

HOUSE BILL NO. 169

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES ROKEBERG, LeDoux, Anderson, Lynn

Introduced: 2/22/05

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the educational requirements for certain real estate brokers,**
2 **associate brokers, and salespersons with new or suspended licenses; and allowing real**
3 **estate brokers to hire certain experts to review real estate transactions; and providing**
4 **for an effective date."**

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

6 * **Section 1.** AS 08.88.071(b) is amended to read:

7 (b) When an award is made from the real estate surety fund under this chapter,
8 the commission may suspend the license of the real estate licensee whose actions
9 formed the basis of the award. A suspension ordered under this subsection shall be
10 lifted if the licensee reaches an agreement with the commission on terms and
11 conditions for the repayment to the real estate surety fund of the money awarded to the
12 claimant and the costs of hearing the claim under AS 08.88.465 **and if the licensee**
13 **satisfies the requirements of AS 08.88.095.** The suspension shall be reimposed if the
14 licensee violates the terms of a repayment agreement entered into under this

1 subsection.

2 * **Sec. 2.** AS 08.88.091(e) is amended to read:

3 (e) Except for a course described in (f)(1) or (3) of this section, in order for an
 4 educational course to be recognized for credit under this section, **AS 08.88.095, or**
 5 **08.88.098**, the course outline and the instructor of the course **shall** [MUST] have been
 6 approved by the commission or the commission's designee before the course was
 7 conducted. A course outline or instructor is considered approved if the commission or
 8 the commission's designee does not disapprove the outline or instructor within 45 days
 9 after the date on which complete application was made for approval. Each approved
 10 contact hour of a submitted course outline constitutes one credit hour of
 11 [CONTINUING] education **under (d) of this section, AS 08.88.095, or 08.88.098**.
 12 The fee for continuing education course certification under AS 08.88.221 **and for**
 13 **course certification under AS 08.88.221 to satisfy the educational requirements of**
 14 **AS 08.88.095 and 08.88.098 must** [SHALL] be based on the hours approved for
 15 credit, not **on the** hours submitted.

16 * **Sec. 3.** AS 08.88.091(f) is amended to read:

17 (f) The commission shall establish by regulation the educational and
 18 continuing educational requirements for licenses issued by the commission. The
 19 regulations for continuing education requirements **and for educational requirements**
 20 **under AS 08.88.095 and 08.88.098** must allow the following types of courses to
 21 qualify for the appropriate number of credit hours, as determined by the commission:

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

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

30 (3) courses offered by an accredited college or university as part of a
 31 real estate curriculum that are available for at least one quarter-hour or one-half

1 semester-hour of academic credit; the commission may not charge a fee for these
2 courses.

3 * **Sec. 4.** AS 08.88 is amended by adding new sections to read:

4 **Sec. 08.88.095. Educational requirements after initial license.** (a) In
5 addition to the continuing educational requirements of AS 08.88.091(d), within one
6 year after the date that the commission issues an initial license under this chapter, the
7 licensee shall complete 20 hours of education approved by the commission under
8 AS 08.88.091.

9 (b) On the document representing an initial license, the commission shall
10 include clear and prominent language stating that the license is subject to the licensee's
11 completion of the educational requirements within one year after the date of the
12 issuance of the license.

13 (c) Within 30 days after the end of the one-year period, the licensee shall
14 submit, on a form provided by the commission, a certification that the licensee has
15 completed the educational requirements.

16 (d) After a licensee submits the completed form under (c) of this section and
17 pays the required fee, the commission shall issue a new license document to the
18 licensee that does not contain the language required by (b) of this section.

19 (e) If a licensee fails to complete the educational requirements within the one-
20 year period or to provide the certification required by (c) of this section, the license
21 automatically lapses 30 days after the end of the one-year period. However, the
22 commission may reinstate the license under AS 08.88.241.

23 (f) Notwithstanding the other provisions of this section, if the commission
24 issues an initial license as a real estate broker to an individual who was licensed as an
25 associate real estate broker under this chapter immediately before the commission
26 issued the real estate broker license, the individual is not required to satisfy the
27 educational requirements for the initial license as a real estate broker.

28 (g) The commission may not set limits on the educational requirements that
29 prevent a licensee from completing the educational requirements within a two-day
30 period.

31 (h) In this section, "educational requirements" means the educational

1 requirements of (a) of this section.

2 **Sec. 08.88.098. Educational requirements after suspension.** (a) In addition
3 to the continuing educational requirements of AS 08.88.091(d) and the educational
4 requirements of AS 08.88.095(a), if the commission suspends a license under
5 AS 08.01.075 for six months or more, the licensee shall complete 20 hours of
6 education approved by the commission under AS 08.88.091 before the commission
7 may cancel the suspension.

8 (b) After completing the educational requirements of (a) of this section, the
9 licensee shall submit, on a form provided by the commission, a certification that the
10 licensee has completed the educational requirements.

11 (c) The educational requirements of (a) of this section are in addition to any
12 other conditions that the commission sets for canceling the suspension of a license
13 under this chapter.

14 (d) The commission may not set limits on the educational requirements that
15 prevent a licensee from completing the educational requirements of (a) of this section
16 within a two-day period.

17 (e) Notwithstanding (a) of this section, if the suspension occurs during the first
18 year after the date that the commission issues an initial license under this chapter, the
19 educational requirements of AS 08.88.095 may be used to satisfy the educational
20 requirements established by (a) of this section.

21 * **Sec. 5.** AS 08.88.171(a) is amended to read:

22 (a) A natural person qualifies for a real estate broker license if the person
23 passes the brokers examination, applies for a license within six months after passing
24 the examination, furnishes satisfactory proof of successful completion of the education
25 requirements of AS 08.88.091, has had at least 24 months of active and continuous
26 experience as a licensed real estate salesperson within the 36 months immediately
27 preceding application for the broker license, is not under indictment for, or seven years
28 have elapsed since the person has completed a sentence imposed upon conviction of,
29 forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving
30 moral turpitude, and is an owner of a real estate business or employed as a real estate
31 broker by a foreign or domestic corporation, partnership, limited partnership, or

1 limited liability company. Unless the broker fails to **satisfy the educational**
 2 **requirements of AS 08.88.095 or** renew the license, or [UNLESS] the broker's
 3 license is suspended or revoked, the broker's license continues in effect as long as the
 4 broker's license is active. If the broker stops being an owner of a real estate business
 5 or stops being employed as a real estate broker by a foreign or domestic corporation,
 6 partnership, limited partnership, or limited liability company, the broker's license is
 7 suspended from the time the broker stops until **the broker satisfies the educational**
 8 **requirements of AS 08.88.098 and**

9 (1) [THE BROKER] again becomes an owner of a real estate business
 10 or is again employed as a real estate broker by a foreign or domestic corporation,
 11 partnership, limited partnership, or limited liability company; or

12 (2) [THE BROKER] is employed by another broker as an associate
 13 broker, in which case the real estate broker license shall be returned to the commission
 14 by the broker, and the commission shall issue the broker an associate real estate broker
 15 license.

16 * **Sec. 6.** AS 08.88.171(b) is amended to read:

17 (b) A natural person qualifies for an associate real estate broker license if the
 18 person passes the brokers examination, applies for the license within six months after
 19 passing the examination, submits satisfactory proof of successful completion of the
 20 education requirements of AS 08.88.091, has had at least 24 months of active and
 21 continuous experience as a licensed real estate salesperson within the 36 months
 22 immediately preceding application for the license, is not under indictment for, or five
 23 years have elapsed since the person has completed a sentence imposed upon
 24 conviction of, forgery, theft, extortion, conspiracy to defraud creditors, or any other
 25 felony involving moral turpitude, and is employed by a licensed real estate broker as
 26 an associate real estate broker. Unless the associate broker fails to **satisfy the**
 27 **educational requirements of AS 08.88.095 or** renew the license, or [UNLESS] the
 28 associate broker's license is suspended or revoked, the associate broker's license
 29 continues in effect as long as the associate broker is employed by a licensed real estate
 30 broker as an associate broker. If the associate broker stops being employed by a
 31 licensed real estate broker, the associate broker's license is suspended from the time

1 the associate broker stops until **the associate broker satisfies the educational**
 2 **requirements of AS 08.88.098 and**

3 (1) [THE ASSOCIATE BROKER] again is employed by a real estate
 4 broker as an associate broker; or

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

10 * **Sec. 7.** AS 08.88.171(c) is amended to read:

11 (c) A natural person qualifies for a real estate salesperson license if the person
 12 passes the real estate salesperson examination, applies for the license within six
 13 months after passing the examination, submits satisfactory proof of successful
 14 completion of the education requirements of AS 08.88.091, is at least 19 years **of age**
 15 [OLD], is not under indictment for forgery, theft, extortion, conspiracy to defraud
 16 creditors, or any other felony involving moral turpitude, or, if convicted of such an
 17 offense, the person has completed the sentence imposed upon conviction, and is
 18 employed by a real estate broker. Unless the salesperson fails to **satisfy the**
 19 **educational requirements of AS 08.88.095 or** renew the license, or [UNLESS] the
 20 real estate salesperson's license is suspended or revoked, a real estate salesperson's
 21 license continues in effect as long as the salesperson is employed as a salesperson by a
 22 licensed real estate broker. If the salesperson stops being employed as a real estate
 23 salesperson, the real estate salesperson's license is suspended from the time the
 24 salesperson stops until the salesperson **satisfies the educational requirements of**
 25 **AS 08.88.098 and** again is employed as a real estate salesperson by a licensed real
 26 estate broker.

27 * **Sec. 8.** AS 08.88.221 is amended to read:

28 **Sec. 08.88.221. Fees.** The Department of Commerce, Community, and
 29 Economic Development shall set fees under AS 08.01.065 for a real estate broker,
 30 associate broker, or salesperson licensee or applicant for the following:

31 (1) examination;

- 1 (2) initial license;
 2 (3) renewal of an active license;
 3 (4) renewal of an inactive license;
 4 (5) amending or transferring a license;
 5 (6) publications offered by the commission;
 6 (7) seminars offered by the commission;
 7 (8) reinstatement of a lapsed license;
 8 (9) changes to registered office information;
 9 (10) course certification and recertification; and
 10 (11) instructor approval and renewal of approval; **and**
 11 **(12) issuance of a new license document under AS 08.88.095(d).**

12 * **Sec. 9.** AS 08.88.241(a) is amended to read:

13 (a) A person whose real estate license has lapsed less than 24 months is
 14 eligible for reinstatement of the license if the person provides the required application,
 15 license fees, proof of continuing education as required by AS 08.88.091 for licensing
 16 periods during which the license was inactive or lapsed, **proof of completion of the**
 17 **educational requirements under AS 08.88.095(a), if applicable, and any fee**
 18 **required under AS 08.88.221(12).**

19 * **Sec. 10.** AS 08.88.251(a) is amended to read:

20 (a) A real estate licensee who intends to become inactive shall return to the
 21 commission the person's license certificate and a completed inactivation form
 22 provided by the commission along with any applicable fees. The commission shall
 23 issue the person an inactive license certificate. **A real estate licensee whose license**
 24 **lapses under AS 08.88.095(e) is not eligible for an inactive license under this**
 25 **subsection unless the license is reinstated under AS 08.88.241.**

26 * **Sec. 11.** AS 08.88.263 is amended to read:

27 **Sec. 08.88.263. License by endorsement.** A person who holds a valid active
 28 real estate license issued by another state shall be granted an equivalent Alaska real
 29 estate license if that person:

- 30 (1) passes the portion of the real estate examination which examines
 31 on Alaska law; [AND]

1 (2) meets the requirements of AS 08.88.171; **and**

2 **(3) satisfies the educational requirements under AS 08.88.095(a) if**
 3 **the person has not held the license issued by the other state for one year or more.**

4 * **Sec. 12.** AS 08.88.401(b) is amended to read:

5 (b) **Except as provided in AS 08.88.403, a** [A] person

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

12 (2) who is an associate broker or a real estate salesperson licensed in
 13 this state may accept a fee or commission for performance of an act for which a
 14 license is required by this chapter only from the licensee's employing broker, except
 15 that the wages of a person who is engaged as a licensed assistant under AS 08.88.398
 16 may be accepted by the person from the assistant's employer.

17 * **Sec. 13.** AS 08.88.401(d) is amended to read:

18 (d) **Except as provided in AS 08.88.403, a** [A] person licensed under this
 19 chapter may not knowingly pay any part of a fee, commission, or other compensation
 20 received by the licensee in buying, selling, exchanging, leasing, auctioning, or renting
 21 real estate to

22 (1) a person who is not licensed under this chapter, except as provided
 23 in (e) of this section;

24 (2) another licensee, except through the licensee's responsible broker;
 25 or

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

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

30 **Sec. 08.88.403. Use of experts.** A real estate broker may contract with and
 31 pay an attorney or associate broker to assist the broker to review a real estate

1 transaction before the transaction closes. The broker may pay the attorney or associate
 2 broker from a fee, commission, or other compensation received by the broker in a real
 3 estate transaction payment.

4 * **Sec. 15.** AS 08.88.900(b) is amended to read:

5 (b) Notwithstanding that, under this section, a person is exempt from this
 6 chapter, AS 08.88.401(d)(1) prohibits, except as provided in AS 08.88.403, a
 7 licensee from knowingly paying to that person any part of a fee, commission, or other
 8 compensation received by the licensee in buying, selling, exchanging, leasing,
 9 auctioning, or renting real estate.

10 * **Sec. 16.** AS 08.88.990 is amended by adding a new paragraph to read:

11 (12) "initial license"

12 (A) means the first

13 (i) real estate broker license that the commission issues
 14 to a person, even if the person previously received an associate real
 15 estate broker license or real estate salesperson license under this
 16 chapter;

17 (ii) associate real estate broker license that the
 18 commission issues to a person, even if the person previously received a
 19 real estate broker license or a real estate salesperson license under this
 20 chapter;

21 (iii) real estate salesperson license under this chapter
 22 that the commission issues to a person, even if the person previously
 23 received a real estate broker license or an associate real estate broker
 24 license under this chapter;

25 (iv) issuance of a license to an individual after the
 26 individual's license has been revoked under AS 08.01.075;

27 (B) does not include the reinstatement of a license under
 28 AS 08.88.241(b).

29 * **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to
 30 read:

31 **APPLICABILITY.** AS 08.88.095 and 08.88.098, enacted by sec. 4 of this Act, and

1 AS 08.88.071(b), 08.88.091(e), 08.88.091(f), 08.88.171(a), 08.88.171(b), 08.88.171(c),
2 08.88.221, 08.88.241(a), 08.88.251(a), 08.88.263, and 08.88.990, as amended by secs. 1 - 3, 5
3 - 11, and 16 of this Act, do not apply to

4 (1) an initial license unless the initial license is issued on or after the effective
5 date of this Act; in this paragraph, "initial license" has the meaning given in
6 AS 08.88.990(12)(A)(i) - (iii);

7 (2) An initial license issued after a license revocation, unless the license
8 revocation occurs on or after the effective date of this Act; in this paragraph, "initial license"
9 has the meaning given in AS 08.88.990(12)(A)(iv); or

10 (3) a suspended license unless the license is suspended on or after the effective
11 date of this Act.

12 * **Sec. 18.** The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 TRANSITION: REGULATIONS. The Department of Commerce, Community, and
15 Economic Development may proceed to adopt regulations necessary to implement secs. 1 -
16 11, 16, and 17 of this Act. The regulations take effect under AS 44.62 (Administrative
17 Procedure Act), but not before the effective date of secs. 1 - 11, 16, and 17 of this Act.

18 * **Sec. 19.** Sections 12 - 15 and 18 of this Act take effect immediately under
19 AS 01.10.070(c).

20 * **Sec. 20.** Sections 1 - 11, 16, and 17 of this Act take effect January 1, 2006.