

*Original*

IN THE HOUSE

BY MESSRS. STRINGER, EASTAUGH AND  
WILBUR, BY REQUEST

HOUSE BILL NO. 157

IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

TWENTY-FIRST SESSION

A BILL

For an Act entitled: "An Act to license and regulate Real Estate Brokers and Salesmen, creating a Real Estate Board, and prescribing penalties."

BE IT ENACTED BY THE LEGISLATURE OF THE TERRITORY OF ALASKA:

Section 1. For the purposes of this Act, words and phrases shall have the following meaning, unless other meaning is apparent from the context:

(1) A "real estate broker" or "broker" is a person who, for a compensation, sells or offers for sale, buys, or offers to buy, lists, or solicits for prospective purchasers, or negotiates the purchase or sale or exchange of real estate, or who, for compensation, negotiates loans on real estate, leases or offers to lease, or negotiates the sale, purchase, or exchange of leases, rents, or places for rent, or collects rent from real estate, or improvements thereon, for another or others.

(2) A "real estate salesman" or "salesman" is any person, other than a corporation, copartnership or unincorporated association, who represents a real estate broker in the performance of any of the acts above set forth.

(3) The word "person" as used in this Act, shall be construed to mean and include a corporation, copartnership or unincorporated association, except where otherwise restricted.

No substitute shall be drawn from any one Judicial Division for a term of three years.

1 Section 2. The provisions of this Act shall not apply to  
2 any person who purchases, leases or rents property for his own  
3 use or account, nor to any person who, being the owner of prop-  
4 erty, sells, exchanges, leases, rents or otherwise disposes of  
5 the same for his own account, nor to any person other than a  
6 broker holding a duly executed power of attorney from the owner  
7 granting power to execute any instrument necessary to consummate  
8 the sale, exchange, or leasing of real estate, nor to the ser-  
9 vices rendered by an attorney at law in the performance of his  
10 duties as such attorney at law, nor to any receiver, trustee  
11 in bankruptcy, executor, administrator or guardian, nor to any  
12 person acting under the order of any court, nor to any person  
13 selling under a deed of trust, nor to any person acting solely  
14 as escrow agent.

15 Section 3. There is hereby created the Alaska Real Estate  
16 Board. The Board shall consist of <sup>six</sup> ~~nine~~ members, <sup>no more than two</sup> including ~~two~~  
17 ~~regitor~~ <sup>of whom</sup> ~~members from each Division~~, and one Attorney <sup>at-Large</sup>,  
18 ~~who~~ shall be appointed by the Governor, subject to confirmation  
19 by the Senate and House in Joint Session assembled. Members  
20 shall hold office for a term of three years, except that the  
21 first members appointed shall serve terms as follows: <sup>three</sup> three  
22 members for <sup>one</sup> ~~two~~ years, <sup>two</sup> three members for <sup>two</sup> three years, and <sup>two</sup> three  
23 members for <sup>three</sup> ~~four~~ years, respectively. <sup>The Attorney Members shall serve</sup> Members of the board  
24 shall receive no compensation, but shall receive per diem and  
25 travel expenses at the same rate as <sup>other</sup> territorial <sup>board members</sup> employees when  
26 in attendance at meetings of the Board.

27 Section 4. It shall be the duty of the Board to enforce  
28 all laws, rules and regulations relating to the licensing of  
29 real estate brokers and real estate salesmen.

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Section 5. It shall be the duty of the Board to conduct examinations of applicants and issue licenses as herein provided:

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~~An applicant for license shall submit an Application for License, as hereinafter provided, and shall pass such written examination relative to real estate transactions as the Board may require.~~ Examinations shall be given at such times and places as shall be designated by the Board, <sup>and the Board may designate</sup> No person who has failed to receive a passing grade on such examination shall be eligible to retake it for a period of 90 days. Applicants passing examination, and otherwise meeting the requirements of this Act, shall be issued appropriate licenses.

Provided, however, that real estate brokers and salesmen actively engaged as real estate brokers and salesmen in the Territory of Alaska on the first day of January, 1953, shall be entitled to receive a license as real estate brokers or real estate salesmen, as the case may be, upon payment of the annual license fee for the year 1953 and upon furnishing the information and bond as herein provided, without taking the examination.

Section 6. All fees under this Act shall be paid to the ~~Territorial Tax Commissioner~~ <sup>Secretary of the Real Estate Board</sup> and shall be ~~converted by him into~~ <sup>forwarded quarterly</sup> the General Fund of the Territory of Alaska.

Section 7. No license issued hereunder shall give authority to do any act mentioned in Section 1 of this Act to any person other than him to whom said license is issued; provided, that wherever a license is issued under the provisions of this Act to a corporation, it shall be issued to a person to be named by said corporation in its application for said license who shall qualify the same as any other broker or salesman. Provided, further, that whenever a license is issued under the

*Two members thereof to conduct any examinations in such jurisdiction.*  
*The Territory and by him covered*

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1 provisions of this Act, to a copartnership, or unincorporated  
2 association, said license shall entitle one member of said co-  
3 partnership, ~~to be named by said copartnership~~ <sup>or unincorporated association</sup> in its application  
4 for said license who shall qualify the same as any other broker  
5 or salesman without the payment of additional license fees; pro-  
6 vided, further, that no licensed real estate broker or salesman  
7 shall operate under any name other than the one under which said  
8 license is issued unless he shall have first obtained the  
9 written consent of the Board so to do.

10 Section 8. Any person desiring to be licensed as a real  
11 estate broker or real estate salesman shall make application to  
12 the Board for a license therefor upon a form to be prescribed  
13 and furnished by the Board giving his full name and address and  
14 such additional information as may be deemed necessary. With  
15 the application to the Board, the Applicant shall:

16 (a) Pay a license fee of ~~\$20.00~~ <sup>50.00</sup> if application is for  
17 a broker's license. For a real estate salesman's  
18 license the license fee shall be ~~\$10.00~~ <sup>20.00</sup>.

19 (b) Deliver to the Board a bond to the Territory of  
20 Alaska in a form approved by the Board in the  
21 sum of ~~One Thousand Dollars~~ <sup>Two Thousand</sup> ~~(\$1,000.00)~~ <sup>\$2,000.00</sup> for each  
22 salesman, and ~~Two Thousand Dollars~~ <sup>Five Thousand</sup> ~~(\$2,000.00)~~ <sup>\$5,000.00</sup>  
23 for each broker, ~~cash~~ <sup>such bond shall be either</sup> or executed by a surety  
24 company duly authorized to do business in this  
25 Territory, or by two good and sufficient sure-  
26 ties, not connected in business with the appli-  
27 cant, and to be approved by the Board, guarantee-  
28 ing the faithful accounting and <sup>748.5</sup> proper remission  
29 of all funds entrusted to such real estate broker

1 or real estate salesman;

2 (c) Furnish such evidence of honesty, truthfulness,  
3 good reputation, and moral character as the Board  
4 shall require.

5 (d) If the applicant is a corporation, a list of its  
6 officers and directors and their addresses, and  
7 if the applicant is a copartnership, or unincor-  
8 porated association, then a list of the members  
9 of said copartnership or association and their  
10 addresses.

11 Provided, however, that any applicant for a real estate  
12 broker's license under the provisions of this act shall have  
13 had at least one year's experience as a real estate salesman  
14 in the office of a duly licensed real estate broker in the  
15 Territory of Alaska or shall have been a licensed real estate  
16 broker in any State, territory or possession of the United States.

17 ~~Section 9. An applicant for examination and license here-  
18 under shall have been: (a) A bonafide citizen of the United  
19 States of America. "Citizen of the United States" means an  
20 individual who is a citizen of the United States or of one of  
21 its possessions, or (b) a partnership of which each member is  
22 such an individual, or (c) a corporation or association created  
23 or organized under the laws of the United States or any State,  
24 Territory, or possession of the United States, of which the  
25 president and two-thirds or more of the board of directors and  
26 other managing officers thereof are such individuals and in  
27 which at least 75 per centum of the voting interest is owned or  
28 controlled by persons who are citizens of the United States or  
29 of one of its possessions.~~

1           Section <sup>9</sup>10. Persons having passed successfully an examina-  
2 tion for a real estate broker's license or real estate sales-  
3 man's license, and having been issued a license to operate as  
4 provided herein, shall be entitled to have such license renewed  
5 for successive years without examination.

6           Section <sup>10</sup>11. Each applicant for examination to become a  
7 real estate salesman shall pay a fee of \$15.00, and each appli-  
8 cant for examination to become a real estate broker shall pay  
9 a fee of \$25.00, which fee shall accompany the applications.

10           Section <sup>11</sup>12. All bonds given under the provisions of this  
11 Act, after their approval by the Board, shall be filed in its  
12 office. Persons who may be damaged by the wrongful conversion  
13 of trust funds by such real estate broker or real estate sales-  
14 man, shall, in addition to other legal remedies, have a right  
15 of action in their own name on such bond for all damages not  
16 exceeding <sup>Two Thousand</sup> ~~One Thousand~~ Dollars (<sup>\$2,000.00</sup> ~~\$1,000.00~~) for each salesman,  
17 and <sup>Five Thousand</sup> ~~Two Thousand~~ Dollars (<sup>\$5,000.00</sup> ~~\$2,000.00~~) for each broker; provided,  
18 however, that the aggregate liability of the surety upon the  
19 bond, required to be given by such real estate broker or real  
20 estate salesman as provided in Section 11 for all claims which  
21 may arise under this bond, shall not exceed the sum specified  
22 herein.

23           Section <sup>12</sup>13. Each person licensed as real estate broker  
24 under the provisions of this Act shall be required to have and  
25 maintain a definite place of business in the Territory which  
26 shall serve as his office for the transaction of business,  
27 wherein the license of said real estate broker shall be promi-  
28 nently displayed. Branch offices, under the same name as the  
29 main office, in charge of a licensed broker, may be maintained

1 upon payment of an additional license fee of Five Dollars  
2 (\$5.00) for each such branch office.

3 Section <sup>13</sup> 14. The Board shall upon verified complaint in  
4 writing by any person, investigate the actions of any person en-  
5 gaged in the business or acting in the capacity of a real estate  
6 broker or real estate salesman regardless of whether such trans-  
7 action be for his own account or in his capacity as a broker,  
8 and shall have the power to temporarily suspend or permanently  
9 revoke any license issued under this Act when the holder thereof  
10 is guilty of:

- 11 (a) Obtaining a license by means of fraud, misrepre-  
12 sentation, concealment, or through the mistake  
13 or inadvertence of the Board;
- 14 (b) Violating any of the provisions of this Act or  
15 any lawful rules and regulations made by the  
16 Board pursuant thereto;
- 17 (c) A crime against the laws of the Territory or any  
18 state, or government, involving moral turpitude  
19 or dishonest dealings;
- 20 (d) Making, printing, publishing, distributing or  
21 causing, authorizing or knowingly permitting the  
22 making, printing, publication or distribution of  
23 false statements, descriptions or promises of  
24 such character as to reasonably induce any person  
25 to act to his damage or injury where such state-  
26 ments, descriptions or promises purport to be  
27 made, or to be performed by, either the licensee  
28 or his principal, if the licensee then knew, or  
29 by the exercise of reasonable care and inquiry,

1 could have known of the falsity of said state-  
2 ments, descriptions or promises;

3 <sup>Willfully</sup>  
(e) Knowingly committing, or being a party to, any  
4 material fraud, misrepresentation, concealment,  
5 conspiracy, collusion, trick, scheme or device  
6 whereby any other person lawfully relying upon  
7 such representation or conduct of the licensee  
8 shall do so to his injury or damage;

9 (f) Accepting the services of, or continuing in a  
10 representative capacity, any salesman who has  
11 not been granted a license, or after his license  
12 has been revoked, or during a suspension thereof;

13 *Page 8*  
(g) Converting any money, contract, deed, note, mort-  
14 gage or abstract or other evidence of title, to  
15 his own use, or to the use of his principal or  
16 any other person when delivered to him in trust  
17 or on condition, before the happening of the con-  
18 dition, or in violation of the trust; and a  
19 failure to return such money, contract, deed,  
20 note, mortgage or abstract or other evidence of  
21 title after the owner thereof shall be entitled  
22 thereto, and shall make demand therefor, shall  
23 be prima facie evidence of such conversion;

24 (h) Failing or refusing upon demand to disclose any  
25 information within his knowledge, or to produce  
26 any document, book or record in his possession  
27 for inspection to the Board or its authorized  
28 representatives, when acting by authority of law;

29 (i) Committing any Act of the same or different char-

acter from that hereinbefore enumerated which constitutes fraudulent or dishonest dealing;

(j) Advertising in any manner without affixing the name of the broker to said advertisement;

(k) Accepting other than cash or its equivalent as earnest money unless such fact is communicated to the owner prior to his acceptance of the offer to purchase;

(l) Charging or accepting compensation from more than one party in any transaction without first making full disclosure of all of the facts to all parties interested in the transaction;

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(m) Accepting, taking or charging any undisclosed commission, rebate or direct profit on expenditures made for a principal;

(n) Accepting employment or compensation for appraisal of real property contingent upon reporting a predetermined value;

(o) Issuing an appraisal report on any real property in which the broker or salesman has an interest unless such interest is clearly stated in the appraisal report;

(p) Misrepresentation of membership in any state or national real estate association.

Section 15<sup>14</sup>. Whenever the Board shall determine to suspend or revoke a license heretofore issued, or shall refuse to renew a license or accept an application therefor, the Board shall notify the holder of or the applicant for such license of such intention in writing, and the person affected shall be afforded

1 prompt opportunity to be heard in person or by counsel or in  
2 writing, and to offer evidence in reference thereto. If the  
3 person affected shall be aggrieved by the decision of the Board  
4 revoking or withholding the license, he may appeal to the  
5 District Court in the Judicial Division in which he has his  
6 principal place of business by filing notice of such appeal and  
7 bond with the Clerk of the Court of said Judicial Division with-  
8 in 20 days from the date of the Board's decision. The bond  
9 shall be in the sum of Two Hundred Dollars (\$200.00) and shall  
10 be approved by the Judge of said District Court, conditioned to  
11 pay all costs that may be granted against such applicant in the  
12 event of an adverse decision. The filing of said notice and  
13 bond shall supersede the order of the Board until the final  
14 determination of such appeal. The court shall summarily hear  
15 and determine the question involved upon said appeal, de novo.  
16 If said aggrieved party shall fail to perfect his appeal or  
17 file said transcript as herein provided, said stay of proceed-  
18 ings shall automatically terminate.

19 Section 15. The Board shall have the power to administer  
20 oaths, certify to all official acts and shall have the power to  
21 subpoena and bring before it any person in this Territory as a  
22 witness, to compel the production of books and papers and to  
23 take the testimony of any person by deposition without or within  
24 the Territory in the same manner as is prescribed by law in the  
25 procedure of the District Courts of the Territory in civil cases,  
26 in any hearing in any part of the Territory. Process issued by  
27 the Board shall extend to all parts of the Territory and may be  
28 served by any person authorized to serve process of courts of  
29 record.

1 Section <sup>15</sup> 17. Any person acting as a real estate broker or  
2 real estate salesman within the meaning of this Act, without a  
3 license as herein provided, or violating any of the provisions  
4 of this Act, shall be guilty of a misdemeanor.

5 Section <sup>16</sup> 18. It shall be unlawful for any licensed broker  
6 to pay any part or share of a commission or other compensation  
7 received in the capacity of a real estate broker to any person  
8 who is not a licensed real estate broker, or to a real estate  
9 salesman not licensed to do business for such broker, or for  
10 any licensed salesman to pay any part or share of a commission  
11 or other compensation received in the capacity of a real estate  
12 salesman to any person, whether licensed or not, except through  
13 his broker.

14 Section <sup>17</sup> 19. No suit or action shall be brought for the  
15 collection of compensation for the performance of any of the  
16 acts mentioned in Section 1 hereof, without alleging and pro-  
17 viding that the plaintiff was a duly licensed real estate broker  
18 or real estate salesman at the time the alleged cause of action  
19 arose.

20 Section <sup>18</sup> 20. The license of any real estate salesman shall  
21 be retained at all times by his designated broker and when any  
22 real estate salesman shall cease to represent his broker his  
23 license shall cease to be in force. Notice of such termination  
24 shall be given by the broker to the Board and such notice shall  
25 be accompanied by and include the surrender of the salesman's  
26 license. Failure of any broker to promptly notify the Board  
27 of such salesman's termination after demand by the affected  
28 salesman shall work a forfeiture of the broker's license. Upon  
29 application of the salesman and the payment of One Dollar (\$1.00)

1 the Board shall issue a new license for the unexpired term, if  
2 such salesman is otherwise entitled thereto; provided, however,  
3 that when any real estate salesman's services shall be termi-  
4 nated by his broker for a violation of any of the provisions of  
5 Section 14 hereof, a written statement of the facts in reference  
6 thereto shall be filed forthwith with the Board by the broker.

7 Section <sup>19</sup>21. The Board shall adopt and promulgate from  
8 time to time such rules and regulations as shall be necessary  
9 and proper in the administration and enforcement of the provi-  
10 sions of this Act.

11 Section <sup>20</sup>22. If any section, sub-division, sentence or  
12 clause of this Act shall be held invalid or unconstitutional,  
13 such fact shall not affect the validity of the remaining por-  
14 tions of this Act.

15 *Passed 3/13/53*