

2d CS FOR HOUSE BILL NO. 267(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 2/22/12

Referred: Rules

Sponsor(s): REPRESENTATIVES MUÑOZ AND OLSON, Lynn, Costello, Neuman, Gruenberg

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Real Estate Commission; relating to temporary permits issued
2 by the Real Estate Commission; relating to licensed assistants who are employed by
3 other real estate licensees; relating to contributions by a real estate licensee to a
4 charitable organization; and providing for an effective date."

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

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

7 (a) The commission shall

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

10 (2) prepare and grade examinations;

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

14 (A) with respect to a real estate transaction

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

1 (I) fails to carry and maintain errors and omissions insurance
2 with terms and conditions established by the commission under AS 08.88.172;

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

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

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

13 (7) issue a temporary permit to **a licensee designated by the**
14 **commission for the purpose of securing proper administration, temporarily**
15 **managing, or concluding the affairs of the real estate business of a broker if**

16 **(A) an investigation produces substantial evidence that the**
17 **broker has misappropriated trust funds;**

18 **(B) the real estate license of the broker is suspended; or**

19 **(C) the broker is incapacitated because of a traumatic event**
20 **or medical condition, as defined in regulations adopted by the**
21 **commission;**

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

27 **(9)** [(8)] establish and periodically revise the form of the seller's
28 property disclosure statement required by AS 34.70.010;

29 **(10)** [(9)] have the authority to levy civil fines as established in this
30 chapter;

31 **(11)** [(10)] revoke the license of a broker, associate broker, or real

1 estate salesperson who is convicted of a felony or other crime committed while
 2 licensed under this chapter that, in the judgment of the commission, affects the ability
 3 of that person to practice as a broker, associate broker, or real estate salesperson
 4 competently and safely or who is convicted of forgery, theft, extortion, conspiracy to
 5 defraud creditors, or fraud; notwithstanding AS 08.88.171, a person whose license is
 6 revoked under this paragraph is not qualified to obtain or renew a license under
 7 AS 08.88.171(a) - (c) until seven years have elapsed since the person completed the
 8 sentence imposed for the conviction.

9 * **Sec. 2.** AS 08.88.398 is amended to read:

10 **Sec. 08.88.398. Licensed assistants.** A licensed real estate salesperson or
 11 licensed associate real estate broker may act as a licensed assistant to **another**
 12 **licensed salesperson or associate real estate broker only** [A REAL ESTATE
 13 LICENSEE OTHER THAN THE BROKER WHO EMPLOYS THE SALESPERSON
 14 OR ASSOCIATE BROKER] if

15 (1) **the licensed assistant and the salesperson or associate broker**
 16 **are both employed by the same broker;**

17 (2) **the licensed assistant is not employed to perform activities**
 18 **requiring licensure under this chapter for more than one licensed real estate**
 19 **broker;**

20 (3) the employment arrangement between the licensed assistant and the
 21 **salesperson or associate real estate broker** [OTHER LICENSEE] is in writing and
 22 conforms to the applicable state and federal regulations regarding employment;

23 (4) [(2)] the employment of the licensed assistant is approved in
 24 writing by the broker **who employs both the salesperson or associate real estate**
 25 **broker and** [OF THE LICENSEE WHO EMPLOYS] the **licensed** assistant;

26 (5) [(3)] the **salesperson or associate real estate broker** [LICENSEE]
 27 who employs the **licensed** assistant agrees to be responsible for paying the licensed
 28 assistant's wages and appropriate taxes and completing the appropriate state and
 29 federal tax forms; **and**

30 (6) [(4)] the broker of the **salesperson or associate real estate broker**
 31 [LICENSEE] who employs the **licensed** assistant agrees to be liable for the actions of

1 the licensed assistant.

2 * **Sec. 3.** AS 08.88.401(e) is amended to read:

3 (e) The prohibition of (d)(1) of this section does not prohibit

4 (1) payments by a licensee to a person licensed to perform real estate
5 activities in another jurisdiction if the other person has assisted the licensee in the
6 performance of an act for which a license is required by this chapter; [OR]

7 (2) payments from a real estate licensee to a principal as part of the
8 resolution of a dispute regarding the terms of a transaction or regarding the property
9 transferred; **or**

10 **(3) contributions from a licensee to a charitable organization and**
11 **advertisement of the licensee's intent to make the charitable donation.**

12 * **Sec. 4.** This Act takes effect July 1, 2012.