. Real estate surety fund. The real estate surety fund is established in the general fund to carry out the purposes of AS 08.88.450 - 08.88.500. The fund is composed of payments made by [LICENSED] real estate licensees [BROKERS AND SALESMEN] under AS 08.88.455 and filing fees retained under [IN ACCORDANCE WITH] AS 08.88.460. The fund may not exceed \$500,000 and amounts in the fund in excess of \$250,000 may be appropriated for real estate educational purposes as provided in AS 08.88.091.

* **Sec. 36.** AS 08.88.455 is amended to read:

Sec. 08.88.455. Payments by real estate licensees [BROKERS AND SALESMEN]. (a) A [LICENSED] real estate licensee, [BROKER, ASSOCIATE BROKER, OR SALESMAN] when applying for [OBTAINING] or renewing a real estate license, in lieu of obtaining a corporate surety bond, shall pay to the commission in addition to the license fee, a surety fund fee not to exceed \$125. After the fund reaches \$250,000, the commission shall by regulation adjust the surety fund fees so that, taking into account anticipated expenditures for claims against the fund and real estate educational purposes, the fund is maintained at a level not less than \$250,000.

(b) All fees collected under this section shall be paid at least once a month by the department [COMMISSION] into the general fund. These payments shall be credited to the real estate surety fund.

* **Sec. 37.** AS 08.88.460 is amended to read:

Sec. 08.88.460. Claim for payment. (a) Subject to (e) of this section, a [A] person seeking reimbursement for a loss suffered in a real estate transaction as a result of fraud, misrepresentation, deceit, or the conversion of trust funds or the conversion of community association accounts under the control of a community association

manager on the part of a **licensee** [REAL ESTATE BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE SALESMAN] licensed under this chapter shall make a claim to the commission for reimbursement on a form furnished by the commission. **In order to be eligible for reimbursement by the commission, the claim form must be filed within two years after the occurrence of the fraud, misrepresentation, deceit, or conversion of trust funds or the conversion of community association accounts under the control of a community association manager claimed as the basis for the reimbursement.** The form shall be executed under penalty of unsworn falsification [.] and must include the following:

(1) the name and address of **each** [THE] real estate **licensee involved** [BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE SALESMAN];

(2) the amount of the alleged loss;

(3) the date or period of time during which the alleged loss occurred;

(4) the date upon which the alleged loss was discovered;

(5) the name and address of the claimant; and

(6) a general statement of facts relative to the claim.

(b) A copy of a claim filed with the commission under (a) of this section shall be sent to **each** [THE] real estate **licensee** [BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE SALESMAN] alleged to have committed the misconduct resulting in losses, **to the principal** [AS WELL AS A] real estate broker employing **a licensee** [AN ASSOCIATE REAL ESTATE BROKER OR REAL ESTATE SALESMAN] alleged to have committed the conduct resulting in losses, **and to any other real estate licensee involved in the transaction** at least 20 days before any hearing held on the claim by the commission.

(c) Within seven days after receipt of notice of a claim under (b) of this section, **each** [THE] real estate **licensee** [BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE SALESMAN] against whom the claim is made may elect to defend the claim as a small claims action in district court under District Court Civil Rules 8 - 22 [.] if the claim does not exceed the small claims jurisdictional limit. An election to defend a claim in district court under the small claims rules may not

be revoked by the real estate licensee [BROKER, ASSOCIATE BROKER, OR SALESMAN] without the consent of the claimant. Upon receipt of a valid written election under this subsection, the commission shall dismiss the claim filed with the commission and notify the claimant that the claim must be brought as a small claims action in the appropriate state court.

(d) A claimant under this section shall pay a filing fee of \$250 to the commission at the time the claim is filed. The filing fee shall be refunded [ONLY] if

(1) the commission makes an award to the claimant from the real estate surety fund;

(2) the claim is dismissed under (c) of this section; or

(3) the claim is withdrawn by the claimant before the commission holds a hearing on the claim.

* **Sec. 38.** AS 08.88.460 is amended by adding a new subsection to read:

(e) If the claim is for a loss incurred as a result of acts or omissions occurring in the course of the licensee's practice of community association management, only the owners' association for which the real estate licensee practices community association management may file a claim under this section.

* **Sec. 39.** AS 08.88.465(b) is amended to read:

(b) A certified or authenticated copy of a record, including a transcript of testimony, of a hearing held under AS 08.88.071(a)(3) in which fraud, misrepresentation, deceit, or conversion of trust funds or the conversion of community association accounts under the control of a community association manager on the part of a [LICENSED BROKER, ASSOCIATE BROKER, OR] real estate licensee [SALESMAN] is established [,] may constitute sufficient evidence to support a finding that a claim should be paid.

* **Sec. 40.** AS 08.88.465(c) is amended to read:

(c) Before the commission finds that payment should be made from the real estate surety fund, each [THE] real estate licensee against whom the claim is made [BROKER, ASSOCIATE BROKER, OR REAL ESTATE SALESMAN] shall be afforded an opportunity to file with the commission, within 10 days after receipt of

notification of the claim under AS 08.88.460(b), either a written statement in opposition to the claim or an application for the presentation of additional evidence.

* **Sec. 41.** AS 08.88.465(d) is amended to read:

(d) The claimant bears the burden of proof of establishing that the claimant suffered losses in a real estate transaction as a result of fraud, misrepresentation, deceit, or the conversion of trust funds or the conversion of community association accounts under the control of a community association manager on the part of a real estate licensee [BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE SALESMAN] and the extent of those losses. All facts shall be established by a preponderance of the evidence.

* **Sec. 42.** AS 08.88.470 is amended to read:

Sec. 08.88.470. Findings and payment. At the conclusion of the commission's consideration of a claim made under AS 08.88.460, it shall make written findings and conclusions on the evidence. If the commission finds that the claimant has suffered a loss in a real estate transaction as a result of fraud, misrepresentation, deceit, or the conversion of trust funds or the conversion of community association accounts under the control of a community association manager on the part of a real estate licensee [BROKER, ASSOCIATE BROKER, OR SALESMAN], the commission may award a claimant reimbursement from [OUT OF] the real estate surety fund for the claimant's loss up to \$10,000. Not [HOWEVER, NOT] more than \$10,000 may be paid for each transaction regardless of the number of persons injured or the number of parcels of real estate involved in the transaction.

* **Sec. 43.** AS 08.88.472(a) is amended to read:

(a) The [WHEN AN AWARD IS MADE FROM THE REAL ESTATE SURETY FUND UNDER AS 08.88.470, THE] commission may charge to the real estate surety fund the costs of a hearing on a claim for reimbursement held under AS 08.88.465. The commission shall deposit into the real estate surety fund amounts [AS 08.88.071 OR 08.88.465. AMOUNTS SUBSEQUENTLY] recovered [BY THE COMMISSION] for these costs from the licensee under AS 08.88.071(b) or from other parties under AS 08.88.490 [SHALL BE DEPOSITED TO THE REAL ESTATE SURETY FUND].

* **Sec. 44.** AS 08.88.474 is amended to read:

Sec. 08.88.474. Payment of small claims judgment. If a claim originally filed with the commission is dismissed and is heard as a small claims action under AS 08.88.460(c) and the claimant prevails in the small claims action against a [THE] real estate licensee [BROKER, ASSOCIATE REAL ESTATE BROKER, OR SALESMAN], the commission shall make an award from the fund of any outstanding portion of the small claims judgment on receipt of a copy of the final judgment and an affidavit from the claimant stating that more than 30 days have elapsed since the judgment became final and that the judgment has not yet been satisfied by the licensee determined responsible [BROKER, ASSOCIATE BROKER, OR SALESMAN HAS NOT SATISFIED THE JUDGMENT DURING THAT TIME]. After payment of a small claims judgment, the commission is subrogated to the claimant's rights in the judgment under AS 08.88.490.

* **Sec. 45.** AS 08.88.475 is amended to read:

Sec. 08.88.475. Maximum liability. (a) The maximum liability of the real estate surety fund may not exceed \$50,000 for any one real estate licensee [BROKER OR SALESMAN].

(b) If the \$50,000 liability of the fund as provided in (a) of this section is insufficient to pay in full the valid claims of all persons who have filed claims against an individual licensee [ONE BROKER OR SALESMAN], the \$50,000 shall be distributed among the claimants in the ratio that their individual claims bear to the aggregate of valid claims, or in another manner that the commission considers equitable. Distribution shall be among the persons entitled to share in the recovery [,] without regard to the order [OF PRIORITY] in which their claims were filed.

* **Sec. 46.** AS 08.88.490 is amended to read:

Sec. 08.88.490. Right to subrogation. When the commission has paid to a claimant from the real estate surety fund the sum awarded by the commission, the commission shall be subrogated to all of the rights of the claimant to the amount paid, and the claimant shall assign all right, title, and interest in that portion of the claim to the commission. Money collected [AMOUNTS SUBSEQUENTLY REALIZED] by the commission on the claim shall be deposited to the real estate surety fund.

* **Sec. 47.** AS 08.88.900 is amended to read:

Sec. 08.88.900. Exceptions. (a) Except as provided in (b) of this section,
this [THIS] chapter does not apply to

(1) a person who is not licensed under this chapter who manages or
 makes a real estate transaction with respect to real estate the person owns or is seeking
to own so long as the compensation the person receives does not include any
portion of the commission or other compensation paid to a real estate licensee in
the transaction [ON THE PERSON'S OWN BEHALF, UNLESS THE
 TRANSACTION INVOLVES LAND DEFINED IN AS 34.55.044(7) THAT IS NOT
 IN ALASKA];

(2) an attorney in fact under a power of attorney authorizing the
 consummation of a specific real estate transaction; an attorney in fact may not act as
 such under this paragraph for more than two transactions in a calendar year;

(3) a lawyer performing duties as a lawyer;

(4) a public official in the conduct of official duties;

(5) a person acting as receiver, trustee, administrator, executor, or
 guardian;

(6) a person acting under court order;

(7) a person acting under the authority of a will or trust instrument;

(8) a person dealing in mineral rights transactions;

(9) an [A DOMESTIC OR FOREIGN CORPORATION, A GENERAL
 OR LIMITED PARTNERSHIP, OR A PARTNER OR REGULAR] employee of a
 domestic or foreign corporation, [OR A] general or limited partnership, or limited
liability company when performing an act described in AS 08.88.161 incidental to
 [IN] the regular course of business when the act relates [, OR AS AN INCIDENT]
 to [,] the management, sale, or other disposition of real estate owned by the foreign
or domestic corporation, general or limited partnership or limited liability company;
 the exemption under [PROVIDED IN] this paragraph does not apply to a person
employed by a foreign or domestic corporation, partnership, limited partnership,
or limited liability company who performs an act described in AS 08.88.161 [,]
 UNLESS ALLOWED FOR UNLICENSED PERSONS UNDER AS 08.88.165,] either

- 1 (A) as a vocation; or
- 2 (B) for compensation if the amount of the compensation is
- 3 dependent upon or directly related to the value of the real estate with respect
- 4 to which the act is performed;
- 5 (10) a person performing duties as a resident manager;
- 6 (11) a bookkeeper or accountant performing bookkeeping or
- 7 accounting functions;
- 8 (12) a secretary or receptionist in a real estate office accepting rent
- 9 or association fees and providing a written receipt for the rent or fees when a
- 10 tenant or community association member delivers the rent or fees to the real
- 11 estate office;
- 12 (13) tradesmen or vendors of services performing maintenance and
- 13 repair functions;
- 14 (14) an employee of a real estate firm or of a property owner
- 15 delivering or accepting a real estate contract or application, or a related
- 16 amendment, to or from another person;
- 17 (15) an individual assisting in the performance of real estate
- 18 activities only by carrying out administrative, clerical, or maintenance tasks;
- 19 (16) the management of a total of four or fewer residential units by
- 20 a natural person for other persons;
- 21 (17) community association management for property organized
- 22 under AS 34.07 or AS 34.08 by a resident owner of a unit in the property if the
- 23 owner is a member of a self-managed community association for the property;
- 24 (18) community association management by a developer of property
- 25 organized under AS 34.07 or AS 34.08 during the period that the developer
- 26 retains control of at least 51 percent of the property;
- 27 (19) an attorney in fact who, for a relative, acts under a power of
- 28 attorney that authorizes the consummation of a specific real estate transaction;
- 29 in this paragraph, "relative" means a spouse or a great grandparent,
- 30 grandparent, parent, uncle, aunt, sibling, child, nephew, niece, grandchild, or
- 31 great grandchild by the whole or half blood or by marriage but does not include

a relative who is only related through a step relationship, such as a stepbrother or the child of a stepbrother, except that "relative" includes a stepchild;

(20) a mobile home dealer licensed under AS 08.67 performing within the scope of the dealer's license; or

(21) the management by a natural person of property for another person without a fee other than the reimbursement of expenses [OF RENTED REAL ESTATE IF THE RESIDENT MANAGER'S DUTIES ARE LIMITED TO THE NEGOTIATION OF LEASES AND RENTAL AGREEMENTS AND THE COLLECTION OF RENT FOR THE USE OF THE REAL ESTATE AND IF THE RESIDENT MANAGER IS

(A) EMPLOYED BY THE OWNER OF THE REAL ESTATE;

OR

(B) EMPLOYED BY, OR ENGAGED UNDER CONTRACT WITH, A LICENSED REAL ESTATE BROKER].

* **Sec. 48.** AS 08.88.900 is amended by adding a new subsection to read:

(b) Notwithstanding that, under this section, a person is exempt from this chapter, AS 08.88.401(e)(1) prohibits a licensee from knowingly paying to that person any part of a fee, commission, or other compensation received by the licensee in buying, selling, exchanging, leasing, auctioning, or renting real estate.

* **Sec. 49.** AS 08.88 is amended by adding a new section to read:

Sec. 08.88.910. Application to independent contractors. The provisions of this chapter that apply to employment relationships and employees also apply to contracting relationships and independent contractors.

* **Sec. 50.** AS 08.88.990(1) is amended to read:

(1) "commission" means the Real Estate Commission except where the context indicates that "commission" refers to a fee paid for personal services;

* **Sec. 51.** AS 08.88.990(3) is amended to read:

(3) "real estate" means an interest or estate in land, corporeal or incorporeal, except that it does not include a unit in a hotel, motel, boarding house, rooming house, or other transient lodging facility, or a unit in a warehouse, mini-storage facility, or other facility the function of which is limited to warehousing

1 **purposes;**

2 * **Sec. 52.** AS 08.88.990(4) is amended to read:

3 (4) "resident manager" means a person who resides on **rented or leased**
 4 real property **or on contiguous property owned by the same owner,** [AND] manages
 5 **the property** [IT] for the benefit of another person, **and is either employed by the**
 6 **owner of the real estate or employed by, or under contract with, a real estate**
 7 **licensee.**

8 * **Sec. 53.** AS 08.88.990 is amended by adding new paragraphs to read:

9 (5) "community association management" means an activity undertaken
 10 for an owners' association with regard to property organized under either AS 34.07 or
 11 AS 34.08 under an agreement in exchange for a fee, commission, or other valuable
 12 consideration, including the following activities: preparing budgets and other financial
 13 documents, collecting, controlling, or disbursing funds, obtaining insurance for the
 14 association, contracting for maintenance and repair to association property, and
 15 supervising the day-to-day operations of the association under the direction of the
 16 association's board of directors;

17 (6) "community association operating account" means an account in a
 18 financial institution maintained in the name of a specific community association that
 19 contains money used for day-to-day operation and not for other uses;

20 (7) "community association reserve account" means an account in a
 21 financial institution maintained in the name of a specific community association that
 22 contains money reserved for the expected replacement cost of improvements within the
 23 community association or for other future uses;

24 (8) "knowingly" has the meaning given in AS 11.81.900(a);

25 (9) "property management" is an activity undertaken for another with
 26 regard to real property under an agreement in exchange for a fee, commission, or other
 27 valuable consideration, including the following activities: marketing, leasing,
 28 contracting for physical, administrative, or financial maintenance, performance of
 29 overall management of real property, and the supervision of these actions;

30 (10) "real estate licensee" is a person who holds a license under this
 31 chapter; the term includes a broker unless the context clearly excludes brokers;

1 (11) "real estate transaction"

2 (A) in sales, means the transfer or attempted transfer of an
3 interest in a unit of real property, an act conducted as a result of or in pursuit
4 of a contract to transfer an interest in a unit of real property, or an act
5 conducted in an attempt to obtain a contract to market real property;

6 (B) in property management, means the lease or rental of a unit
7 of real property, including collection of rent from a tenant of a unit of rented
8 or leased real property, an attempt to rent or lease a unit of real property, an
9 attempt to collect rent from a tenant of rented or leased real property, or an act
10 conducted as a result of or in pursuit of a contract to manage a unit of leased
11 or rented real property;

12 (C) in community association management, means the collection
13 or attempted collection of dues from a unit owner or an activity conducted as
14 a result of or in pursuit of a contract with a community association to manage
15 the affairs of a community association.

16 * **Sec. 54.** AS 34.70.050 is amended to read:

17 **Sec. 34.70.050. Form of disclosure statement.** The Real Estate Commission
18 established under AS 08.88.011 shall establish the form of the disclosure statement
19 required by AS 34.70.010. **The disclosure statement must include a provision that**
20 **notifies transferees**

21 **(1) that they are responsible for determining whether a person who**
22 **has been convicted of a sex offense resides in the vicinity of the property that is**
23 **the subject of the transferee's potential real estate transaction; and**

24 **(2) where information about the location of convicted sex offenders**
25 **can be obtained.**

26 * **Sec. 55.** AS 08.88.111 is repealed.

27 * **Sec. 56.** TRANSITIONAL PROVISION. Notwithstanding AS 08.88.161(5) and (6),
28 added by sec. 8 of this Act, a person may practice, or negotiate a contract to practice,
29 community association management and may collect fees for community association
30 management without a license issued under AS 08.88 until January 1, 1999.

31 * **Sec. 57.** REGULATIONS. Notwithstanding sec. 59 of this Act, the Real Estate

1 Commission may proceed to adopt regulations necessary to implement AS 08.88.091(f) and
2 (g), added by this Act. The regulations take effect under AS 44.62 (Administrative Procedure
3 Act), but not before January 31, 1999.

4 * **Sec. 58.** REVISOR'S INSTRUCTION. Wherever in the Alaska Statutes and the Alaska
5 Administrative Code the term "salesman" is used in a context relating to real estate salesmen
6 licensed under AS 08.88, it shall be read as "salesperson" when to do so would be consistent
7 with changes made by this Act. Under AS 01.05.031, the revisor of statutes shall implement
8 this section in the statutes, and, under AS 44.62.125, the regulations attorney shall implement
9 this section in the administrative code.

10 * **Sec. 59.** AS 08.88.091(f) and (g), added by sec. 7 of this Act, take effect January 31,
11 1999.

12 * **Sec. 60.** Except as provided in sec. 59 of this Act, this Act takes effect immediately
13 under AS 01.10.070(c).