

**CS FOR HOUSE BILL NO. 169(L&C)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 4/8/05

Referred: Finance

Sponsor(s): REPRESENTATIVES ROKEBERG, LeDoux, Anderson, Lynn, Foster

**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; relating to review of**  
3 **real estate transactions by attorneys or associate brokers; relating to the requirements**  
4 **for a real estate broker license and an associate real estate broker license; and providing**  
5 **for an effective date."**

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

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

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

1 **satisfies the requirements of AS 08.88.095.** The suspension shall be reimposed if the  
 2 licensee violates the terms of a repayment agreement entered into under this  
 3 subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (g) In this section, "educational requirements" means the educational  
 30 requirements of (a) of this section.

31 **Sec. 08.88.098. Educational requirements after suspension.** (a) In addition

1 to the continuing educational requirements of AS 08.88.091(d) and the educational  
 2 requirements of AS 08.88.095(a), if the commission suspends a license under  
 3 AS 08.01.075, the licensee shall complete the education required by the commission  
 4 before the commission may reinstate the suspended license.

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

8 (c) The educational requirements of (a) of this section are in addition to any  
 9 other conditions that the commission sets for reinstating a suspended license under this  
 10 chapter.

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

12 (a) A natural person qualifies for a real estate broker license if the person  
 13 passes the brokers examination, applies for a license within six months after passing  
 14 the examination, furnishes satisfactory proof of successful completion of the education  
 15 requirements of AS 08.88.091, has had at least 24 months of active and continuous  
 16 experience as a [LICENSED] real estate **licensee** [SALESPERSON] within the 36  
 17 months immediately preceding application for the broker license, is not under  
 18 indictment for, or seven years have elapsed since the person has completed a sentence  
 19 imposed upon conviction of, forgery, theft, extortion, conspiracy to defraud creditors,  
 20 or any other felony involving moral turpitude, and is an owner of a real estate business  
 21 or employed as a real estate broker by a foreign or domestic corporation, partnership,  
 22 limited partnership, or limited liability company. Unless the broker fails to **satisfy the**  
 23 **educational requirements of AS 08.88.095 or** renew the license, or [UNLESS] the  
 24 broker's license is suspended or revoked, the broker's license continues in effect as  
 25 long as the broker's license is active. If the broker stops being an owner of a real  
 26 estate business or stops being employed as a real estate broker by a foreign or  
 27 domestic corporation, partnership, limited partnership, or limited liability company,  
 28 the broker's license is suspended from the time the broker stops until **the broker**  
 29 **satisfies the educational requirements of AS 08.88.098 and**

30 (1) [THE BROKER] again becomes an owner of a real estate business  
 31 or is again employed as a real estate broker by a foreign or domestic corporation,

1 partnership, limited partnership, or limited liability company; or

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

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

7 (b) A natural person qualifies for an associate real estate broker license if the  
8 person passes the brokers examination, applies for the license within six months after  
9 passing the examination, submits satisfactory proof of successful completion of the  
10 education requirements of AS 08.88.091, has had at least 24 months of active and  
11 continuous experience as a [LICENSED] real estate **licensee** [SALESPERSON]  
12 within the 36 months immediately preceding application for the license, is not under  
13 indictment for, or **seven** [FIVE] years have elapsed since the person has completed a  
14 sentence imposed upon conviction of, forgery, theft, extortion, conspiracy to defraud  
15 creditors, or any other felony involving moral turpitude, and is employed by a licensed  
16 real estate broker as an associate real estate broker. Unless the associate broker fails  
17 to **satisfy the educational requirements of AS 08.88.095 or** renew the license, or  
18 [UNLESS] the associate broker's license is suspended or revoked, the associate  
19 broker's license continues in effect as long as the associate broker is employed by a  
20 licensed real estate broker as an associate broker. If the associate broker stops being  
21 employed by a licensed real estate broker, the associate broker's license is suspended  
22 from the time the associate broker stops until **the associate broker satisfies the**  
23 **educational requirements of AS 08.88.098 and**

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

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

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

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

17 \* **Sec. 8.** AS 08.88.221 is amended to read:

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

- 21 (1) examination;
- 22 (2) initial license;
- 23 (3) renewal of an active license;
- 24 (4) renewal of an inactive license;
- 25 (5) amending or transferring a license;
- 26 (6) publications offered by the commission;
- 27 (7) seminars offered by the commission;
- 28 (8) reinstatement of a lapsed license;
- 29 (9) changes to registered office information;
- 30 (10) course certification and recertification; and
- 31 (11) instructor approval and renewal of approval; **and**

1 **(12) issuance of a new license document under AS 08.88.095(d).**

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

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

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

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

16 \* **Sec. 11.** AS 08.88.263 is amended to read:

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

- 20 (1) passes the portion of the real estate examination which examines  
21 on Alaska law; [AND]  
22 (2) meets the requirements of AS 08.88.171; **and**  
23 **(3) satisfies the educational requirements under AS 08.88.095(a) if**  
24 **the person has not held the license issued by the other state for one year or more.**

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

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

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

1 this chapter;

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

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

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

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

14 (2) another licensee, except through the licensee's responsible broker;  
15 or

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

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

20 **Sec. 08.88.403. Review of transactions.** A real estate broker may contract  
21 with and pay an attorney or associate broker to assist the broker to review a real estate  
22 transaction before the transaction closes. The broker may pay the attorney or associate  
23 broker from a fee, commission, or other compensation received by the broker in a real  
24 estate transaction payment.

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

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

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

1 (12) "initial license"

2 (A) means the first

3 (i) real estate broker license that the commission issues  
4 to a person, even if the person previously received an associate real  
5 estate broker license or real estate salesperson license under this  
6 chapter;

7 (ii) associate real estate broker license that the  
8 commission issues to a person, even if the person previously received a  
9 real estate broker license or a real estate salesperson license under this  
10 chapter;

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

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

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

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

21 **APPLICABILITY.** AS 08.88.095 and 08.88.098, enacted by sec. 4 of this Act, and  
22 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),  
23 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  
24 - 11, and 16 of this Act, do not apply to

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

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

31 (3) a suspended license unless the license is suspended on or after the effective

1 date of this Act.

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

4 TRANSITION: REGULATIONS. The Department of Commerce, Community, and  
5 Economic Development may proceed to adopt regulations necessary to implement secs. 1 -  
6 11, 16, and 17 of this Act. The regulations take effect under AS 44.62 (Administrative  
7 Procedure Act), but not before the effective date of secs. 1 - 11, 16, and 17 of this Act.

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

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