

**CS FOR HOUSE BILL NO. 205(L&C)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 4/16/07

Referred: Finance

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE BY REQUEST

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to real estate broker and real estate salesperson licensing; and**  
2 **providing for an effective date."**

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

4 **\* Section 1.** AS 08.88.071(a) is amended to read:

5 (a) The commission shall

6 (1) determine whether applicants meet requirements for licenses under  
7 this chapter and issue licenses to those who qualify;

8 (2) prepare and grade examinations;

9 (3) after hearing, have the authority to suspend or revoke the license of  
10 a licensee or impose other disciplinary sanctions authorized under AS 08.01.075 on a  
11 licensee who

12 (A) with respect to a real estate transaction

13 (i) made a substantial misrepresentation;

14 (ii) made a false promise likely to influence, persuade,

- 1 or induce;
- 2 (iii) in the case of a real estate broker, pursued a  
3 flagrant course of misrepresentation or made a false promise through  
4 another real estate licensee;
- 5 (iv) has engaged in conduct that is fraudulent or  
6 dishonest;
- 7 (v) violates AS 08.88.391;
- 8 (vi) violates AS 08.88.396;
- 9 (B) procures a license by deceiving the commission, or aids  
10 another to do so;
- 11 (C) has engaged in conduct of which the commission did not  
12 have knowledge at the time the licensee was licensed demonstrating the  
13 licensee's unfitness to engage in the business for which the licensee is licensed;
- 14 (D) knowingly authorizes, directs, connives at or aids in  
15 publishing, distributing, or circulating a material false statement or  
16 misrepresentation concerning the licensee's business or concerning real estate  
17 offered for sale, rent, or lease, or managed in the course of the licensee's  
18 business in this or any other state or concerning the management of an  
19 association in the course of a licensee's business in this or another state;
- 20 (E) if a real estate broker, wilfully violates AS 08.88.171(d) or  
21 08.88.291;
- 22 (F) if an associate real estate broker, claims to be a real estate  
23 broker, or, if a real estate salesperson, claims to be a real estate broker or  
24 associate real estate broker;
- 25 (G) if a real estate broker, employs an unlicensed person to  
26 perform activities for which a real estate license is required;
- 27 (H) if an employed real estate licensee of a real estate broker,  
28 fails immediately to turn money or other property collected in a real estate  
29 transaction over to the employing real estate broker;
- 30 (4) prosecute, through the Department of Law, violations of the  
31 provisions of this chapter or lawful regulations adopted under this chapter;

1 (5) release for publication in a newspaper of general circulation in the  
 2 locale of the offending person's principal office registered with the commission notice  
 3 of disciplinary action taken by the commission against a person licensed under this  
 4 chapter;

5 (6) issue a temporary permit to the personal representative of the estate  
 6 of a deceased real estate broker or to another person designated by the commission  
 7 with the approval of the personal representative of the estate in order to secure proper  
 8 administration in concluding the affairs of the decedent broker's real estate business;

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

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

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

16 (10) revoke the license of a broker or associate broker who is  
 17 convicted of **a felony or other crime committed while licensed under this chapter**  
 18 **that, in the judgment of the commission, affects the ability of that person to**  
 19 **practice as a broker or associate broker competently and safely** [FORGERY,  
 20 THEFT, EXTORTION, CONSPIRACY TO DEFRAUD CREDITORS, OR A  
 21 FELONY INVOLVING MORAL TURPITUDE COMMITTED WHILE LICENSED  
 22 UNDER THIS CHAPTER]; notwithstanding AS 08.88.171, a person whose license is  
 23 revoked under this paragraph is not qualified for a license under AS 08.88.171(a) or  
 24 (b) until seven years have elapsed since the person completed the sentence imposed  
 25 for the conviction.

26 \* **Sec. 2.** AS 08.88.091(b) is amended to read:

27 (b) An applicant for licensure under AS 08.88.171(c) must complete **40** [20]  
 28 hours of education approved by the commission before the person may be licensed  
 29 under that subsection.

30 \* **Sec. 3.** AS 08.88.095(a) is amended to read:

31 (a) In addition to the continuing educational requirements of AS 08.88.091(d),

1 within one year after the date that the commission issues an initial license under this  
 2 chapter, the licensee shall complete **30** [20] hours of education approved by the  
 3 commission under AS 08.88.091.

4 \* **Sec. 4.** AS 08.88.171(a) is amended to read:

5 (a) A natural person qualifies for a real estate broker license if the person  
 6 passes the brokers examination, applies for a license within six months after passing  
 7 the examination, furnishes satisfactory proof of successful completion of the education  
 8 requirements of AS 08.88.091, has had at least 24 months of active and continuous  
 9 experience as a real estate licensee within the 36 months immediately preceding  
 10 application for the broker license, is not under indictment for, or seven years have  
 11 elapsed since the person has completed a sentence imposed upon conviction of **a**  
 12 **felony or other crime that, in the judgment of the commission, affects the**  
 13 **person's ability to practice as a real estate salesperson competently and safely** [,  
 14 FORGERY, THEFT, EXTORTION, CONSPIRACY TO DEFRAUD CREDITORS,  
 15 OR ANY OTHER FELONY INVOLVING MORAL TURPITUDE], and is an owner  
 16 of a real estate business or employed as a real estate broker by a foreign or domestic  
 17 corporation, partnership, limited partnership, or limited liability company. Unless the  
 18 broker fails to satisfy the educational requirements of AS 08.88.095 or renew the  
 19 license, or the broker's license is suspended or revoked, the broker's license continues  
 20 in effect as long as the broker's license is active. If the broker stops being an owner of  
 21 a real estate business or stops being employed as a real estate broker by a foreign or  
 22 domestic corporation, partnership, limited partnership, or limited liability company,  
 23 the broker's license is suspended from the time the broker stops until the broker  
 24 satisfies the educational requirements of AS 08.88.098 and

25 (1) again becomes an owner of a real estate business or is again  
 26 employed as a real estate broker by a foreign or domestic corporation, partnership,  
 27 limited partnership, or limited liability company; or

28 (2) is employed by another broker as an associate broker, in which  
 29 case the real estate broker license shall be returned to the commission by the broker,  
 30 and the commission shall issue the broker an associate real estate broker license.

31 \* **Sec. 5.** AS 08.88.171(b) is amended to read:

1 (b) A natural person qualifies for an associate real estate broker license if the  
 2 person passes the brokers examination, applies for the license within six months after  
 3 passing the examination, submits satisfactory proof of successful completion of the  
 4 education requirements of AS 08.88.091, has had at least 24 months of active and  
 5 continuous experience as a real estate licensee within the 36 months immediately  
 6 preceding application for the license, is not under indictment for, or seven years have  
 7 elapsed since the person has completed a sentence imposed upon conviction of **a**  
 8 **felony or other crime that, in the judgment of the commission, affects the**  
 9 **person's ability to practice as a real estate salesperson competently and safely** [,  
 10 FORGERY, THEFT, EXTORTION, CONSPIRACY TO DEFRAUD CREDITORS,  
 11 OR ANY OTHER FELONY INVOLVING MORAL TURPITUDE], and is employed  
 12 by a licensed real estate broker as an associate real estate broker. Unless the associate  
 13 broker fails to satisfy the educational requirements of AS 08.88.095 or renew the  
 14 license, or the associate broker's license is suspended or revoked, the associate broker's  
 15 license continues in effect as long as the associate broker is employed by a licensed  
 16 real estate broker as an associate broker. If the associate broker stops being employed  
 17 by a licensed real estate broker, the associate broker's license is suspended from the  
 18 time the associate broker stops until the associate broker satisfies the educational  
 19 requirements of AS 08.88.098 and

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

21 (2) becomes an owner of a real estate business or is employed as a real  
 22 estate broker by a foreign or domestic corporation, partnership, limited partnership, or  
 23 limited liability company, in which case the associate broker's license shall be returned  
 24 to the commission by the associate broker, and the commission shall issue the licensee  
 25 a broker's license.

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

27 (c) A natural person qualifies for a real estate salesperson license if the person  
 28 passes the real estate salesperson examination, applies for the license within six  
 29 months after passing the examination, submits satisfactory proof of successful  
 30 completion of the education requirements of AS 08.88.091, is at least 19 years of age,  
 31 is not under indictment for **a felony or other crime that, in the judgment of the**

1 **commission, affects the individual's ability to practice as a real estate salesperson**  
 2 **competently and safely** [FORGERY, THEFT, EXTORTION, CONSPIRACY TO  
 3 DEFRAUD CREDITORS, OR ANY OTHER FELONY INVOLVING MORAL  
 4 TURPITUDE], or, if convicted of such an offense, **seven years have elapsed since**  
 5 the person [HAS] completed the sentence imposed upon conviction [, AND IS  
 6 EMPLOYED BY A REAL ESTATE BROKER]. Unless the salesperson fails to  
 7 satisfy the educational requirements of AS 08.88.095 or renew the license, or the real  
 8 estate salesperson's license is suspended or revoked, a real estate salesperson's license  
 9 continues in effect [AS LONG AS THE SALESPERSON IS EMPLOYED AS A  
 10 SALESPERSON BY A LICENSED REAL ESTATE BROKER. IF THE  
 11 SALESPERSON STOPS BEING EMPLOYED AS A REAL ESTATE  
 12 SALESPERSON, THE REAL ESTATE SALESPERSON'S LICENSE IS  
 13 SUSPENDED FROM THE TIME THE SALESPERSON STOPS UNTIL THE  
 14 SALESPERSON SATISFIES THE EDUCATIONAL REQUIREMENTS OF  
 15 AS 08.88.098 AND AGAIN IS EMPLOYED AS A REAL ESTATE SALESPERSON  
 16 BY A LICENSED REAL ESTATE BROKER].

17 \* **Sec. 7.** AS 08.88 is amended by adding a new section to read:

18 **Sec. 08.88.305. Multiple business operations.** A person licensed as a real  
 19 estate broker may own, operate, or be employed by multiple corporations,  
 20 partnerships, or other business organizations engaging in activities for which a license  
 21 is required under this chapter, provided that each business organization is registered  
 22 with the commission, and that the principal offices of all of the business organizations  
 23 share a single physical address.

24 \* **Sec. 8.** AS 08.88.685(a) is amended to read:

25 (a) A broker shall adopt [A] written **policies and procedures available to the**  
 26 **commission and to members of the public on request** [POLICY] that

27 **(1) require real estate licensees to comply with all real estate laws;**

28 **(2) require real estate licensees to act fairly and honestly in all**  
 29 **dealings;**

30 **(3) require real estate licensees to notify the broker or a broker**  
 31 **designee of any legal dispute or allegation of wrongdoing from a seller, buyer,**

1 **lessor, or lessee;**

2 **(4) require real estate licensees to maintain regular communication**  
3 **with the broker or a broker designee; and**

4 **(5) identify and describe** [IDENTIFIES AND DESCRIBES] the  
5 relationships in which the broker and the real estate licensees who work for the broker  
6 may engage with a seller, buyer, lessor, or lessee. [THE BROKER SHALL MAKE  
7 THE WRITTEN POLICY AVAILABLE TO THE COMMISSION AND TO  
8 MEMBERS OF THE PUBLIC ON REQUEST.]

9 \* **Sec. 9.** This Act takes effect February 1, 2008.