

Introduced: 3/6/63
Referred: Commerce

1 IN THE HOUSE

BY MR. SANDERS

2 HOUSE BILL NO. 154

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRD LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to licensing real estate
7 brokers and salesmen; and providing for an
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. PURPOSE. The purpose of this Act is to provide a
11 comprehensive and workable plan of regulation and control of the
12 real estate business in Alaska for the protection of the safety
13 and welfare of its inhabitants by creating a real estate commis-
14 sion and by providing for licensing persons engaged in the real
15 estate business.

16 * Sec. 2. AS 08.88 is amended by adding new sections to read:

17 ARTICLE 1. REAL ESTATE COMMISSION.

18 Sec. 08.88.011. CREATION AND MEMBERSHIP OF COMMISSION.

19 There is created a Real Estate Commission. It consists of
20 five members.

21 Sec. 08.88.021. APPOINTMENT AND TERM OF OFFICE. The
22 governor shall appoint the members of the commission, with
23 the confirmation of the legislature, for staggered terms of
24 four years.

25 Sec. 08.88.031. EXECUTIVE SECRETARY OF THE COMMISSION.
26 The commissioner of commerce is the executive secretary of
27 the commission. He may vote only to break a tie.

28 Sec. 08.88.041. COMMISSION MEETINGS. The commission
29 shall hold a regular annual meeting. The commission may hold

1 special meetings at the call of the chairman or at the re-
2 quest of a majority of the commission submitted in writing.

3 Sec. 08.88.051. QUALIFICATIONS OF MEMBERS. (a) To be
4 eligible for appointment as a member of the commission a
5 person must be

- 6 (1) a citizen of the United States;
7 (2) at least 21 years of age;
8 (3) actively engaged full time as an owner or
9 manager of a real estate office;
10 (4) a licensed real estate broker with at least
11 five years experience in the state.

12 (b) Not more than two members may be appointed from one
13 area or district.

14 Sec. 08.88.061. DUTIES OF COMMISSION. The commission
15 shall

- 16 (1) appoint a chairman of the commission to serve
17 during his tenure;
18 (2) promulgate necessary substantive and procedural
19 regulations;
20 (3) investigate complaints;
21 (4) adopt a seal which bears the words "Real
22 Estate Commission, State of Alaska", to be used to authenti-
23 cate proceedings and official documents;
24 (5) after hearing, revoke or suspend a license if
25 the licensee has, within five years immediately preceding
26 the hearing, in the performance of or attempt to perform a
27 real estate transaction, has
28 (A) made a substantial misrepresentation,
29 (B) made a false promise likely to influence

1 persuade or induce,

2 (C) pursued a flagrant course of misrepre-
3 sentation or made false promises through an agent or
4 salesman,

5 (D) acted for more than one party in a trans-
6 action without the knowledge or consent of all parties
7 to it,

8 (E) been guilty of any other conduct, whether
9 of the same or different character, which constitutes
10 fraud or dishonest dealings,

11 (F) violated a regulation prescribed by the
12 commission,

13 (G) procured a license under the provisions
14 of this chapter for himself or another by fraud, mis-
15 representation, or deceit,

16 (H) been convicted of a felony, of which the
17 commission did not have knowledge at the time of the
18 last issuance of a license to the licensee,

19 (I) knowingly authorized, directed, connived
20 at or aided in the publication, advertisement, distri-
21 bution, or circulation of a material false statement or
22 misrepresentation concerning his business or a land or
23 subdivision offered for sale in his business, in this or
24 any other state,

25 (J) wilfully disregarded or violated a pro-
26 vision of this chapter,

27 (K) wilfully used the term "real estate bro-
28 ker" or "salesman" without the legal right to do so, or

29 (L) employed an unlicensed salesman;

1 (6) offer examinations at least once a year and
2 more frequently if more than three persons apply to take an
3 additional examination;

4 (7) issue licenses to qualified applicants;

5 (8) otherwise carry out the provisions of this
6 chapter.

7 Sec. 08.88.071. EDUCATION. The board may conduct and
8 assist in conducting real estate clinics, meetings, courses,
9 or institutes and may incur the necessary expenses to do so.
10 The commission may assist libraries and educational insti-
11 tutions in sponsoring studies and programs for the purpose of
12 raising the standards of the real estate business and the
13 competency of licensees.

14 Sec. 08.88.081. DUTIES OF THE DEPARTMENT. The depart-
15 ment shall furnish the commission with administrative ser-
16 vices, including renting space for holding examinations;
17 proctoring examinations; printing examinations; printing and
18 mailing registration certificates; sending notices, before
19 December 1 of each year, that registrations must be renewed;
20 collecting fees and issuing receipts; keeping a current
21 register of registrants; employing secretarial assistants;
22 replying to routine requests for information; printing forms
23 and informational bulletins; typing all matter to be repro-
24 duced; maintaining records and completed examinations; and
25 keeping records of receipts and disbursements.

26 Sec. 08.88.091. COMPENSATION. Board members are en-
27 titled to per diem and travel expenses allowable by law.

28 ARTICLE 2. LICENSES.

29 Sec. 08.88.111. TYPES OF LICENSE. (a) A real estate

1 broker's license entitles the holder to act as a real estate
2 broker as defined by this chapter.

3 (b) An associate broker's license is in all respects
4 like a real estate broker's license except the associate
5 broker may act only in association with a real estate broker.

6 (c) A real estate salesman's license permits the holder
7 to act as real estate salesman as defined by this chapter.

8 (d) A limited license is a nontransferable license for
9 training. It is valid until the giving of the next examina-
10 tion after the passage of six months from the time of
11 issuance. The holder of a limited license is not authorized
12 to sign papers and documents for a broker or salesman.

13 Sec. 08.88.121. QUALIFICATIONS FOR BROKER AND ASSOCIATE
14 BROKER LICENSES. A person may apply for a broker's or
15 associate broker's license who

16 (1) is a citizen of the United States;

17 (2) has a high school education or its equivalent,
18 has had six months training in real estate, and has had at
19 least 24 months of continuous service as a salesman;

20 (3) has been a resident of the state for at least
21 90 days;

22 (4) is at least 21 years old;

23 (5) is of good moral character.

24 Sec. 08.88.131. QUALIFICATIONS FOR SALESMAN'S LICENSES.
25 A person may apply for a license as a real estate salesman who

26 (1) is a citizen of the United States;

27 (2) has either a high school education or its
28 equivalent and has attended a course in real estate or has
29 had at least six months continuous training under the

1 supervision of a real estate broker;

2 (3) is at least 21 years old;

3 (4) is of good moral character.

4 Sec. 08.88.141. APPLICATIONS. Applications are made
5 in writing, signed by the applicant. The commission may not
6 accept applications which are not accompanied by the examina-
7 tion fee. An applicant for a broker's or associate broker's
8 license shall submit with the application letters of recom-
9 mendation from two broker owners of real estate offices in the
10 applicant's area and three credit references and three
11 character references. An applicant for a salesman's license
12 shall submit a statement from an employing broker certifying
13 to the good moral character of the applicant.

14 Sec. 08.88.151. CONTENTS OF APPLICATION. The commis-
15 sion may not accept an application unless it contains

16 (1) for a broker's or salesman's license:

17 (A) the name, address, length of residence in
18 the state;

19 (B) the name or assumed name of the company or
20 individual designated broker, proposed place of business,
21 mailing address and the location of branch offices if
22 any;

23 (C) the education and background of the
24 applicant, real estate courses attended, three character
25 references, his last employer's name, and length of time
26 he has been in the real estate business;

27 (2) for a limited license:

28 (A) the name and mailing address of the
29 applicant;

1 (B) age, education and background, and
2 length of residence in this state;

3 (C) three references, mailing address and
4 designated office and employing broker's signature.

5 Sec. 08.88.161. EXAMINATIONS. (a) An applicant for a
6 broker's or salesman's license shall pass a written examina-
7 tion prepared by or under the supervision of the commission.
8 The examination shall be given at such times and at such
9 places within the state as the commission prescribes. The
10 examination for a broker's license shall include business
11 ethics, writing composition, arithmetic, elementary princi-
12 ples of land economics and appraisal, a general knowledge of
13 the statutes of this state relating to deeds, mortgages, real
14 estate contracts, subdivisions, legal descriptions, building
15 codes, agency and brokerage, the provisions of this chapter,
16 and regulations of the commission. The examination for a
17 broker's license shall be more exacting than the examination
18 for a salesman's license. The examination for an associate
19 broker's license is the same as that for a broker's license.

20 (b) An applicant who has failed the examination on two
21 successive occasions is ineligible for further examination
22 for six months.

23 (c) A person holding an active license on the effective
24 date of this chapter, upon complying with the other require-
25 ments, may obtain a license as a broker or salesman without
26 examination if application is made within 90 days of the
27 effective date of this chapter.

28 (d) No examination is required of an applicant for a
29 salesman's or broker's license who held an unrevoked and

1 unsuspended broker's or salesman's license on January 31 of
2 the preceding year, or of an applicant for a broker's or
3 salesman's license holding an honorable discharge from the
4 armed forces of the United States who, at the time of enter-
5 ing the service, held an unrevoked and unsuspended license
6 of the kind applied for.

7 Sec. 08.88.171. RECIPROCITY. The holder of a valid,
8 active license from another state, territory, or possession
9 of the United States may be issued a license of the kind that
10 he holds there, without examination, if

11 (1) he meets all the other requirements of this
12 chapter,

13 (2) he has resided in Alaska for 90 days,

14 (3) he has provided proof of honesty and trust-
15 worthiness,

16 (4) the application is made during the calendar
17 year in which he holds the license in the other jurisdiction,

18 (5) the other states extend a similar courtesy to
19 applicants holding licenses from this state.

20 Sec. 08.88.181. BONDS. Before issuing a license to a
21 broker or salesman the commission shall require him to obtain
22 a corporate surety bond, to be approved by the commission, in
23 the amount of \$2,500, if for a broker, and \$1,000, if for a
24 salesman. The bond shall be conditioned upon the faithful
25 compliance of the broker or salesman with the provisions of
26 this chapter, and the bond shall be in favor of the state,
27 for the benefit of any person injured by the wrongful act,
28 default, fraud, or misrepresentation of the broker or sales-
29 man in his capacity as such. A person so injured may bring

1 suit on the bond in his own name. The bond covers the
2 principal office and all branch offices.

3 Sec. 08.88.191. ISSUANCE OF LICENSE. At each regular
4 meeting of the commission, it shall consider all applications
5 properly before it, and as soon as possible after the meeting
6 shall issue to all applicants who have qualified an approp-
7 riate license and pocket card.

8 Sec. 08.88.201. LOCATION. A license issued under the
9 provisions of this chapter authorizes the licensee to do
10 business only at the location specified in the license.

11 Sec. 08.88.211. DISPLAY OF LICENSE. Licenses shall be
12 prominently displayed in the office of the real estate broker.

13 Sec. 08.88.221. POSSESSION OF LICENSE. A salesman's
14 or associate broker's license remains in possession of the
15 employing broker until cancelled or until the licensee leaves
16 the employ of the broker, when it shall be returned to the
17 commission by the employing broker for cancellation or
18 transfer.

19 Sec. 08.88.231. PLACE OF BUSINESS. A broker licensed
20 under this chapter shall maintain a definite place of business
21 in the state.

22 Sec. 08.88.241. CHANGE OF LOCATION. A licensee shall
23 give notice in writing to the commissioner of a change in
24 location of place of business, whereupon the commissioner
25 shall issue a new license for the unexpired period. Change or
26 abandonment of a business location without notice automatic-
27 ally cancels the license.

28 Sec. 08.88.251. BRANCH OFFICES. An applicant shall
29 procure a license for each branch office maintained. If the

1 branch office is outside the district of the main office, it
2 shall be in charge of a licensed real estate broker. A
3 salesman may be in charge of an office within the district.

4 Sec. 08.88.261. SIGNS. A person licensed as a broker
5 shall maintain a sign in a conspicuous place on the premises
6 to indicate that he is a licensed broker. The name or
7 assumed trade name shall be clearly shown on the sign.

8 Sec. 08.88.271. ADMINISTRATION OF LICENSES. (a)
9 License fees are paid in advance, and are the same regardless
10 of the date the license is issued.

11 (b) All licenses expire on January 31 of each year at
12 midnight.

13 (c) A license may be renewed by filing an application
14 on a form provided by the commission. The commission shall
15 grant a renewal without again requiring the applicant to
16 present recommendations or be examined.

17 (d) The commissioner may reinstate a license cancelled
18 but not suspended or revoked within the calendar year upon
19 receipt of application, the proper fee and late fee penalty
20 of one and one-half times the regular fee.

21 (e) A license is not renewable after it has been in-
22 active for 12 months.

23 (f) A person holding a broker's license may obtain a
24 license as a salesman by making application and paying the
25 appropriate fee. The term of his broker's license continues
26 to run, even though his technical status becomes that of a
27 salesman.

28 (g) A license pocket card lost, stolen, or destroyed,
29 may be duplicated upon application and payment of the dupli-

1 cate fee. The loss, disappearance or destruction of license
2 or pocket card shall be reported immediately to the commis-
3 sion.

4 Sec. 08.88.281. FEES. The commission shall charge the
5 following fees:

- 6 (1) a broker's license fee, \$25;
- 7 (2) a broker's examination fee, \$25;
- 8 (3) a broker's renewal fee, \$25;
- 9 (4) associate broker's fee, \$25;
- 10 (5) salesman's license fee, \$15;
- 11 (6) salesman's renewal fee, \$15;
- 12 (7) salesman's examination fee, \$25;
- 13 (8) limited license fee, \$15;
- 14 (9) branch office fee, for branch office license,
15 \$10;
- 16 (10) change of name, address, or location fee, \$1;
- 17 (11) transfer of salesman or associate broker
18 license fee, \$1;
- 19 (12) duplicate license or pocket card fee, \$1;
- 20 (13) reinstatement of license, within the calendar
21 year only, penalty, one and one-half times regular fee.

22 Sec. 08.88.291. DISPOSITION OF MONEY. All money
23 collected under this chapter shall be deposited in the
24 general fund.

25 Sec. 08.88.301. ASSOCIATE BROKERS AND SALESMEN. A
26 broker may employ and pay only licensed salesmen. An
27 associate broker may accept employment and compensation as
28 such only from his designated broker.

29 Sec. 08.88.311. MAKING OF TRANSACTIONS. No salesman,

1 associate broker, or employee may make any transaction in
2 real estate except through his employing broker. All money
3 collected on behalf of the employing broker shall immediately
4 be turned over to the employing broker or his agent. Failure
5 to do so is cause to suspend the license of the offender.
6 All transactions in real estate by a salesman, associate
7 broker, or employee shall be processed through the employing
8 broker's office whether they are for his own use or the use
9 of a client.

10 Sec. 08.88.321. DISCHARGE OF SALESMAN. When a sales-
11 man is discharged by his employing broker, for any reason,
12 the employing broker shall immediately file a verified state-
13 ment of the facts with the commissioner. Upon payment of
14 the proper transfer fee the commission shall reinstate the
15 salesman, noting the new office in which he is employed.

16 Sec. 08.88.331. OUT-OF-STATE BROKERS. A licensed real
17 estate broker from this state may pay a fee, commission, or
18 compensation to a licensed real estate broker from another
19 state and may collect a fee, commission, or compensation
20 under the laws of that state.

21 Sec. 08.88.341. LISTINGS. All real estate listings
22 must be in writing and signed by the seller or his agent
23 legally authorized to sign for the owner, and must have a
24 definite expiration date.

25 Sec. 08.88.351. RECORD OF TRANSACTION. A broker shall
26 keep a complete record of all transactions for a period of
27 at least three years and shall make a closing statement to
28 both buyer and seller of all transactions, showing disburse-
29 ments and accounting for all money in the transaction, and

1 shall keep a separate trust account in a bank, from which he
2 may withdraw his rightful commission only when the transac-
3 tion has been completely closed.

4 Sec. 08.88.361. FIRM, CORPORATION, OR PARTNERSHIP
5 LICENSE. The license of an officer, agent, salesman, cor-
6 poration, or partnership, acting under the license of a
7 broker or firm, may be suspended or revoked without revoking
8 or suspending the license of the firm, corporation or
9 partnership.

10 Sec. 08.88.371. VIOLATION BY EMPLOYEE OR ASSOCIATE.
11 The violation of this chapter by a salesman, employee, or
12 associated broker of an employing broker is not cause for
13 suspension or revocation of the license of the employing
14 broker unless the employer had actual knowledge of the vio-
15 lation and was a guilty party to it.

16 Sec. 08.88.381. ADMINISTRATIVE PROCEDURE. All pro-
17 ceedings under this chapter are governed by the Administra-
18 tive Procedure Act (A: 44.62).

19 ARTICLE 3. PENALTIES.

20 Sec. 08.88.401. PROHIBITION OF UNLICENSED OPERATION.

21 (a) After the effective date of this chapter, no person may
22 engage in or conduct, directly or indirectly, or advertise or
23 hold himself out as engaging in or conducting the business
24 or acting in the capacity, of a real estate broker or a real
25 estate salesman within this state without first obtaining a
26 license.

27 (b) No person licensed under this chapter may use the
28 term "REALTOR" unless he is entitled to use it.

29 Sec. 08.88.411. SALES OF OUT-OF-STATE REAL ESTATE. No

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person may advertise, offer for sale, or attempt to sell real estate in another state to a resident of this state unless he is licensed under this chapter.

Sec. 08.88.421. SALE OF CEMETERY PROPERTY. No person may sell or offer to sell cemetery property under a promise that the cemetery property sold or offered for sale may be resold at a profit. The conveyance of cemetery property pursuant to a sale in violation of this section is void.

Sec. 08.88.431. COMPENSATING UNLICENSED OPERATOR. No person, firm or corporation, whether or not he is an obligor or escrow holder, may pay or deliver compensation for performing an act specified in this chapter to a person who is not a licensed broker at the time payment or delivery is made. A current license or pocket card issued by the commission is sufficient proof to relieve the obligor, escrow holder or other person from criminal liability under this section.

Sec. 08.88.441. MISREPRESENTATION. No person may
(1) knowingly authorize, direct, or aid in the publication of a false statement or misrepresentation concerning land or a subdivision offered for sale or lease; or
(2) with knowledge that an advertisement, pamphlet, or letter concerning land or a subdivision contains a written statement that is false or fraudulent, issue, circulate, publish or distribute it or cause it to be issued, circulated, published, or distributed.

Sec. 08.88.451. COMMISSION ORDER. No person may wilfully violate or fail to comply with a proper order, permit, decision, demand or requirement of the commission issued

1 under this chapter.

2 Sec. 08.88.461. PENALTIES. A person who violates a
3 provision of this chapter is guilty of a misdemeanor, and
4 upon conviction is punishable by a fine of not more than
5 \$500, or by imprisonment for not more than six months, or
6 by both. A corporation may be fined in an amount not to
7 exceed \$5,000.

8 ARTICLE 4. GENERAL PROVISIONS.

9 Sec. 08.88.481. EXCEPTIONS. This chapter does not
10 apply to

11 (1) an owner of real estate or to his regular
12 employees with respect to property owned or leased by him;

13 (2) an attorney-in-fact under a power of attorney
14 authorizing the consummation of a specific real estate trans-
15 action;

16 (3) an attorney at law in the performance of his
17 duties as an attorney;

18 (4) a public official in the conduct of his
19 official duties;

20 (5) a person acting as receiver, trustee, adminis-
21 trator, executor, or guardian;

22 (6) a person acting under court order;

23 (7) a person acting under the authority of a will
24 or trust instrument.

25 Sec. 08.88.491. WHEN COMMISSION IS EARNED. A commis-
26 sion is earned when the broker finds a buyer willing and able
27 to purchase at a price and on terms set by the seller.

28 Sec. 08.88.501. DEFINITIONS. In this chapter

29 (1) "real estate" means an interest or estate in

1 land, corporeal or incorporeal;

2 (2) "broker" or "real estate broker" means a
3 person, other than a salesman, who, for another for compen-
4 sation or other valuable consideration, or with intent, in
5 the expectation, or upon the promise of receiving or collect-
6 ing compensation or other valuable consideration

7 (A) lists or offers to list for sale, sells,
8 exchanges, rents or leases, or offers, attempts or
9 agrees to negotiate a sale, exchange, purchase or rental
10 of real estate,

11 (B) collects, or offers, attempts, or agrees
12 to collect rent for the use of real estate,

13 (C) negotiates, or offers, attempts, or agrees
14 to negotiate a loan secured or to be secured by a
15 mortgage or other encumbrance upon or transfer of real
16 estate,

17 (D) auctions, or offers to auction, or
18 attempts or agrees to auction real estate,

19 (E) advertises or holds himself out as en-
20 gaged in the business of selling, exchanging, buying,
21 renting or leasing real estate, or counseling, or acts
22 as a consultant or an appraiser of real estate,

23 (F) assists in or directs the procuring of
24 prospective buyers or the negotiation or closing of any
25 transaction which results or is calculated to result in
26 the sale, exchange, leasing or renting of real estate,
27 or charges or offers to charge an advanced fee,

28 (G) buys, offers to buy, sells, offers to
29 sell, or otherwise deals in options in real estate or

1 improvements to real estate as a business;

2 (3) "salesman" or "real estate salesman" means

3 (A) a person employed by or on behalf of a
4 broker of real estate for compensation to sell real
5 estate, business opportunities to sell real estate in
6 lots, subdivisions, acreage, or other parcels, and who
7 deals, or exchanges, or offers, attempts, or agrees to
8 negotiate the sale or exchange, or trade, of any lot,
9 parcel, acreage or subdivision of real estate,

10 (B) a person employed by an owner who holds
11 himself out as a subdivider of real estate, or part time
12 subdivider or part time dealer or full time dealer in
13 leasing, selling, exchanging or renting real estate,

14 (C) a person engaged in the business of buy-
15 ing, selling, exchanging, or leasing or renting real
16 estate on his own account and holding himself out as a
17 full or part time dealer in real estate,

18 (D) a person engaged by or on behalf of, or
19 associated with, a licensed real estate broker to per-
20 form any act or transaction included in the definition
21 of real estate broker;

22 (4) "associate broker" means a licensed real
23 estate broker engaged by or associated with a designated
24 broker, who may perform any act or transaction included in
25 the definition of a real estate broker and salesman;

26 (5) "limited license salesman" means any person
27 licensed to train under the direction and supervision of a
28 licensed real estate broker for a period of six months or
29 until the nearest examination thereafter;

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(6) "commissioner" means the commissioner of commerce;

(7) "lease" or "leasing" includes any lease, whether it is the sole, the principal, or an incidental part of a transaction;

(8) "licensee" means a person to whom a license as real estate broker or salesman has been granted.

- * Sec. 3. AS 08.88.010 - 08.88.520 are repealed.
- * Sec. 4. This Act takes effect January 1, 1965.