

1 IN THE HOUSE

BY THE COMMERCE COMMITTEE  
OF THE HOUSE

2 COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 97

3 IN THE LEGISLATURE OF THE TERRITORY OF ALASKA

4 TWENTY-THIRD SESSION

5 A BILL

6 For an Act entitled: "To license and regulate real estate  
7 brokers and salesmen; creating a Real  
8 Estate Commission; setting forth its  
9 powers and the powers of the Commissioner  
10 of Real Estate; prescribing grounds for  
11 suspension and revocation of licenses;  
12 prescribing criminal penalties; pro-  
13 viding for hearings; repealing Chapter  
14 113, Session Laws of Alaska 1955; and  
15 declaring an emergency."

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

17 Section 1. DEFINITIONS. For the purpose of this Act,  
18 words and phrases shall have the following meaning, unless other  
19 meaning is apparent from the context:

20 (a) A "real estate broker" or "broker" is a person  
21 who, for a compensation, sells, or offers for sale, buys, or  
22 offers to buy, lists or solicits for prospective purchasers, or  
23 negotiates the purchase or sale or exchange of real estate, or  
24 negotiates loans on real estate, or leases or offers to lease, or  
25 negotiates the sale, purchase, or exchange of leases, rents, or  
26 places for rent, or collects rent from real estate, or im-  
27 provements thereon for another or others.

28 (b) An "associate real estate broker" is a person  
29 who has qualified as a "real estate broker", who works with a

1 designated broker, and whose license states that he is asso-  
2 ciated with a designated broker.

3 (c) A "real estate salesman" or "salesman" is any  
4 person, other than a corporation, copartnership or unincorporated  
5 association, who represents a real estate broker in the perfor-  
6 mance of any of the acts above set forth.

7 (d) The word "person" as used in this Act shall be  
8 construed to include an individual, firm, corporation, copartner-  
9 ship or unincorporated association, except where otherwise  
10 restricted. The use of the word "broker" shall include  
11 "associate broker" and "temporary broker", unless the context  
12 requires otherwise.

13 (e) A "permanent license" is any license, other than  
14 a temporary one, issued after the applicant has been examined or  
15 after he has been approved for a license without examination  
16 as herein provided. Permanent licenses shall be renewable  
17 yearly.

18 Section 2. EXCLUSIONS FROM ACT. The provisions of this  
19 Act shall not apply to any person who purchases, leases, or  
20 rents property for his own use or account, nor to any person  
21 who, being the owner of property, sells, exchanges, leases,  
22 rents or otherwise disposes of the same for his account, nor  
23 to the regular employees thereof with respect to the property  
24 so owned or leased, where such acts are performed in the regular  
25 course of, or as an incident to, the management of such property  
26 and the investment therein, nor to any person other than a  
27 broker holding a duly executed power of attorney from the owner  
28 granting power to execute any instrument necessary to consum-  
29 mate the sale, exchange, or leasing of real estate, where only

1 one such transaction is involved, nor to any receiver, trustee  
2 in bankruptcy, executor, administrator or guardian, nor to any  
3 person acting under the order of any court, nor to any person  
4 acting under a deed of trust; nor to any employee of a licensed  
5 broker, who, as an incident of his employment, collects rents  
6 on behalf of his employer.

7       Sec. 3. REAL ESTATE COMMISSION: CREATION. There is here-  
8 by created the Alaska Real Estate Commission, which shall be  
9 a part of, and function as a division of, the Territorial  
10 Department of Public Lands. The Land Commissioner shall be the  
11 Commissioner of Real Estate and all real estate functions pro-  
12 vided for in this Act shall be conducted at the offices of the  
13 Department of Public Lands. The Real Estate Commission shall  
14 consist of five members. Three members shall be licensed real  
15 estate brokers, one shall be a public member, and the fifth  
16 member shall be the Commissioner of Real Estate, who shall be  
17 the executive officer of the Commission. Members of the Com-  
18 mission shall be appointed by the Governor and confirmed by the  
19 Legislature. Members shall hold office for a term of four  
20 years. Those members of the Real Estate Board shall serve as  
21 members of the Commission, for the periods for which they were  
22 appointed and confirmed under Chapter 113, SLA 1955. As the  
23 terms of the present members expire, new members shall be appoint-  
24 ed for the full four-year term. No person shall be appointed  
25 a member of the Commission who has not been for two years  
26 a licensed real estate broker actively engaged in such business  
27 in Alaska; the public member shall be required only to  
28 have been a resident of Alaska for two years. At least  
29 one member shall be appointed from the First, Third and Fourth

1 Judicial Divisions of the Territory of Alaska. Neither the  
2 public member, nor the Commissioner of Real Estate or any  
3 member of his staff, shall have any interest in any business  
4 opportunity company, business opportunity brokerage firm, real  
5 estate company or real estate brokerage firm, as either director,  
6 stockholder, officer, member agent, or employee, or act as  
7 broker or real estate salesman, or be a partner of or agent  
8 for any broker or real estate salesman. Members of the  
9 Commission shall receive such payments, per diem allowances  
10 and transportation expenses as are commensurate with those  
11 allowed and paid members of other Territorial Boards.

12 Sec. 4. POWERS AND DUTIES OF THE COMMISSION. (a) It  
13 shall be the duty of the Commission, acting in its own behalf  
14 and through the Commissioner of Real Estate, to enforce all  
15 laws, rules, and regulations relating to the licensing and  
16 actions of real estate brokers and salesmen. It shall issue  
17 such rules and regulations as may be necessary to effectuate  
18 the purposes of this Act.

19 (b) The Commission shall meet for the transaction of  
20 business at least once annually at such place within the Territory  
21 as may be designated by the Commissioner after consulting with  
22 the other members of the Commission. Notice of said meeting  
23 shall be given by the Commissioner or his agent at least ten (10)  
24 days prior thereto, except that shorter notice may be given with  
25 the concurrence of a majority of the Commission.

26 (c) A majority of the Commission shall constitute a  
27 quorum for the purpose of transacting all business and for the  
28 exercise of any power or authority of the Commission. A majority  
29 of the Commission must vote in favor of any motions for such

1 motion to properly carry. A vacancy in the Commission, not  
2 constituting a lack of a quorum, shall in no wise impair the  
3 rights, duties and powers of the remaining members of the  
4 Commission.

5 (d) The Commission shall have, but not by way of  
6 limitation, the power to refuse to issue a license, to revoke  
7 or suspend an existing license, to apply to the District Court  
8 for an injunction to temporarily restrain any violation of this  
9 Act, or any rule or regulation issued pursuant thereto, to con-  
10 duct investigations with full power of subpoena of alleged  
11 violations of said Act, rules, or regulations, and to perform  
12 any other act necessary to effectuation of the purposes of this  
13 Act. All actions of the Commission shall be subject to judicial  
14 review as hereinafter provided.

15 (e) Any power or duty of the Commission may be  
16 delegated to the Real Estate Commissioner, provided a majority  
17 of the Commission concurs in the delegation of such authority.

18 (f) The Commission shall approve the issuance of all  
19 original licenses, provided, however, that the Commissioner may  
20 issue temporary licenses under Section 6 (f) and may renew  
21 existing licenses under Section 6 (e) hereof.

22 **Sec. 5. POWERS AND DUTIES OF COMMISSIONER.** (a) The Real  
23 Estate Commissioner shall be the Executive Officer of the Com-  
24 mission, and shall have the power to administer this Act in  
25 accordance with the provisions thereof. He shall adopt a seal  
26 bearing the words "Real Estate Commission, Territory of Alaska",  
27 for the authentication of proceedings of the Commission and of  
28 the official documents therefor.

29 (b) He shall reproduce the laws relating to licensing

1 of real estate brokers and salesmen, rules and regulations  
2 adopted by the Commission and any matter connected therewith  
3 which he may deem expedient, or a bulletin containing information  
4 relating to the Commission, and to secure the publication of  
5 similar matter in such established publication as he may deem  
6 best fitted for the dissemination of information to licensees  
7 and to the public. The Commissioner shall publish or cause to  
8 be published on or about the first day of June of each year a  
9 directory or list of licensed brokers and salesmen and shall  
10 therewith publish such matters as he may deem pertinent to the  
11 general purposes of this Act. He shall mail one copy of such  
12 directory to each licensed broker and salesman, and to other  
13 persons upon request.

14 (c) The Commissioner shall prepare and conduct  
15 examinations of applicants for licenses and certify the results  
16 to the Commission for final approval of the issuance of licenses,

17 (d) The Commissioner shall have the power to issue  
18 temporary licenses and to renew or transfer existing licenses.

19 (e) The Commissioner shall, at the request of the  
20 Commission, or upon a complaint of any other person, or of his  
21 own volition, investigate any violations of this Act, or of any  
22 rule, regulation, or order issued pursuant to this Act, and  
23 report the results of his investigation to the Commission. He  
24 shall have the power to subpoena witnesses, to compel by sub-  
25 poena duces tecum the production of any and all books, documents,  
26 and papers in the possession of any person alleged to have  
27 violated the provisions of this Act, or of any rule, regulation,  
28 or order issued pursuant thereto, and to take the testimony of  
29 any person by deposition in the same manner as prescribed by

1 law for the taking of depositions in civil actions. He shall  
2 have the power to administer oaths. The processes issued by the  
3 Commissioner may be served by any person authorized to serve  
4 process under the laws of the Territory of Alaska.

5 (f) The Commissioner shall appoint and fix the com-  
6 pensation of a secretary and such deputies, clerks and assistants  
7 as may be necessary to conduct the business of his office. No  
8 deputy or assistant shall be appointed by the Commissioner with-  
9 out the approval of a majority of the Commission.

10 (g) All powers and duties conferred upon the Real  
11 Estate Commissioner under this Act may be delegated by him to  
12 the individual members of the Commission.

13 Sec. 6. APPLICATIONS FOR LICENSES; QUALIFICATIONS FOR  
14 EXAMINATIONS; ISSUANCE OF LICENSES.

15 (a) FEES AND BONDS. An applicant for a broker's,  
16 associate broker's or real estate salesman's license shall make  
17 application therefor to the Commissioner on such application  
18 forms as shall be prescribed by the Commission. With such  
19 application, the applicant shall:

20 (1) Pay a license fee as follows:

21 For a broker's license -- \$50.00

22 For an associate broker's license -- \$35.00

23 For a real estate salesman's license -- \$25.00

24 For inactive licenses of all types, the fee shall be  
25 one-half of the fee charged for an active license. The license  
26 year shall be from April 1 to March 31. If a license is issued  
27 after October 1 of any year, the fee shall be one-half the fee  
28 for the full license year. The fee for a license renewal shall  
29 be the same as for an original license. If any licensee shall

1 become inactive, he shall not be entitled to a refund of his  
2 license fee for the balance of the license year. He may there-  
3 after obtain an active license at any time during the unexpired  
4 license period at no additional charge.

5 Where the applicant is required to take a written  
6 examination, he shall forward \$15.00 as a fee for the salesman's  
7 examination, and \$25.00 as a fee for the broker's examination.

8 All fees prescribed herein or under this Act shall be  
9 paid to the Commissioner who shall transmit them to the  
10 Treasurer's Office for deposit in the General Fund of the  
11 Territory of Alaska.

12 (2) Deliver to the Commissioner a bond to  
13 the Territory of Alaska in a form and of a type  
14 approved by the Commission in the sum of \$5,000.00  
15 for a broker's, associate broker's or temporary  
16 broker's license, and in the sum of \$1,000.00 for  
17 a salesman's license. Said bond shall provide  
18 that the surety guarantees the faithful accounting  
19 and proper remission of all funds entrusted to the  
20 broker or salesman. No bond shall be required of  
21 an inactive licensee.

22 (3) If a corporate applicant, deliver to the  
23 Commissioner a list of its officers and directors,  
24 and their addresses, or if the applicant is a  
25 partnership or an unincorporated association,  
26 deliver a list of the names of the partners or  
27 members of the association, together with their  
28 addresses.

29 (b) QUALIFICATIONS. Applicants for licenses shall

1 have the following qualifications:

2 (1) All applicants shall be at least 21 years  
3 of age.

4 (2) All applicants shall be citizens of the  
5 United States.

6 (3) An applicant for a broker's, associate  
7 broker's or salesman's license shall have been a  
8 bona fide resident of the Territory of Alaska for  
9 at least ninety days immediately prior to the date  
10 of his application.

11 No license shall be issued to any person who, within  
12 five years next preceding his application for an original  
13 license, has been convicted of a felony or of any other crime  
14 involving moral turpitude or of dishonest dealing, or of a  
15 violation of any real estate act, in Alaska or elsewhere.

16 (c) EXAMINATIONS; ADMISSION WITHOUT EXAMINATION

17 (1) All applicants for licenses except applicants  
18 who hold valid brokers' or salesmen's licenses  
19 from other jurisdictions (who may be licensed  
20 without examination as hereinafter provided),  
21 shall successfully pass a written examination  
22 prepared by the Commission and conducted by the  
23 Commissioner. The scope of the examinations  
24 shall include, but shall not be limited to,  
25 questions relating to real estate financing and  
26 conveyancing, land laws, real estate appraisals,  
27 land economics, land contracts, deeds, mortgages,  
28 leases, sanitation laws, the law of agency, con-  
29 struction practices, principles of real estate

1 practices, codes of business ethics, mathematics,  
2 reading, writing and spelling.

3 (2) The holder of a valid broker's or real  
4 estate salesman's license from any state, Territory,  
5 or the District of Columbia, may be issued a  
6 permanent real estate salesman's license without  
7 a written examination, under such regulations as  
8 the Commission may promulgate, after he has been  
9 a bona fide resident of the Territory of Alaska  
10 for at least ninety days immediately prior to his  
11 application to the Commission for such salesman's  
12 license. He shall meet all other requirements for  
13 such license, except that of taking the written  
14 examination. He shall offer proof, to the satisfaction  
15 of the Commission, that he holds such broker's or  
16 salesman's license from another jurisdiction. He  
17 shall apply for such license not later than one  
18 year after he has established residence in the  
19 Territory of Alaska.

20 (3) When the holder of a permanent salesman's  
21 license fails to pass an examination for a broker's  
22 license, he may thereafter continue to operate  
23 under his salesman's license.

24 (a) ISSUANCE OF LICENSES. A license issued hereunder  
25 shall authorize only the licensee named therein, and no other,  
26 to perform any act mentioned in Section 1 of this Act: provided,  
27 that whenever a license is applied for and issued under the  
28 provisions of this Act to a corporation, it shall be issued to  
29 a person to be named by said corporation in its application

1 practices, codes of business ethics, mathematics,  
2 reading, writing and spelling.

3 (2) The holder of a valid broker's or real  
4 estate salesman's license from any state, Territory,  
5 or the District of Columbia, may be issued a  
6 permanent real estate salesman's license without  
7 a written examination, under such regulations as  
8 the Commission may promulgate, after he has been  
9 a bona fide resident of the Territory of Alaska  
10 for at least ninety days immediately prior to his  
11 application to the Commission for such salesman's  
12 license. He shall meet all other requirements for  
13 such license, except that of taking the written  
14 examination. He shall offer proof, to the satisfaction  
15 of the Commission, that he holds such broker's or  
16 salesman's license from another jurisdiction. He  
17 shall apply for such license not later than one  
18 year after he has established residence in the  
19 Territory of Alaska.

20 (3) When the holder of a permanent salesman's  
21 license fails to pass an examination for a broker's  
22 license, he may thereafter continue to operate  
23 under his salesman's license.

24 (4) ISSUANCE OF LICENSES. A license issued hereunder  
25 shall authorize only the licensee named therein, and no other,  
26 to perform any act mentioned in Section 1 of this Act: provided,  
27 that whenever a license is applied for and issued under the  
28 provisions of this Act to a corporation, it shall be issued to  
29 a person to be named by said corporation in its application.

1 for said license, who shall qualify as any other broker and if  
2 the designated broker severs his business relationship with  
3 the corporation he shall retain his broker's license and the  
4 corporation shall engage another person who shall qualify the  
5 same as any other broker. Provided, further, that whenever  
6 a license is issued under the provisions of this Act to a  
7 copartnership or unincorporated association, said license shall  
8 be issued to one member of said copartnership to be named by  
9 said copartnership in its application for said license who  
10 shall qualify the same as any other agent to act as a real  
11 estate broker on behalf of said copartnership without the  
12 payment of additional license fees and if the designated broker  
13 severs his business relationship with the copartnership or  
14 unincorporated association, he shall retain his broker's  
15 license and the copartnership or unincorporated association  
16 shall engage another person who shall qualify the same as any  
17 other broker; provided, further, that no licensed real estate  
18 broker or salesman shall operate under any name other than the  
19 one under which said license is issued unless he shall have  
20 first obtained the written consent of the Commission to do so.

21 (e) LICENSE RENEVAL. The holders of real estate,  
22 brokers' and salesmen's licenses issued pursuant to this Act  
23 shall be entitled to have their licenses renewed for successive  
24 years without examination.

25 (f) INACTIVE LICENSES. Permanent brokers' and sales-  
26 men's licenses held by persons who are no longer active in their  
27 profession shall be surrendered to the Commissioner, who shall  
28 thereafter issue inactive licenses to such brokers and sales-  
29 men, upon payment of the fees set forth in Section 6 (a) (1).

1 (g) BRANCH OFFICES. Branch offices under the same  
2 name as the main office may be opened and maintained by any  
3 broker upon the payment of a \$5.00 license fee for each such  
4 office, which fee shall be paid each year. All branch offices  
5 shall be in charge of and operated by a licensed associate  
6 broker.

7 (h) CUSTODY AND DISPLAY OF LICENSES; CHANGE OF ADDRESS.  
8 All licenses, including branch office licenses, shall be dis-  
9 played in the office where the licensee is engaged in business.  
10 Brokers shall be responsible for the custody and display of all  
11 licenses issued to persons in their employ. The change of a  
12 business address of any licensee shall be furnished the Commission  
13 within ten (10) days of such change.

14 (i) SURRENDER OF LICENSES. When any real estate  
15 salesman or associate broker shall cease to represent his broker  
16 his license shall thereupon become invalid. Notice of the  
17 termination of the salesman's or associate broker's representa-  
18 tion shall be given promptly to the Commissioner and such notice  
19 shall be accompanied by the license of the terminated salesman  
20 or associate broker. Upon application to the Commissioner of  
21 the salesman or associate broker and the payment of \$1.00, the  
22 Commissioner shall issue a new license for the unexpired term,  
23 if such applicant is otherwise entitled thereto. Whenever any  
24 real estate salesman's or associate broker's service shall be  
25 terminated by his broker for a violation of any of the pro-  
26 visions of Section 8 of this Act, or for any other cause, a  
27 written statement of the fact surrounding such termination shall  
28 be promptly forwarded by the broker to the Commissioner.

29 (j) CREDIT OF FEES AGAINST BUSINESS LICENSE TAX. Real

1 estate license fees may be credited against the initial fee  
2 for the Alaska Business License by submitting to the Department  
3 of Taxation a receipt for payment of the required real estate  
4 license tax.

5       Sec. 7. REQUIREMENT OF ACTIVELY ENGAGING IN BUSINESS;  
6 PLACE OF BUSINESS; DISPLAY OF FIRM NAME. Each person licensed  
7 as an active real estate broker under the provisions of this Act  
8 shall be required to be actively engaged as a real estate broker  
9 and shall maintain a definite place of business in the Territory.  
10 The firm name of the broker shall be prominently displayed  
11 outside the broker's place of business.

12       Sec. 8. GROUNDS FOR REVOCATION OR SUSPENSION OF LICENSE.  
13 Commission of any of the following acts by any licensee shall  
14 constitute grounds for the suspension or revocation of his  
15 license:

16       (a) Obtaining a license by means of fraud, misrepres-  
17 entation, concealment, or through the mistake or inadvertence of  
18 the Commission.

19       (b) The violation of any provisions of this Act, or of  
20 any rule, regulation, or order issued pursuant thereto by the  
21 Commission.

22       (c) Conviction, during the period he holds his license  
23 or during a period of five years next preceding his application  
24 for an original license, of a felony or of any other crime in-  
25 volving moral turpitude or dishonest dealing, or of a violation  
26 of any real estate act, in Alaska or in any other jurisdiction.

27       (d) Making, printing, publishing or distributing, or  
28 causing, authorizing, or knowingly permitting another to make,  
29 print, publish, or distribute, any false statement, description,

1 or promise relating to real property sold or offered for sale by  
2 the licensee, which said false statement, description, or  
3 promise may reasonably be calculated to induce any person to  
4 act to his damage or injury, where the licensee knew, or by the  
5 exercise of reasonable care, could have known, such statement,  
6 description or promise to be false.

7 (e) Accepting the services of, or continuing in a  
8 representative capacity, any broker or salesman who has not been  
9 granted a license, or whose license has been revoked or sus-  
10 pended.

11 (f) Converting any money, contract, deed, note,  
12 mortgage, or abstract, or any other evidence of title, to his  
13 own use, or to the use of another, when such money or instrument  
14 has been delivered to him in trust or upon condition; and  
15 failure to return any money, contract, deed, note, mortgage, or  
16 abstract or other evidence of title, to any party who shall be  
17 entitled to the possession thereof and who has made written  
18 demand therefor shall be prima facie evidence of conversion.

19 (g) Failing or refusing, upon the demand of the  
20 Commission or the Commissioner, to disclose any information,  
21 or produce any document, book or record in his possession, and  
22 not privileged, when such demand is made under the authority  
23 of this Act.

24 (h) Advertising in any manner without including the  
25 name of the licensed firm or the licensee in such advertisement.

26 (i) Accepting, without the written concurrence of the  
27 owner, anything other than cash, or its equivalent, as earnest  
28 money.

29 (j) Accepting, taking or charging any undisclosed

1 commission or direct profit, or giving cash gifts or other things  
2 of value on services rendered or expenditures made for a prin-  
3 cipal.

4 (k) Accepting employment or compensation in any form,  
5 for the appraisal of real property contingent upon reporting a  
6 predetermined value known to the licensee.

7 (l) Issuing an appraisal report upon any real property  
8 in which the broker or salesman has an interest unless such  
9 interest is clearly stated in said report.

10 (m) Misrepresentation of membership in any local  
11 Territorial or national real estate association.

12 (n) Offering real estate for sale, trade or lease (1)  
13 without the written authorization from the owner, or (2) under  
14 an authorization which does not contain all terms of the agree-  
15 ment.

16 (o) Commingling with his own money or property, the  
17 money or property of others.

18 (p) Claiming, demanding or receiving a fee, compensa-  
19 tion or commission under any exclusive agreement authorizing  
20 or employing a licensee to sell, buy or exchange real estate for  
21 compensation or commission where such agreement does not contain  
22 a definite specified date of final and complete termination.

23 (q) Willfully designating himself a "realtor" without  
24 having the legal right to do so.

25 (r) Payment by any broker of any part of a commission  
26 or other compensation received in his capacity as a real estate  
27 broker to any person who is not a licensed real estate broker,  
28 or to a real estate salesman or associate broker not licensed to  
29 do business for such broker; or the payment by any licensed

1 salesman of any part of a commission or other compensation  
2 received in his capacity as a real estate salesman to any  
3 person whether licensed or not, except through his broker.

4 (s) Failure of a broker to notify the Commissioner of  
5 the termination of a salesman's or associate broker's employment  
6 or representation and failure to surrender to the Commissioner  
7 said salesman's or broker's license, as required by Section 8  
8 of this Act.

9 (t) Any act or conduct which constitutes or demon-  
10 strates bad faith, incompetency or untrustworthiness, or dis-  
11 honest, fraudulent or improper dealings.

12 Sec. 9 ENGAGING IN REAL ESTATE BUSINESS WITHOUT LICENSE;  
13 PENALTY. Any person who acts as a real estate broker, associate  
14 real estate broker, or salesman, as defined in Section 1 of this  
15 Act, without a valid license, as herein provided, shall be deemed  
16 guilty of a misdemeanor and, upon conviction thereof, shall be  
17 imprisoned for not more than three months or fined not more than  
18 \$300.00 or both. Nothing herein shall prevent or supersede  
19 prosecution under any other criminal statute in force in Alaska.

20 Sec. 10. HEARING AND APPEALS. (a) WHEN HEARING HELD.  
21 A hearing shall be held by the Commission in any of the follow-  
22 ing situations:

- 23 (1) When an applicant for a broker's, associate  
24 broker's or salesman's license, or any licensee  
25 under this Act, shall feel himself aggrieved by  
26 any ruling, order or other action of the Commission,  
27 (2) When the Commission, acting upon a verified  
28 complaint filed by any party, or, upon its own  
29 motion, deems that a prima facie case exists

1 showing a violation by any licensee, or by any  
2 person acting without a valid license, of any  
3 provision of this Act or of any rule, regulation  
4 or order issued by the Commission pursuant there-  
5 to.

6 (b) REQUEST FOR HEARING BY APPLICANT OR LICENSEE.

7 In the case of any hearing requested under Section 11 (a) (1),  
8 an applicant or licensee shall file a notice of a request for a  
9 hearing within twenty (20) days after his notification by the  
10 Commission of its action, ruling or order. The Commission shall,  
11 upon receipt of the applicant's or licensee's notice of a re-  
12 quest for hearing, set a date for such hearing which shall fall  
13 not later than ninety (90) days after the receipt of said notice.  
14 The hearing shall be held in either the city of Anchorage,  
15 Juneau, Ketchikan, or Fairbanks, whichever is closest to the  
16 residence of the applicant or licensee.

17 (c) NOTICE OF HEARING AT INSTANCE OF COMMISSION. In  
18 the case of hearings held under Section 11 (a) (2), the Com-  
19 mission shall set a date for the hearing which shall fall not  
20 later than sixty (60) days after the respondent shall have been  
21 given notice thereof. The Commission shall, by registered or  
22 certified mail, notify the respondent of the place, date and  
23 time of hearing, and the notice shall specify the particular  
24 section or sections of this Act, or regulation, rule, or order  
25 of the Commission, which the respondent is alleged to have  
26 violated.

27 (d) HEARINGS; PROCEDURES. At the hearing, the appli-  
28 cant, licensee or respondent shall be entitled to present such  
29 evidence, written or oral, as may be pertinent to the inquiry,

1 but the Commission or any other party shall not be bound by the  
2 usual rules of evidence. The applicant, licensee or respondent  
3 shall have the right to counsel, who may examine and cross-  
4 examine witnesses. All witnesses shall be duly sworn by any  
5 member of the Commission, and any party to the hearing may at  
6 their own expense cause the proceedings to be stenographically  
7 reported. If the hearing is so reported, any party to the hearing  
8 may obtain a copy of the transcript by tendering the cost there-  
9 for to the party which has arranged for such reporting. Nothing  
10 herein, however, shall be construed to require the Commission  
11 or any other party to have the hearing reported.

12 (c) WITNESSES. The Commission shall have the power  
13 to issue subpoenas, including subpoenas duces tecum, under its  
14 seal, to any party whose testimony is required at the hearing.  
15 Such subpoenas shall set out the date, time and place of the  
16 hearing, the name of the party in whose behalf the witness is  
17 expected to testify, and the authority of the Commission to  
18 issue said subpoenas. The subpoenas shall be served by any  
19 United States Marshal or Deputy Marshal, Territorial Policeman,  
20 or other person qualified under Alaska law to serve such process.  
21 Any applicant, licensee or respondent shall be entitled to  
22 submit to the Commission the names of persons whom he wishes  
23 to summon as witnesses, and the Commission shall thereupon  
24 cause subpoenas to be issued for such witnesses. The Commission,  
25 or the party who requests the issuance of subpoenas, shall  
26 tender the cost of the witnesses' transportation from their  
27 homes to the place of hearing, and the costs of transportation  
28 of the persons serving the subpoenas. The party requesting the  
29 issuance of the subpoenas shall also be liable for all witness

1 fees and other charges provided by Alaska law. If a person,  
2 having been duly served with a subpoena, as aforesaid, shall fail  
3 to appear at the hearing, the Commission may petition the United  
4 States District Court for an order directing the appearance of  
5 such person, and, if such person, after the entry of an order  
6 directing his appearance and the service of a copy thereof  
7 upon him, shall fail to appear, the Court may adjudge him to  
8 be in contempt of said order.

9 (f) FINDINGS OF FACT AND CONCLUSIONS OF LAW; ORDERS.  
10 At the conclusion of the hearing, the Commission shall enter  
11 findings of fact and conclusions of law, and enter an order  
12 based thereupon. Any member of the Commission may certify said  
13 findings of fact and conclusions of law, and any order of the  
14 Commission. A copy of the findings of fact and conclusions of  
15 law and the order based thereupon shall be served upon the  
16 applicant, licensee or respondent by sending a copy thereof, by  
17 registered or certified mail, to him at his last known address.  
18 In the case of a licensee, the Commission may order the revoca-  
19 tion, or suspension for a limited time, of his license, or may  
20 enter such other order as may appear to be in the public interest.

21 (g) APPEAL. Such order shall be final when in favor  
22 of the applicant, licensee, or the respondent. When an order is  
23 unfavorable to the applicant, licensee, or respondent, he may  
24 appeal such order to the District Court of the judicial division  
25 in which he resides by serving upon the Real Estate Commissioner  
26 and the Attorney General of Alaska, a written notice of his in-  
27 tentions to appeal within ten (10) days of the receipt by him of  
28 a copy of the findings of fact and conclusions of law and order  
29 based thereupon. Such notice may include a written demand for

1 copies of all papers, documents, and transcripts in the poss-  
2 ession of the Commission, and the Commission, within thirty (30)  
3 days of the receipt of said notice and demand, and after the  
4 respondent has tendered the cost therefor, shall furnish the  
5 applicant or respondent with certified copies of all such  
6 matters in its possession. After the receipt of all such papers,  
7 documents and transcripts by the applicant, licensee or res-  
8 pondent, the matter shall be set for hearing by the District  
9 Court, and the cause shall be given priority on the Court cal-  
10 ender. Upon the hearing of such appeal, the burden of proof  
11 shall be on the applicant, and the Court shall receive and  
12 consider any pertinent evidence, whether documentary or oral,  
13 concerning the actions of the Commission from which the appeal  
14 is taken. The hearing of the appeal shall not be a trial de  
15 nove of the cause, but the Court shall be limited solely to a  
16 consideration and determination of the question of whether  
17 there has been an abuse of discretion on the part of the Com-  
18 mission in entering such order.

19       Sec. 11. EXISTING LICENSES. No holder of a permanent  
20 broker's, associate broker's, or real estate salesman's license,  
21 issued in accordance with any previous law, shall be required  
22 to obtain a new original license by reason of this Act. Existing  
23 licenses shall be renewed yearly as hereinabove provided.

24       Sec. 12. REPEAL OF CHAPTER 113, 1955 SESSION LAWS OF  
25 ALASKA. Chapter 113, 1955 Session Laws of Alaska, is hereby  
26 repealed.

27       Sec. 13. SEVERABILITY. The fact that any section, sub-  
28 section, sentence, clause, or phrase in this Act is declared  
29 invalid for any reason shall not affect the remaining portions

1 of this Act.

2           Sec. 14. EFFECTIVE DATE. This Act shall take effect and  
3 be in force from and after its passage and approval or upon its  
4 becoming law without such approval, and it is so enacted.

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