

HOUSE BILL NO. 33

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE ROKEBERG BY REQUEST

Introduced: 1/13/97

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

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

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

4 * **Section 1.** AS 08.88.041 is amended to read:

5 **Sec. 08.88.041. Qualifications of commission members.** (a) Five members
6 of the commission must be real estate services licensees [BROKERS OR ASSOCIATE
7 BROKERS] who have held an endorsement to practice [BEEN LICENSED] real
8 estate sales, property management, or community association management
9 [BROKERS OR LICENSED ASSOCIATE BROKERS] in Alaska for at least three
10 years before appointment. Two members of the board must be public members in
11 accordance with AS 08.01.025.

12 (b) Of the five members of the commission who must be real estate services
13 licensees [BROKERS OR ASSOCIATE BROKERS],

14 (1) one member shall be from the First Judicial District, one shall be

1 from the Second Judicial District, one shall be from the Third Judicial District, one
 2 shall be from the Fourth Judicial District, and one shall be from the state at large;
 3 **however** [. HOWEVER], if no [LICENSED] real estate **services licensee** [BROKER
 4 OR LICENSED ASSOCIATE BROKER] is eligible or available for appointment from
 5 the Second Judicial District, then two [LICENSED] real estate **services licensees**
 6 [BROKERS OR LICENSED ASSOCIATE BROKERS] shall be appointed from the
 7 state at large; **and**

8 **(2) at least one member shall hold an endorsement to practice**
 9 **property management or community association management.**

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

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

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

14 **Sec. 08.88.061. Assistants. Notwithstanding contrary provisions of**
 15 **AS 08.01.050, the** [THE] commission may **assign or designate** [USE] assistants to

16 (1) **issue licenses and endorsements to applicants who meet the**
 17 **qualifications for licensure established under this chapter;**

18 (2) prepare questions on examinations;

19 (3) **administer and** [(2)] grade examination;

20 (4) **certify courses required under this chapter;**

21 (5) **approve instructors to teach courses required under this**
 22 **chapter; and**

23 (6) **negotiate terms of payment of fines and other money due under**
 24 **this chapter.**

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

26 **Sec. 08.88.071. Duties of the commission.** (a) The commission shall

27 (1) **determine whether** [PASS ON QUALIFICATIONS OF] applicants
 28 **meet requirements** for licenses **and endorsements under this chapter** and issue
 29 licenses **and endorsements** to those who qualify;

30 (2) prepare and grade examinations;

31 (3) after hearing, have the authority to suspend or revoke the license

1 of a licensee **or impose other disciplinary sanctions authorized under AS 08.01.075**
 2 **on a licensee** who

3 (A) with respect to a real estate transaction

4 (i) made a substantial misrepresentation;

5 (ii) made a false promise likely to influence, persuade,
 6 or induce;

7 (iii) in the case of a real estate **services** broker, pursued
 8 a flagrant course of misrepresentation or made a false promise through
 9 an agent [, ASSOCIATE REAL ESTATE BROKER,] or **other** real
 10 estate **services licensee** [SALESMAN];

11 (iv) has engaged in conduct that is fraudulent or
 12 dishonest;

13 (v) violates AS 08.88.391;

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

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

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

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

27 (F) [IF AN ASSOCIATE REAL ESTATE BROKER,] claims
 28 to **hold a real estate services license status, endorsement, or specialty other**
 29 **than the status, endorsement, or specialty actually held** [BE A REAL
 30 ESTATE BROKER, OR, IF A REAL ESTATE SALESMAN, CLAIMS TO BE
 31 A REAL ESTATE BROKER OR ASSOCIATE REAL ESTATE BROKER];

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

5 (H) if an employed real estate services licensee of a
 6 [ASSOCIATE] real estate services broker [OR REAL ESTATE SALESMAN],
 7 fails immediately to turn money or other property collected in a real estate
 8 sales transaction, a property management transaction, or a community
 9 association management transaction over to the employing real estate broker;

10 (4) prosecute, through the Department of Commerce and Economic
 11 Development [LAW], violations of [THE PROVISIONS OF] this chapter or lawful
 12 regulations adopted under this chapter;

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

18 (6) publish in the commission's newsletter a summary of
 19 disciplinary action taken by the commission against a person licensed under this
 20 chapter;

21 (7) issue a temporary permit to the personal representative of the estate
 22 of a deceased real estate services broker or to another [SOME OTHER] person
 23 designated by the commission with the approval of the personal representative of the
 24 estate in order to secure proper administration in concluding the affairs of the decedent
 25 broker's real estate business;

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

31 (9) [(7)] establish and periodically revise the form of the seller's

1 **property** disclosure statement required by AS 34.70.010.

2 (b) When an award is made from the real estate surety fund under this chapter
 3 [IN REIMBURSEMENT OF LOSSES SUFFERED BY A CLAIMANT AS A
 4 RESULT OF FRAUD, MISREPRESENTATION, DECEIT, OR CONVERSION OF
 5 TRUST FUNDS ON THE PART OF A LICENSED BROKER, ASSOCIATE
 6 BROKER, OR SALESMAN], the commission **shall suspend** [MAY CONSIDER THE
 7 HEARING ON THE CLAIM TO BE A HEARING ON THE SUSPENSION OF] the
 8 license of the **real estate services licensee whose actions formed the basis of the**
 9 **award** [BROKER, ASSOCIATE BROKER, OR SALESMAN, AND MAY SUSPEND
 10 THE LICENSE OF THE BROKER, ASSOCIATE BROKER, OR SALESMAN]. A
 11 suspension ordered under this subsection shall be lifted if the **licensee** [BROKER,
 12 ASSOCIATE BROKER, OR SALESMAN] reaches an agreement with the commission
 13 on terms and conditions for the repayment to the real estate surety fund of the money
 14 awarded to the claimant and the costs of hearing the claim under AS 08.88.465. The
 15 suspension shall be reimposed if the **licensee** [BROKER, ASSOCIATE BROKER, OR
 16 SALESMAN] violates the terms of a repayment agreement entered into under this
 17 subsection.

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

23 * **Sec. 5.** AS 08.88.081 is amended to read:

24 **Sec. 08.88.081. Commission regulations.** The commission shall adopt
 25 regulations necessary to carry out the purposes of this chapter, **including regulations**

26 **(1) setting ethical standards and minimum standards of professional**
 27 **conduct and proficiency for licensees; and**

28 **(2) defining terms used in this chapter or in other regulations**
 29 **adopted to implement this chapter.**

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

31 (a) The commission may conduct and assist in conducting real estate clinics,

1 meetings, courses, or institutes **for the general public, licensees, and commission**
 2 **members and staff**. The commission **also** may

3 (1) assist libraries and educational institutions in sponsoring studies and
 4 programs; [AND]

5 (2) publish informational materials for the purpose of raising the
 6 standards of the real estate business, **increasing** [AND] the competency of licensees,
 7 **and informing the general public and commission members and staff about real**
 8 **estate related topics;**

9 (3) **provide instructor training for the enhancement of real estate**
 10 **education programs; and**

11 (4) **recover all or a portion of the expenses incurred under this**
 12 **subsection by charging fees for participation in educational programs and for**
 13 **publications of the commission; these fees shall be deposited in the real estate**
 14 **surety fund.**

15 * **Sec. 7.** AS 08.88.091(b) is amended to read:

16 (b) An applicant for licensure under **AS 08.88.171** [AS 08.88.171(c)] must
 17 complete **the applicable** [20 HOURS OF] education **requirements adopted**
 18 [APPROVED] by the commission **under its regulations** before the person may be
 19 licensed under that **section** [SUBSECTION].

20 * **Sec. 8.** AS 08.88.091(d) is amended to read:

21 (d) A person who is licensed under this chapter must complete **the applicable**
 22 [20 HOURS OF] continuing education **requirements adopted** [APPROVED] by the
 23 commission **under its regulations** before the person's license may be renewed.

24 * **Sec. 9.** AS 08.88.091(e) is amended to read:

25 (e) **In order for an educational course to be recognized for credit under**
 26 **this section,** [THE COMMISSION MAY NOT APPROVE AN EDUCATION OR
 27 CONTINUING EDUCATION COURSE REQUIRED UNDER THIS SECTION
 28 UNLESS THE COMMISSION CERTIFIES] the course outline and [APPROVES] the
 29 instructor of the course **must have been approved by the commission or the**
 30 **commission's designee** before the course **was** [IS] conducted.

31 * **Sec. 10.** AS 08.88.091 is amended by adding a new subsection to read:

1 (f) The commission shall establish by regulation the educational and continuing
2 educational requirements for each type of license and endorsement issued by the
3 commission.

4 * **Sec. 11.** AS 08.88.161 is amended to read:

5 **Sec. 08.88.161. License required.** Unless licensed as a real estate services
6 broker, associate [REAL ESTATE] broker, or **practitioner with an endorsement to**
7 **practice real estate sales** [REAL ESTATE SALESMAN], a natural person, foreign
8 or domestic corporation, [OR] partnership, [OR] limited partnership, or other entity
9 may not

10 (1) sell, exchange, [RENT, LEASE,] auction, or purchase real estate;

11 (2) list real estate for sale, exchange, [RENT, LEASE,] auction, or
12 purchase;

13 (3) [COLLECT RENT FOR THE USE OF REAL ESTATE;

14 (4)] as a business, buy, sell, or deal in

15 (A) options in real estate; or

16 (B) options in improvements to real estate; **or**

17 **(4)** [(5)] assist in or direct the procuring of prospective buyers or the
18 negotiation of a transaction **that** [WHICH] results or is calculated to result in the sale,
19 exchange, [RENT, LEASE,] auction, or purchase of real estate [;

20 (6) HOLD OUT TO THE PUBLIC AS BEING ENGAGED IN THE
21 BUSINESS OF DOING ANY OF THE THINGS LISTED IN THIS SECTION;

22 (7) ATTEMPT OR OFFER TO DO ANY OF THE THINGS LISTED
23 IN THIS SECTION.

24 (8) REPEALED].

25 * **Sec. 12.** AS 08.88.161 is amended by adding new subsections to read:

26 (b) Unless licensed as a real estate services broker, associate broker, or
27 practitioner with an endorsement to practice real estate property management, a natural
28 person, foreign or domestic corporation, partnership, limited partnership, or other entity
29 may not

30 (1) rent or lease real estate;

31 (2) list real estate for rent or lease;

1 (3) collect rent for the use of real estate;

2 (4) assist in or direct the procuring of prospective tenants or the
3 negotiation of a transaction that results or is intended to result in the rental or leasing
4 of real estate; or

5 (5) supervise, contract for, or arrange for the physical, administrative,
6 or financial maintenance of real estate.

7 (c) Unless licensed as a real estate services broker, associate broker, or
8 practitioner with an endorsement to practice community association management, a
9 natural person, foreign or domestic corporation, partnership, limited partnership, or
10 other entity may not

11 (1) manage, or negotiate for a contract to manage, a community
12 association; or

13 (2) assist in or direct the management of the affairs of a community
14 association.

15 (d) Unless licensed as a real estate services broker, associate broker, or
16 practitioner with the appropriate endorsement, a natural person, foreign or domestic
17 corporation, partnership, limited partnership, or other entity may not

18 (1) hold out to the public as being engaged in the business of doing any
19 of the activities listed in this section;

20 (2) attempt or offer to do any of the activities listed in this section; or

21 (3) accept or pay a fee for the performance of any of the activities
22 listed in this section except as otherwise specifically provided in the chapter.

23 (e) Notwithstanding AS 08.01.075 and in addition to punishment under
24 AS 08.88.401(d), the commission may levy a civil fine of (1) \$5,000, or (2) the
25 amount of gain realized plus \$5,000, whichever is greater, for a violation of this
26 section. An action to levy a civil fine under this subsection may be combined with an
27 action for an injunction under AS 08.88.037.

28 * **Sec. 13.** AS 08.88 is amended by adding a new section to read:

29 **Sec. 08.88.168. Endorsements.** (a) A natural person is eligible for a real
30 estate services license only by qualifying for one or more specialty endorsements.

31 (b) A real estate services licensee with an endorsement is eligible for an

1 additional endorsement upon meeting the requirements for the additional endorsement.

2 (c) A real estate services licensee may concurrently hold a combination of
3 endorsements in sales, property management, and community association management.

4 (d) An employed real estate services licensee may hold an endorsement to
5 practice a real estate specialty only while employed by a broker endorsed in the same
6 specialty.

7 * **Sec. 14.** AS 08.88.171 is amended to read:

8 **Sec. 08.88.171. Entitlement to license and endorsements.** (a) A **natural**
9 person **qualifies** [IS ELIGIBLE] for a real estate **services** broker license if the person
10 passes the [REAL ESTATE] brokers examination **for sales, property management,**
11 **or community association management,** [IF THE PERSON] applies for a license
12 **with the appropriate endorsement** within six months after the [PERSON HAS
13 TAKEN THE REAL ESTATE BROKERS] examination, [IF THE PERSON] furnishes
14 satisfactory proof of successful completion of the education requirements of
15 AS 08.88.091, [IF THE PERSON] has had at least 24 months of active and continuous
16 experience as a [LICENSED] real estate **services practitioner within the 36 months**
17 **immediately preceding application for the broker license and endorsement,**
18 [SALESMAN, IF THE PERSON] is not under indictment for, or seven years have
19 elapsed since the person has completed a sentence imposed upon conviction of,
20 forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving
21 moral turpitude, and [IF THE PERSON] is an owner of a real estate business or
22 employed **by a corporation or partnership** as a real estate **services** broker **in the**
23 **specialty area for which the broker holds an endorsement** [BY A CORPORATION
24 OR A PARTNERSHIP,] and [IF] that corporation or partnership does not have an
25 existing [LICENSED] broker **in that specialty.** Unless the broker fails to **renew the**
26 **real estate services license or the endorsement** [PAY THE BIENNIAL RENEWAL
27 FEE] or unless the broker's license is suspended or revoked [UNDER
28 AS 08.88.071(a)(3)], the real estate **services** broker's license **and endorsement**
29 continues in effect **as** [SO] long as the broker is an owner of a real estate business [,]
30 or the broker is employed **by a corporation or a partnership** as a real estate **services**
31 broker **in the area for which the broker holds an endorsement** [BY A

1 CORPORATION OR A PARTNERSHIP]. If the broker stops being an owner of a
 2 real estate business [,] or stops being employed **by a corporation or partnership** as
 3 a real estate **services** broker **in the area for which the broker holds an endorsement**
 4 [BY A CORPORATION OR PARTNERSHIP], the broker's license **and endorsement**
 5 **are** [IS] suspended from the time the broker stops until

6 (1) the broker again becomes an owner of a real estate business or is
 7 again employed as a real estate **services** broker by a corporation or a partnership **in**
 8 **a specialty area for which the broker holds an endorsement;** or

9 (2) the broker is employed by **another** [A LICENSED REAL ESTATE
 10 BROKER] as an associate [REAL ESTATE] broker, in which case the real estate
 11 **services** broker license **shall be** [IS] returned to the commission **by the broker**, and
 12 the commission **shall issue** [ISSUES] the broker **a real estate services** [AN] associate
 13 [REAL ESTATE] broker license **with the same endorsement formerly held in**
 14 **conjunction with the broker license.**

15 (b) A **natural** person is eligible for **a real estate services** [AN] associate
 16 [REAL ESTATE] broker license if the person passes the real estate brokers
 17 examination **for sales, property management, or community association**
 18 **management,** [IF THE PERSON] applies for **the** [A] license **and endorsement** within
 19 six months after [THE PERSON HAS TAKEN] the examination, [IF THE PERSON]
 20 submits satisfactory proof of successful completion of the education requirements of
 21 AS 08.88.091, [IF THE PERSON] has had at least 24 months of active and continuous
 22 experience as a [LICENSED] real estate **services practitioner within the 36 months**
 23 **immediately preceding application for the license and endorsement,** [SALESMAN,
 24 IF THE PERSON] is not under indictment for, or five years have elapsed since the
 25 person has completed a sentence imposed upon conviction of, forgery, theft, extortion,
 26 conspiracy to defraud creditors, or any other felony involving moral turpitude, and [IF
 27 THE PERSON] is employed by a [LICENSED] real estate **services** broker **as a real**
 28 **estate services associate broker in a specialty area for which both the broker and**
 29 **the associate broker are endorsed** [AS AN ASSOCIATE REAL ESTATE
 30 BROKER]. Unless the associate broker fails to **renew the real estate services license**
 31 **and endorsement** [PAY THE BIENNIAL RENEWAL FEE] or unless the associate

1 broker's license is suspended or revoked [UNDER AS 08.88.071(a)(3)], the associate
 2 [REAL ESTATE] broker's license **and endorsement continue** [CONTINUES] in
 3 effect **as** [SO] long as the associate broker is employed by a [LICENSED REAL
 4 ESTATE] broker as an associate broker **in a specialty for which both the broker and**
 5 **the associate broker are endorsed**. If the associate broker stops being employed by
 6 **an appropriate** [A LICENSED REAL ESTATE] broker, the associate broker's license
 7 **and endorsement are** [IS] suspended from the time the associate broker stops until

8 (1) the associate broker again is employed by a real estate **services**
 9 broker as an associate broker **in a specialty for which both the broker and associate**
 10 **broker are endorsed**; or

11 (2) the associate broker becomes an owner of a real estate business **or**
 12 **is employed as a real estate services broker by a corporation or partnership**, in
 13 which case the [ASSOCIATE BROKER'S ASSOCIATE] real estate **services associate**
 14 broker license **shall be** [IS] returned to the commission **by the associate broker**, and
 15 the commission **shall issue** [ISSUES] the associate broker a real estate **services** broker
 16 license **with the same endorsement formerly held in conjunction with the associate**
 17 **broker license**.

18 (c) A **natural** person is eligible for a real estate **services practitioner**
 19 [SALESMAN] license if the person passes the real estate **practitioner** [SALESMAN]
 20 examination **for sales, property management, or community association**
 21 **management**, [IF THE PERSON] applies for **the** [A] license **and endorsement** within
 22 six months after [THE PERSON HAS TAKEN] the examination, [IF THE PERSON]
 23 submits satisfactory proof of successful completion of the education requirements of
 24 AS 08.88.091, [IF THE PERSON] is at least 19 years old, [IF THE PERSON] is not
 25 under indictment for forgery, theft, extortion, conspiracy to defraud creditors, or any
 26 other felony involving moral turpitude, or, if convicted of such an offense, the person
 27 has completed the sentence imposed upon conviction, and [IF THE PERSON] is
 28 employed by a real estate **services** broker **with the same endorsement held by the**
 29 **practitioner**. Unless the **practitioner** [SALESMAN] fails to **renew the real estate**
 30 **license and endorsement** [PAY THE BIENNIAL RENEWAL FEE] or unless the
 31 **practitioner's** [REAL ESTATE SALESMAN'S] license is suspended or revoked under

1 AS 08.88.071(a)(3), a real estate **practitioner's** [SALESMAN'S] license continues in
 2 effect **as** [SO] long as the **practitioner** [SALESMAN] is employed as a **real estate**
 3 **services practitioner** [SALESMAN] by a [LICENSED] real estate **services** broker
 4 **with the same endorsement held by the practitioner.** If the **practitioner**
 5 [SALESMAN] stops being employed as a real estate **services practitioner by an**
 6 **appropriate broker** [SALESMAN], the **practitioner's** [REAL ESTATE
 7 SALESMAN'S] license is suspended from the time the **practitioner** [SALESMAN]
 8 stops until the **practitioner** [SALESMAN] again is employed as a **real estate services**
 9 **practitioner** [SALESMAN] by a [LICENSED] real estate **services** broker **with the**
 10 **same endorsement held by the practitioner.**

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

14 * **Sec. 15.** AS 08.88 is amended by adding a new section to read:

15 **Sec. 08.88.173. Insurance requirement.** (a) A real estate services licensee
 16 shall, as a condition of obtaining, retaining, or renewing a real estate services license,
 17 carry errors and omissions insurance to cover all activities for which the person is
 18 licensed, or is to be licensed, under this chapter.

19 (b) The commission shall provide to each licensee the opportunity to purchase
 20 the insurance required under this section by contracting with an insurance provider for
 21 a guaranty of coverage for each licensee. The contract under this subsection is subject
 22 to competitive sealed bidding requirements under AS 36.30. The commission shall
 23 determine the terms and conditions of coverage required under this section, including
 24 the minimum limits of coverage and the permissible deductibles and exemptions. A
 25 policy obtained under this subsection shall be available to every real estate services
 26 licensee with no right of cancellation of any particular licensee's coverage on the part
 27 of the insurance provider except for nonpayment of premium or loss of license or
 28 endorsement.

29 (c) A licensee who obtains errors and omissions insurance by a means other
 30 than through the commission's contract under (b) of this section shall obtain insurance
 31 that meets or exceeds the minimum requirements established by the commission in

1 regulations. The regulations adopted under this subsection may not require terms and
 2 conditions, minimum coverage requirements, or permissible deductibles or exemptions
 3 that are different from those required under a contract covered by (b) of this section.
 4 A licensee who obtains insurance coverage under this subsection shall file with the
 5 commission a certificate of coverage that demonstrates that the policy meets or exceeds
 6 the terms and conditions required by the commission.

7 (d) If the commission is unable to obtain coverage for all licensees who choose
 8 to participate in the commission's insurance program at a cost to each licensee of less
 9 than \$100 a year, the commission shall report that fact to the governor. During the
 10 time that insurance is unavailable through the commission as described in this
 11 subsection, the provisions of (a) - (c) of this section may not be enforced, but the
 12 commission shall continue to attempt to contract for an insurance guaranty that will
 13 offer coverage for less than \$100 a year a licensee.

14 * **Sec. 16.** AS 08.88.181 is amended to read:

15 **Sec. 08.88.181. Content and purpose of examination.** (a) The real estate
 16 services examinations [EXAMINATION] may include [, BUT IS NOT
 17 NECESSARILY LIMITED TO,] questions on real estate business ethics and
 18 standards; arithmetic; elementary principles of land economics and appraisal; the
 19 general principles in state statutes relating to deeds, mortgages, real estate contracts,
 20 subdivisions, legal descriptions, building restrictions, agency, disclosure requirements,
 21 trust accounting requirements, landlord and tenant law, property management
 22 ethics and standards, accounting, community association management ethics and
 23 standards, nonprofit corporation creation and operation, and brokerage; and the
 24 general provisions of this chapter and of the regulations of the commission.

25 (b) The examination for each level of licensure and for each endorsement
 26 must include similar questions on basic real estate information, but the precise
 27 content and difficulty shall vary so that each examination includes questions
 28 directly related to the competencies necessary to practice at a specific level of
 29 licensure and for a particular endorsement [REAL ESTATE SALESMAN
 30 EXAMINATION COVERS THE SAME SUBJECTS AS THE REAL ESTATE
 31 BROKER EXAMINATION, BUT IS LESS DIFFICULT].

1 (c) The only purpose of an examination under this chapter is to disqualify
 2 those whose lack of competence [ABILITY] to perform functions required of
 3 professionals [PARTICIPATE] in real estate sales, property management, and
 4 community association management [TRANSACTIONS] would create a serious risk
 5 of [SERIOUS] financial loss to members of the public.

6 * **Sec. 17.** AS 08.88.191(b) is amended to read:

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

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

11 (2) application for the examination, accompanied by the proper filing
 12 fee, may be transmitted by the applicant directly to the national testing service.

13 * **Sec. 18.** AS 08.88.201 is amended to read:

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

17 * **Sec. 19.** AS 08.88.221 is amended to read:

18 **Sec. 08.88.221. Fees.** The Department of Commerce and Economic
 19 Development shall set fees under AS 08.01.065 for a real estate services [BROKER,
 20 ASSOCIATE BROKER, OR SALESMAN] licensee or applicant for the following:

21 (1) examination;

22 (2) reciprocal licensing [RECIPROCITY];

23 (3) initial license and endorsement;

24 (4) renewal of an active license and endorsement;

25 (5) renewal of an inactive license and endorsement;

26 (6) amending or transferring a license or endorsement;

27 (7) publications offered by the commission;

28 (8) courses and seminars offered by the commission;

29 (9) reinstatement of a lapsed license and endorsement;

30 (10) changes to registered office information;

31 (11) course certification and recertification; and

1 **(12) instructor approval and renewal of approval.**

2 * **Sec. 20.** AS 08.88.241 is repealed and reenacted to read:

3 **Sec. 08.88.241. Reinstatement of lapsed license.** (a) A person whose real
4 estate services license has lapsed for less than 30 days is eligible for reinstatement of
5 the license by providing the required application, licensing fees, applicable late fees,
6 and proof of continuing education as required by AS 08.88.091 for the licensing period
7 during which the license was inactive or lapsed.

8 (b) A person whose real estate services license has lapsed for more than 30
9 days and less than 24 months is eligible for reinstatement of the license if the person
10 provides the required application, license and endorsement fees, proof of continuing
11 education as required by AS 08.88.091 for licensing periods during which the license
12 was inactive or lapsed, and an additional fee in an amount equal to the biennial
13 licensing fee.

14 (c) A real estate services licensee whose license or endorsement has been
15 lapsed for more than 24 months is not eligible for reinstatement of the license or
16 endorsement and is eligible for the license or endorsement only by meeting the
17 qualifications applicable to initial licensure under AS 08.88.168 - 08.88.171.

18 * **Sec. 21.** AS 08.88.251 is amended to read:

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

27 (b) An inactive licensee may not attempt or offer to do any of the activities
28 listed in AS 08.88.161, **but may receive commissions or other payments from the**
29 **licensee's former employer for services performed while actively licensed**
30 [EXCEPT AS OTHERWISE ALLOWED FOR UNLICENSED PERSONS UNDER
31 AS 08.88.165].

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

13 * **Sec. 22.** AS 08.88 is amended by adding a new section to article 3 to read:

14 **Sec. 08.88.262. Reciprocal licensing.** A person who holds a valid active real
 15 estate license issued by a state or other jurisdiction with which the commission has
 16 negotiated a reciprocal licensing agreement shall be granted an equivalent real estate
 17 services license in this state if the person applies to the commission and pays the
 18 required fees.

19 * **Sec. 23.** AS 08.88.263 is amended to read:

20 **Sec. 08.88.263. License by endorsement.** A person who holds a valid active
 21 real estate license issued by a [ANOTHER] state or other jurisdiction with which
 22 the commission has not negotiated a reciprocal licensing agreement shall be
 23 granted an equivalent Alaska real estate license if that person [:]

24 (1) passes the portion of the real estate examination that [WHICH]
 25 examines on Alaska law; [AND]

26 (2) meets the requirements of AS 08.88.171 other than the
 27 requirement to pass the portions of the real estate examination that do not
 28 examine on Alaska law; however, the applicant may demonstrate compliance with
 29 the education requirements of AS 08.88.091 by providing proof of comparable
 30 education even through the courses or instructors may not have been certified by
 31 the commission; and

1 **(3) provides to the satisfaction of the commission proof of licensure**
 2 **in the other state or jurisdiction.**

3 * **Sec. 24.** AS 08.88.281 is amended to read:

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

8 * **Sec. 25.** AS 08.88.291 is amended to read:

9 **Sec. 08.88.291. Location.** A **person** licensed **as a** real estate **services** broker
 10 shall, **by registering with the commission,** inform the commission of the **person's**
 11 [BROKER'S] principal office and of any branch offices **of the person's real estate**
 12 **business and include in the information the names of the real estate services**
 13 **licensees who are employed at each office.** A [BROKER HAS. THE BROKER
 14 AND THE ASSOCIATE] real estate **services licensee** [BROKERS AND REAL
 15 ESTATE SALESMEN THE BROKER EMPLOYS] may do **real estate** business only
 16 **through a** [IN OR OUT OF THE BROKER'S] principal office **or from a** [AND THE
 17 BROKER'S] branch **office registered by the broker by whom the licensee is**
 18 **employed** [OFFICES]. Failure of a real estate **services** broker to maintain a place of
 19 business or **to** inform the commission of its location and the names and addresses of
 20 all **real estate services** licensees **employed at each location by the broker** [UNDER
 21 THE BROKER'S JURISDICTION AT THE LOCATION] are grounds for the
 22 suspension or revocation of the broker's license.

23 * **Sec. 26.** AS 08.88.301 is amended to read:

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

28 * **Sec. 27.** AS 08.88.311 is amended to read:

29 **Sec. 08.88.311. Branch offices.** (a) A branch office shall be under the direct
 30 supervision of a **broker or an associate** real estate **services associate** broker whose
 31 principal place of business is that office and who is licensed under this chapter. An

1 associate [REAL ESTATE] broker may serve in the capacity of direct supervisor at
 2 **only** one office [ONLY]. **Real estate services licensees registered to a branch office**
 3 **may practice only the specialties for which both they and the office's supervising**
 4 **associate broker are endorsed.**

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

8 * **Sec. 28.** AS 08.88.321 is amended to read:

9 **Sec. 08.88.321. Possession and display of license certificates.** **Employed**
 10 **real** [REAL] estate **services licensees** [SALESMEN OR ASSOCIATE REAL ESTATE
 11 BROKERS] shall turn their license certificates over to the real estate **services** broker
 12 who employs them. The employing [REAL ESTATE] broker shall display the
 13 [EMPLOYING REAL ESTATE] broker's **own** license certificate [IN THE
 14 EMPLOYING REAL ESTATE BROKER'S PRINCIPAL OFFICE] and the license
 15 certificates of **employed licensees** [EMPLOYEES] in the office **indicated as the office**
 16 **of the licensees' employment in the registration required under AS 08.88.291**
 17 [WHERE THEY DO MOST OF THEIR WORK].

18 * **Sec. 29.** AS 08.88.331 is amended to read:

19 **Sec. 08.88.331. Making of transactions.** **An employed** [A] real estate
 20 **services licensee** [SALESMAN OR ASSOCIATE REAL ESTATE BROKER] may
 21 **perform activities for which a real estate license is required** [MAKE A REAL
 22 ESTATE TRANSACTION] only through the real estate **services** broker who employs
 23 the **licensee** [REAL ESTATE SALESMAN OR ASSOCIATE REAL ESTATE
 24 BROKER]. All money **or other proceeds** collected **in trust and related to a real**
 25 **estate transaction** [ON BEHALF OF THE BROKER] shall immediately be turned
 26 over to the broker or the broker's **authorized** agent. [ALL TRANSACTIONS IN
 27 REAL ESTATE BY A REAL ESTATE SALESMAN OR ASSOCIATE REAL
 28 ESTATE BROKER SHALL BE PROCESSED THROUGH THE REAL ESTATE
 29 SALESMAN'S OR THE ASSOCIATE REAL ESTATE BROKER'S EMPLOYING
 30 REAL ESTATE BROKER'S OFFICE, WHETHER THE TRANSACTIONS ARE FOR
 31 THE REAL ESTATE SALESMAN'S OR ASSOCIATE REAL ESTATE BROKER'S

1 OWN USE OR THE USE OF A CLIENT.]

2 * **Sec. 30.** AS 08.88.341 is amended to read:

3 **Sec. 08.88.341. Transaction service contract [LISTINGS].** A [ALL] real
 4 estate **personal service contract [LISTINGS]** must be in writing and must be signed
 5 by the **broker [SELLER]** or by an **authorized** agent of the **broker as well as by the**
 6 **client or an authorized agent of the client for whose benefit the real estate services**
 7 **licensees will act.** An [SELLER. ALL] exclusive **real estate personal service**
 8 **contract [LISTINGS]** must have a definite expiration date **that may be renewed or**
 9 **extended only by a written agreement signed by the client or the client's**
 10 **authorized agent.**

11 * **Sec. 31.** AS 08.88.351 is amended to read:

12 **Sec. 08.88.351. Record of transaction.** A real estate services broker shall

13 (1) [KEEP A COMPLETE RECORD OF ALL REAL ESTATE
 14 TRANSACTIONS MADE BY THE BROKER OR EMPLOYEES OF THE BROKER]
 15 for at least three years, keep a complete record of all real estate transactions in
 16 which the broker or employed licensees of the broker engaged;

17 (2) prepare an [MAKE A CLOSING STATEMENT SHOWING
 18 DISBURSEMENTS AND] accounting for all money or other property collected or
 19 held in the course of each transaction;

20 (3) keep a separate trust account in a bank, into which the broker shall
 21 deposit all earnest money deposits, [AND] purchase money, security deposits,
 22 contingency funds, community association fees, or other money collected in trust
 23 until it is appropriate [PROPER] for the broker to distribute the money to the proper
 24 persons;

25 (4) make available to the commission, on request, trust account
 26 records and all other documents [RELATING TO TRANSACTIONS UNDER (3) OF
 27 THIS SECTION] that the commission may require in order to conduct an
 28 investigation or to [A COMPLETE] audit a [OF] trust account [ACCOUNTS].

29 * **Sec. 32.** AS 08.88.351 is amended by adding new subsections to read:

30 (b) A real estate services licensee

31 (1) shall keep, for a minimum of three years, a complete record of all

1 real estate transactions in which the licensee was a principal;

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

5 (3) shall make available to the commission, on request, records and
6 other documents that the commission may require to conduct an investigation.

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

10 (1) a listing agreement ends;

11 (2) a sales transaction closes or otherwise ends;

12 (3) a management contract ends; or

13 (4) another contractual or fiduciary obligation ends.

14 * **Sec. 33.** AS 08.88.391 is amended to read:

15 **Sec. 08.88.391. Conflict of interest.** A [LICENSED] real estate services
16 licensee [BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE
17 SALESMAN] who has a personal financial interest or other conflict of interest
18 relating to [IN] a real estate transaction shall, at the time of initial substantive
19 contact with the principals or agents of the principals, disclose that interest in
20 writing to the principals and agents of the principals [EVERY PERSON] involved
21 in the transaction. In this section, "other conflict of interest" includes a conflict
22 created by family, business, or other relationship and a conflict identified in
23 regulations adopted by the commission as being covered by this section.

24 * **Sec. 34.** AS 08.88 is amended by adding a new section to read:

25 **Sec. 08.88.394. Disclosure of agency information to prospective clients.**

26 Before seeking a signature on a contract, a real estate services licensee shall provide
27 to a prospective client or customer a form established by the commission to inform the
28 client or customer about the nature of agency relationships. Licensees shall also
29 disclose to the prospective client or customer the agency relationship that would be
30 established by the proposed contract, the nature of any preexisting agency relationships
31 affecting the proposed contract, and the nature of other relevant potential agency

1 relationships. This disclosure and receipt of the form must be acknowledged in writing
2 by the prospective client or customer before a contract is signed.

3 * **Sec. 35.** AS 08.88.396 is amended to read:

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

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

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

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

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

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

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

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

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

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

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

11 * **Sec. 36.** AS 08.88.401 is amended to read:

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

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

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

16 (3) **be a member of a franchise or other business association; or**

17 (4) **be certified or endorsed as a specialist.**

18 (b) A person **licensed under this chapter**

19 (1) [WHO IS NOT A REAL ESTATE BROKER LICENSED IN THIS
 20 STATE] may not **pay** [ACCEPT] a fee or a commission for performance of an act for
 21 which a license is required by this chapter **to a person unless the person is licensed**
 22 **and holds the appropriate endorsement under this chapter,** except that a real estate
 23 **services** broker **may pay to a person** [VALIDLY] licensed in another state [MAY
 24 ACCEPT] a fee or commission [OR A PORTION OF A FEE OR COMMISSION] for
 25 assisting [A REAL ESTATE BROKER LICENSED IN THIS STATE] in the
 26 performance of an act for which a license is required by this chapter;

27 (2) who is **licensed as an associate broker or a practitioner** [A
 28 REAL ESTATE SALESMAN LICENSED IN THIS STATE] may [NOT] accept a fee
 29 or commission for performance of an act for which a license is required by this chapter
 30 **only from** [UNLESS ACCEPTANCE IS AUTHORIZED BY] the **licensee's**
 31 **employing** broker [WHO EMPLOYS THE SALESMAN].

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

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

7 * **Sec. 37.** AS 08.88.401 is amended by adding a new subsection to read:

8 (e) A person may not

9 (1) use or attempt to use a license or endorsement issued under this
 10 chapter that was issued to another person;

11 (2) give false or forged evidence to the commission or to a
 12 representative of the commission in an attempt to obtain a license or endorsement;

13 (3) impersonate an applicant under this chapter;

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

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

18 * **Sec. 38.** AS 08.88.450 is amended to read:

19 **Sec. 08.88.450. Real estate surety fund.** The real estate surety fund is
 20 established in the general fund to carry out the purposes of AS 08.88.450 - 08.88.500.

21 The fund is composed of payments made by licensed real estate **licensees** [BROKERS
 22 AND SALESMEN] under AS 08.88.455, [AND] filing fees retained **under** [IN
 23 ACCORDANCE WITH] AS 08.88.460, **and fees collected under AS 08.88.091(a).**

24 The fund may not exceed \$500,000 and amounts in the fund in excess of \$250,000
 25 may be appropriated for real estate educational purposes as provided in AS 08.88.091.

26 * **Sec. 39.** AS 08.88.455 is amended to read:

27 **Sec. 08.88.455. Payments by real estate licensees [BROKERS AND**
 28 **SALESMEN].** (a) A [LICENSED] real estate **services licensee,** [BROKER,
 29 ASSOCIATE BROKER, OR SALESMAN] when **applying for** [OBTAINING] or
 30 renewing a real estate license, in lieu of obtaining a corporate surety bond, shall pay
 31 to the commission in addition to the license fee, a surety fund fee not to exceed \$125.

1 After the fund reaches \$250,000, the commission shall by regulation adjust the surety
 2 fund fees so that, taking into account anticipated expenditures for claims against the
 3 fund and real estate educational purposes, the fund is maintained at a level not less
 4 than \$250,000.

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

8 * **Sec. 40.** AS 08.88.460 is amended to read:

9 **Sec. 08.88.460. Claim for payment.** (a) A person seeking reimbursement for
 10 a loss suffered in a **real estate** transaction as a result of fraud, misrepresentation,
 11 deceit, or the conversion of trust funds on the part of a real estate **services licensee**
 12 [BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE
 13 SALESMAN LICENSED UNDER THIS CHAPTER] shall make a claim to the
 14 commission for reimbursement on a form furnished by the commission. **In order to**
 15 **be eligible for reimbursement by the commission, the claim form must be filed**
 16 **within two years after the occurrence of the fraud, misrepresentation, deceit, or**
 17 **conversion of trust funds claimed as the basis for the reimbursement.** The form
 18 shall be executed under penalty of unsworn falsification [,] and must include the
 19 following:

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

23 (2) the amount of the alleged loss;

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

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

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

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

28 (b) A copy of a claim filed with the commission under (a) of this section shall
 29 be sent to **each** [THE] real estate **services licensee** [BROKER, ASSOCIATE REAL
 30 ESTATE BROKER, OR REAL ESTATE SALESMAN] alleged to have committed the
 31 misconduct resulting in losses, **to the principal** [AS WELL AS A] real estate **services**

1 broker **or associate broker** employing **a licensee** [AN ASSOCIATE REAL ESTATE
 2 BROKER OR REAL ESTATE SALESMAN] alleged to have committed the conduct
 3 resulting in losses, **and to any other real estate licensee involved in the transaction**
 4 at least 20 days before any hearing held on the claim by the commission.

5 (c) Within seven days after receipt of notice of a claim under (b) of this
 6 section, **each** [THE] real estate **services licensee** [BROKER, ASSOCIATE REAL
 7 ESTATE BROKER, OR REAL ESTATE SALESMAN] against whom the claim is
 8 made may elect to defend the claim as a small claims action in district court under
 9 District Court Civil Rules 8 - 22 [,] if the claim does not exceed the small claims
 10 jurisdictional limit. An election to defend a claim in district court under the small
 11 claims rules may not be revoked by the **real estate services licensee** [BROKER,
 12 ASSOCIATE BROKER, OR SALESMAN] without the consent of the claimant. Upon
 13 receipt of a valid written election under this subsection, the commission shall dismiss
 14 the claim filed with the commission and notify the claimant that the claim must be
 15 brought as a small claims action in the appropriate state court.

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

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

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

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

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

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

31 * **Sec. 42.** AS 08.88.465(c) is amended to read:

1 (c) Before the commission finds that payment should be made from the real
 2 estate surety fund, **each** [THE] real estate **services licensee against whom the claim**
 3 **is made** [BROKER, ASSOCIATE BROKER, OR REAL ESTATE SALESMAN] shall
 4 be afforded an opportunity to file with the commission, within 10 days after receipt
 5 of notification of the claim under AS 08.88.460(b), either a written statement in
 6 opposition to the claim or an application for the presentation of additional evidence.

7 * **Sec. 43.** AS 08.88.465(d) is amended to read:

8 (d) The claimant bears the burden of proof of establishing that the claimant
 9 suffered losses in a **real estate** transaction as a result of fraud, misrepresentation,
 10 deceit, or the conversion of trust funds on the part of a real estate **services licensee**
 11 [BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE
 12 SALESMAN] and the extent of those losses. All facts shall be established by a
 13 preponderance of the evidence.

14 * **Sec. 44.** AS 08.88.470 is amended to read:

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

25 * **Sec. 45.** AS 08.88.472(a) is amended to read:

26 (a) When an award is made from the real estate surety fund under
 27 AS 08.88.470, the commission may charge to the fund the costs of a hearing held
 28 under AS 08.88.071 or 08.88.465. Amounts subsequently recovered by the
 29 commission for these costs from **a real estate services** [THE] licensee under
 30 AS 08.88.071(b) or from other parties under AS 08.88.490 shall be deposited to the
 31 real estate surety fund.

1 * **Sec. 46.** AS 08.88.474 is amended to read:

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

14 * **Sec. 47.** AS 08.88.475 is amended to read:

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

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

25 * **Sec. 48.** AS 08.88.490 is amended to read:

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

1 * **Sec. 49.** AS 08.88.900 is amended to read:

2 **Sec. 08.88.900. Exceptions.** The provisions of this [THIS] chapter **that**
3 **require licensure do** [DOES] not apply to

4 (1) a person **licensed in another profession while performing the**
5 **duties authorized under the license** [WHO IS NOT LICENSED UNDER THIS
6 CHAPTER WHO MAKES A REAL ESTATE TRANSACTION WITH RESPECT TO
7 REAL ESTATE THE PERSON OWNS OR ON THE PERSON'S OWN BEHALF,
8 UNLESS THE TRANSACTION INVOLVES LAND DEFINED IN AS 34.55.044(7)
9 THAT IS NOT IN ALASKA];

10 (2) **a bookkeeper performing bookkeeping functions** [AN
11 ATTORNEY IN FACT UNDER A POWER OF ATTORNEY AUTHORIZING THE
12 CONSUMMATION OF A SPECIFIC REAL ESTATE TRANSACTION; AN
13 ATTORNEY IN FACT MAY NOT ACT AS SUCH FOR MORE THAN TWO
14 TRANSACTIONS IN A CALENDAR YEAR];

15 (3) **tradesmen or vendors of services performing maintenance and**
16 **repair functions** [A LAWYER PERFORMING DUTIES AS A LAWYER];

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

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

20 (6) a person acting under court order;

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

22 (8) **an employee of a real estate firm or of a property owner who**
23 **delivers or accepts a real estate contract or application, or a related amendment,**
24 **to or from another person** [A PERSON DEALING IN MINERAL RIGHTS
25 TRANSACTIONS];

26 (9) **an individual assisting in the performance of real estate**
27 **activities only by carrying out administrative, clerical, or maintenance tasks** [A
28 DOMESTIC OR FOREIGN CORPORATION, A GENERAL OR LIMITED
29 PARTNERSHIP, OR A PARTNER OR REGULAR EMPLOYEE OF A DOMESTIC
30 OR FOREIGN CORPORATION OR A GENERAL OR LIMITED PARTNERSHIP,
31 WHEN PERFORMING AN ACT DESCRIBED IN AS 08.88.161 IN THE REGULAR

1 COURSE, OR AS AN INCIDENT TO, THE MANAGEMENT, SALE, OR OTHER
 2 DISPOSITION OF REAL ESTATE OWNED BY THE CORPORATION OR
 3 PARTNERSHIP; THE EXEMPTION PROVIDED IN THIS PARAGRAPH DOES
 4 NOT APPLY TO A PERSON WHO PERFORMS AN ACT DESCRIBED IN
 5 AS 08.88.161, UNLESS ALLOWED FOR UNLICENSED PERSONS UNDER
 6 AS 08.88.165, EITHER

7 (A) AS A VOCATION; OR

8 (B) FOR COMPENSATION IF THE AMOUNT OF THE
 9 COMPENSATION IS DEPENDENT UPON OR DIRECTLY RELATED TO
 10 THE VALUE OF THE REAL ESTATE WITH RESPECT TO WHICH THE
 11 ACT IS PERFORMED;

12 (10) A RESIDENT MANAGER OF RENTED REAL ESTATE IF THE
 13 RESIDENT MANAGER'S DUTIES ARE LIMITED TO THE NEGOTIATION OF
 14 LEASES AND RENTAL AGREEMENTS AND THE COLLECTION OF RENT FOR
 15 THE USE OF THE REAL ESTATE AND IF THE RESIDENT MANAGER IS

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

17 OR

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

20 * **Sec. 50.** AS 08.88.900 is amended by adding new subsections to read:

21 (b) The requirements of this chapter for licensure with a sales endorsement do
 22 not apply to

23 (1) a person who is not licensed under this chapter who makes a real
 24 estate transaction with respect to real estate the person owns or on the person's own
 25 behalf unless the transaction involves subdivided land, as defined in AS 34.55.044, that
 26 is not in the state;

27 (2) an attorney in fact under a power of attorney authorizing the
 28 consummation of a specific real estate transaction; however, an attorney in fact may
 29 not act as such for more than two sales transactions in a calendar year;

30 (3) a person dealing in mineral rights transactions;

31 (4) a domestic or foreign corporation, a general or limited partnership,

1 or a partner or regular employee of a domestic or foreign corporation or a general or
 2 limited partnership, when performing an act described in AS 08.88.161 incidental to
 3 the regular course of business or as an incident to the sale or other disposition of real
 4 estate owned by the corporation or partnership; the exemption under this paragraph
 5 does not apply to a person who performs an act described in AS 08.88.161 either

6 (A) as a vocation; or

7 (B) for compensation if the amount of the compensation is
 8 dependent upon or related to the value of the real estate with respect to which
 9 the act is performed.

10 (c) The requirements of this chapter for licensure with a property management
 11 endorsement do not apply to

12 (1) a person who is not licensed under this chapter who manages real
 13 estate the person owns or who rents or leases property on the person's own behalf;

14 (2) an attorney in fact under a power of attorney authorizing the
 15 consummation of a specific real estate lease or rental transaction; however, an attorney
 16 in fact may not act as such for more than two property management transactions in a
 17 calendar year;

18 (3) a person who manages four or fewer residential units for another;
 19 or

20 (4) a resident manager.

21 (d) The requirements of this chapter for licensure with a community
 22 association management endorsement do not apply to

23 (1) an owner of a unit of a self-managed community association
 24 managing the community association without remuneration; or

25 (2) a developer of a community association during the period that the
 26 developer retains control of the association; however, to be eligible for this exemption,
 27 the developer must employ or contract with a real estate services licensee who has a
 28 community association management endorsement.

29 * **Sec. 51.** AS 08.88.990 is amended to read:

30 **Sec. 08.88.990. Definitions.** In this chapter,

31 (1) "commission" means the Real Estate Commission except where the

1 context indicates that "commission" refers to a fee paid for personal services;

2 (2) "lease" means a written or oral contract between a lessor and
 3 a lessee that transfers the right to exclusive possession and use of the lessor's real
 4 property to the lessee for a specified period of time and for a stated consideration;
 5 the term includes a lease that is a part of another transaction;

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

11 (4) "resident manager" means a person who resides on rented or leased
 12 real property or on contiguous property owned by the same owner, [AND] manages
 13 the property [IT] for the benefit of another person, and is either employed by the
 14 owner of the real estate or employed by, or under contract with, a real estate
 15 services licensee with a property management endorsement.

16 * **Sec. 52.** AS 08.88.990 is amended by adding new paragraphs to read:

17 (5) "broker" is a real estate services licensee who is fully qualified and
 18 authorized to own or manage a real estate business; the term includes a person who
 19 holds more than one endorsement simultaneously; unless otherwise required in context,
 20 this term also includes a real estate services associate broker in charge of a branch
 21 office;

22 (6) "community association management" means an activity undertaken
 23 for others with regard to a property organized under AS 34.08 under an agreement in
 24 exchange for a fee, commission, or other valuable consideration, including the
 25 following activities: preparing budgets and other financial documents, collecting,
 26 controlling, or disbursing funds, obtaining insurance for the association, contracting for
 27 maintenance and repair to association property, and supervising the day-to-day
 28 operations of an association under the direction of the association's board of directors;

29 (7) "employed real estate services licensee" is a real estate services
 30 associate broker or practitioner who is required by this chapter to be employed and
 31 supervised by a broker;

1 (8) "property management" is an activity undertaken for another with
 2 regard to real property under an agreement in exchange for a fee, commission, or other
 3 valuable consideration, including the following activities: marketing, leasing,
 4 contracting for physical, administrative, or financial maintenance, performance of
 5 overall management of real property, and the supervision of these actions;

6 (9) "real estate services licensee" is a person who holds a license under
 7 this chapter and one or more of the specialty endorsements identified in AS 08.88.171;
 8 the term includes a broker unless the context clearly excludes brokers;

9 (10) "real estate transaction"

10 (A) in sales, means the transfer or attempted transfer of an
 11 interest in a unit of real property, an act conducted as a result of or in pursuit
 12 of a contract to transfer an interest in a unit of real property, or an act
 13 conducted in an attempt to obtain a contract to market real property;

14 (B) in property management, means the lease or rental of a unit
 15 of real property including collection of rent from a tenant of a unit of rented
 16 or leased real property, an attempt to rent or lease a unit of real property, an
 17 attempt to collect rent from a tenant of rented or leased real property, or an act
 18 conducted as a result of or in pursuit of a contract to manage a unit of leased
 19 or rented real property;

20 (C) in community association management, means the collection
 21 or attempted collection of dues from a unit owner or an activity conducted as
 22 a result of or in pursuit of a contract with a community association to manage
 23 the affairs of a community association.

24 * **Sec. 53.** AS 18.80.300(1) is amended to read:

25 (1) "blockbusting" means an unlawful discriminatory practice by real
 26 estate services licensees [BROKERS, REAL ESTATE SALESMEN,] or employees or
 27 agents of a real estate services broker or another individual, corporation, partnership,
 28 or organization for the purpose of inducing a real estate transaction from which any
 29 such person or its stockholders or members may benefit financially, to represent
 30 directly or indirectly that a change has occurred or will or may occur from a
 31 composition with respect to race, religion, color, or national origin of the owners or

1 occupants of the block, neighborhood, or area in which the real property is located, and
 2 to represent directly or indirectly that this change may or will result in undesirable
 3 consequences in the block, neighborhood, or area in which the real property is located,
 4 including but not limited to the lowering of property values, an increase in criminal
 5 or antisocial behavior, or decline in the quality of the schools or other facilities;

6 * **Sec. 54.** AS 21.66.310(b) is amended to read:

7 (b) An insured named in a title insurance policy or any other person directly
 8 or indirectly connected with the transaction involving the issuance of a title insurance
 9 policy, including, but not limited to a mortgage lender, real estate **services** broker,
 10 builder, or attorney, or an officer, employee, agent, representative, or solicitor of a
 11 mortgage lender, real estate **services** broker, builder, attorney, or other person, may not
 12 knowingly receive or accept, directly or indirectly, a rebate, reduction, or abatement
 13 of a charge or premium or a special favor or advantage, or a monetary consideration
 14 or inducement.

15 * **Sec. 55.** AS 23.20.526(a)(8) is amended to read:

16 (8) service performed by an insurance agent, insurance solicitor, a real
 17 estate **services licensee** [BROKER, A REAL ESTATE SALESMAN], or a securities
 18 salesman to the extent the person is compensated by commission, unless the service
 19 is required to be covered under the Federal Unemployment Tax Act as amended;

20 * **Sec. 56.** AS 34.08.600 is amended to read:

21 **Sec. 34.08.600. Escrow of deposits.** A deposit made in connection with the
 22 purchase or reservation of a unit from a person required to deliver a public offering
 23 statement under AS 34.08.520(c) must be placed in escrow and held either in this state
 24 or in the state where the unit is located in an account designated solely for that
 25 purpose by a licensed title insurance company, an attorney, a licensed real estate
 26 **services** broker, an independent bonded escrow company, or an institution whose
 27 accounts are insured by a governmental agency or instrumentality until

28 (1) delivered to the declarant at closing;

29 (2) delivered to the declarant because of the purchaser's default under
 30 a contract to purchase the unit; or

31 (3) refunded to the purchaser.

1 * **Sec. 57.** AS 45.63.080(4) is amended to read:

2 (4) by a real estate services licensee [BROKER, ASSOCIATE REAL
3 ESTATE BROKER, OR REAL ESTATE SALESMAN] licensed under AS 08.88 and
4 acting in a capacity covered by the license;

5 * **Sec. 58.** AS 08.88.091(c) and 08.88.111 are repealed.

6 * **Sec. 59.** TRANSITIONAL LICENSING. (a) Notwithstanding other provisions of this
7 Act, a natural person who holds an active, inactive, or lapsed real estate license that has not
8 expired by the date this bill section takes effect is eligible for licensure as follows, without
9 taking an examination and without completing the education requirements of AS 08.88.091(b),
10 if the person applies within 365 days after the effective date of this bill section and pays the
11 required fees:

12 (1) a person licensed as a real estate broker is eligible for a real estate services
13 broker license with an endorsement in sales or property management, or both;

14 (2) a person licensed as a real estate associate broker is eligible for a real
15 estate services associate broker license with an endorsement in sales or property management,
16 or both;

17 (3) a person licensed as a real estate salesman is eligible for a real estate
18 services practitioner license with an endorsement in sales or property management, or both.

19 (b) Notwithstanding other provisions of this Act, a natural person who meets the
20 requirements of this subsection when this bill section takes effect is eligible for licensure as
21 follows, without taking an examination and without completing the education requirements of
22 AS 08.88.091(b), if the person applies within 365 days after the effective date of this bill
23 section and pays the required fees:

24 (1) a person who demonstrates to the commission's satisfaction that the person
25 is currently engaged as a principal in the practice of community association management, as
26 defined in AS 08.88.990, as amended by this Act, is eligible for a real estate services broker
27 license with a community association management endorsement;

28 (2) a person who demonstrates to the commission's satisfaction that the person
29 is currently qualified to practice as a principal in the practice of community association
30 management, as defined in AS 08.88.990, as amended by this Act, and is currently engaged
31 in the practice of community association management under a supervising principal who is

1 engaged in the practice of community association management is eligible for a real estate
2 services associate broker license with a community association management endorsement;

3 (3) a person who demonstrates to the commission's satisfaction that the person
4 is currently engaged in the practice of community association management, as defined in
5 AS 08.88.990, as amended by this Act, under the supervision of a principal who is engaged
6 in community association management is eligible for a real estate services practitioner license
7 with a community association management endorsement.

8 * **Sec. 60.** OTHER TRANSITIONAL PROVISIONS. (a) Notwithstanding AS 08.88.041,
9 as amended by sec. 1 of this Act, the members of the Real Estate Commission who hold
10 office on the effective date of this bill section may retain their offices until their terms expire
11 without complying with the requirements of AS 08.88.041.

12 (b) Notwithstanding AS 08.88.041(a), as amended by sec. 1 of this Act, until three
13 years after the effective date of this bill section, a real estate services licensee may be
14 appointed to the commission without having held an endorsement for three years, and a person
15 appointed under this subsection may complete the term of office for which the person was
16 appointed.

17 * **Sec. 61.** AS 08.88.173(a), enacted by sec. 15 of this Act, takes effect 90 days after the
18 effective date of AS 08.88.173(b), enacted by sec. 15 of this Act.