

Original Sponsor: Mr. Sanders

Offered: 4/1/63
Referred: Commerce

1 IN THE HOUSE

BY COMMERCE

2

CS FOR 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."

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

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* Section 1. PURPOSE. The purpose of this Act is to provide a

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comprehensive and workable plan of regulation and control of the

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real estate business in Alaska for the protection of the safety

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and welfare of its inhabitants by creating a real estate commis-

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sion and by providing for licensing persons engaged in the real

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estate business.

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

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ARTICLE 1. REAL ESTATE COMMISSION.

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Sec. 08.88.011. CREATION AND MEMBERSHIP OF COMMISSION.

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

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Sec. 08.88.021. APPOINTMENT AND TERM OF OFFICE. The

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governor shall appoint the members of the commission, with

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the confirmation of the legislature, for staggered terms of

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four years.

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Sec. 08.88.031. EXECUTIVE SECRETARY OF THE COMMISSION.

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The commissioner of commerce is the executive secretary of

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the commission. He may vote only to break a tie.

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Sec. 08.88.041. COMMISSION MEETINGS. The commission

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shall hold a regular annual meeting. The commission may hold

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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 real estate experience in the state.

12 (b) Not more than two members may be appointed from any
13 one of the four major senatorial districts.

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

- 16 (1) appoint a chairman of the commission to serve
17 for one year;
- 18 (2) promulgate necessary substantive and procedur-
19 al 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 three years immediately preceding
26 the hearing, in the performance of or attempt to perform a
27 real estate transaction, has purposely and knowingly
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 (9) prosecute through the Department of Law for a
8 violation of any provision of this chapter.

9 Sec. 08.88.071. EDUCATION. The board may conduct and
10 assist in conducting real estate clinics, meetings, courses,
11 or institutes. The commission may assist libraries and edu-
12 cational institutions in sponsoring studies and programs
13 for the purpose of raising the standards of the real estate
14 business and the competency of licensees.

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

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

29 ARTICLE 2. LICENSES.

1 Sec. 08.88.111. TYPES OF LICENSE. (a) A real estate
2 broker's license entitles the holder to act as a real estate
3 broker as defined by this chapter.

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

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

9 Sec. 08.88.121. QUALIFICATIONS FOR BROKER AND ASSOCIATE
10 BROKER LICENSES. A person may apply for a broker's or
11 associate broker's license who

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

13 (2) has a high school education or its equivalent,
14 has had training in real estate, and has had at least 12
15 months of experience as a salesman;

16 (3) has been a resident of the state for at least
17 90 days;

18 (4) is at least 21 years old;

19 (5) is of good moral character.

20 Sec. 08.88.131. QUALIFICATIONS FOR SALESMAN'S LICENSES.

21 A person may apply for a license as a real estate salesman
22 who

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

24 (2) has either a high school education or its
25 equivalent;

26 (3) is at least 21 years old;

27 (4) is of good moral character.

28 Sec. 08.88.141. APPLICATIONS. Applications are made
29 in writing, signed by the applicant. The commission may not

1 accept applications which are not accompanied by the examina-
2 tion fee.

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

5 (1) for a broker's license:

6 (A) the name, address, length of residence in
7 the state;

8 (B) the name or assumed name of the company,
9 proposed place of business, mailing address and the
10 location of branch offices if any;

11 (C) the education and background of the
12 applicant, real estate courses attended, three character
13 references, his last employer's name, and length of time
14 he has been in the real estate business;

15 (D) two letters of recommendation from owners
16 of real estate in the applicant's area;

17 (2) for a salesman's license

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

20 (B) the designation of the broker for whom
21 he will work;

22 (C) the education and background of the
23 applicant, real estate courses attended, three character
24 references, and his last employer's name.

25 Sec. 08.88.161. EXAMINATIONS. (a) An applicant for a
26 broker's or salesman's license shall pass a written examina-
27 tion prepared by or under the supervision of the commission.
28 The examination shall be given at such times and at such
29 places within the state as the commission prescribes. The

1 examination for a broker's license shall include business
2 ethics, writing composition, arithmetic, elementary princi-
3 ples of land economics and appraisal, a general knowledge of
4 the statutes of this state relating to deeds, mortgages, real
5 estate contracts, subdivisions, legal descriptions, building
6 codes, agency and brokerage, the provisions of this chapter,
7 and regulations of the commission. The examination for a
8 broker's license shall be more exacting than the examination
9 for a salesman's license. The examination for an associate
10 broker's license is the same as that for a broker's license.

11 (b) A person holding an active license on the effective
12 date of this chapter, upon complying with the other require-
13 ments, may obtain a license as a broker or salesman without
14 examination.

15 (c) An applicant for a broker's or salesman's license
16 holding an honorable discharge from the armed forces of the
17 United States who, at the time of entering the service, held
18 an unrevoked and unsuspended license may obtain a license
19 of the kind he previously held.

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

24 (1) he meets all the other requirements of this
25 chapter;

26 (2) he has resided in Alaska for 90 days;

27 (3) he has provided proof of honesty and trust-
28 worthiness;

29 (4) the application is made during the calendar

1 year in which he holds the license in the other jurisdiction;

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

4 Sec. 08.88.181. BONDS. Before issuing a license to a
5 broker or salesman the commission shall require him to obtain
6 a corporate surety bond, to be approved by the commission, in
7 the amount of \$5,000, if for a broker, and \$1,000, if for a
8 salesman. The bond shall be conditioned upon the faithful
9 compliance of the broker or salesman with the provisions of
10 this chapter, and the bond shall be in favor of the state,
11 for the benefit of any person injured by the wrongful act,
12 default, fraud, or misrepresentation of the broker or sales-
13 man in his capacity as such. A person so injured may bring
14 suit on the bond in his own name. The bond covers the
15 principal office and all branch offices.

16 Sec. 08.88.191. ISSUANCE OF LICENSE. At each regular
17 meeting of the commission, it shall consider all applications
18 properly before it, and as soon as possible after the meeting
19 shall issue to all applicants who have qualified an appropri-
20 ate license and pocket card.

21 Sec. 08.88.201. LOCATION. A license issued under the
22 provisions of this chapter authorizes the licensee to do
23 business only at the location specified in the license.

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

26 Sec. 08.88.221. POSSESSION OF LICENSE. A salesman's
27 or associate broker's license remains in possession of the
28 employing broker until cancelled or until the licensee leaves
29 the employ of the broker, when it shall be returned to the

1 commission by the employing broker for cancellation or
2 transfer.

3 Sec. 08.88.231. PLACE OF BUSINESS. A broker licensed
4 under this chapter shall maintain a definite place of busi-
5 ness within the state. The broker shall locate his place
6 of business so as to conform with city and state zoning laws,
7 and in a business area considered and recognized as a busi-
8 ness location. If the place of business is outside a city,
9 it shall be approved by the commissioner of commerce. No
10 office may be located in a dwelling unless the office is
11 completely separated from the living portion of the residence,
12 and may not be located in a residential district.

13 Sec. 08.88.241. CHANGE OF LOCATION. A licensee shall
14 give notice in writing to the commissioner of a change in
15 location of place of business, whereupon the commissioner
16 shall issue a new license for the unexpired period. Change
17 or abandonment of a business location without notice auto-
18 matically cancels the license.

19 Sec. 08.88.251. BRANCH OFFICES. An applicant shall
20 procure a license for each branch office maintained. If the
21 branch office is not in the same election district or is
22 beyond the immediate control and supervision of the main
23 office it shall be in charge of a licensed real estate broker.
24 Otherwise, a salesman may be in charge of the office.

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

29 Sec. 08.88.271. ADMINISTRATION OF LICENSES. (a)

1 License fees are paid in advance, and are the same regardless
2 of the date the license is issued.

3 (b) All licenses expire on January 31 of each year at
4 midnight.

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

9 (d) The commissioner may reinstate a license cancelled
10 but not suspended or revoked within the calendar year upon
11 receipt of application.

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

14 (f) A person holding a broker's license may obtain a
15 license as a salesman by making application and paying the
16 appropriate fee. The term of his broker's license continues
17 to run, even though his technical status becomes that of a
18 salesman.

19 (g) A license pocket card lost, stolen, or destroyed,
20 may be duplicated upon application and payment of the dupli-
21 cate fee. The loss, disappearance or destruction of license
22 or pocket card shall be reported immediately to the commis-
23 sion.

24 Sec. 08.88.281. FEES. The commission shall charge the
25 following fees:

- 26 (1) a broker's license fee, \$25;
- 27 (2) a broker's examination fee, \$25;
- 28 (3) a broker's renewal fee, \$25;
- 29 (4) associate broker's fee, \$25;

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

13 Sec. 08.88.291. DISPOSITION OF MONEY. All money
14 collected under this chapter shall be deposited in the
15 general fund.

16 Sec. 08.88.301. ASSOCIATE BROKERS AND SALESMEN. A
17 broker may employ and pay only Alaskan licensed salesmen.
18 An associate broker may accept employment and compensation
19 as such only from his designated broker.

20 Sec. 08.88.311. MAKING OF TRANSACTIONS. No salesman,
21 associate broker, or employee may make any transaction in
22 real estate except through his employing broker. All money
23 collected on behalf of the employing broker shall immediately
24 be turned over to the employing broker or his agent. Failure
25 to do so is cause to suspend the license of the offender.
26 All transactions in real estate by a salesman, associate
27 broker, or employee shall be processed through the employing
28 broker's office whether they are for his own use or the use
29 of a client.

1 Sec. 08.88.321. DISCHARGE OF SALESMAN. When a sales-
2 man is discharged by his employing broker, for any reason,
3 the employing broker shall immediately file a verified state-
4 ment of the facts with the commissioner. Upon payment of
5 the proper transfer fee the commission shall reinstate the
6 salesman, noting the new office in which he is employed.

7 Sec. 08.88.331. OUT-OF-STATE BROKERS. A licensed real
8 estate broker from this state may pay a fee, commission, or
9 compensation to a licensed real estate broker from another
10 state and may collect a fee, commission, or compensation
11 under the laws of that state.

12 Sec. 08.88.341. LISTINGS. All real estate listings
13 must be in writing and signed by the seller or his agent
14 legally authorized to sign for the owner. All exclusive
15 listings must have a definite expiration date.

16 Sec. 08.88.351. RECORD OF TRANSACTION. A broker shall
17 keep a complete record of all transactions for a period of
18 at least three years and shall make a closing statement to
19 both buyer and seller of all transactions, showing disburse-
20 ments and accounting for all money in the transaction, and
21 shall keep a separate trust account in a bank, from which he
22 may not withdraw any money until the transaction has been
23 completely closed unless authorized to do so by the purchaser
24 or depositor of the money.

25 Sec. 08.88.361. FIRM, CORPORATION, OR PARTNERSHIP
26 LICENSE. The license of an officer, agent, salesman, corpora-
27 tion, or partnership, acting under the license of a broker
28 or firm, may be suspended or revoked without revoking or
29 suspending the license of the firm, corporation or partnership.

1 Sec. 08.88.371. VIOLATION BY EMPLOYEE OR ASSOCIATE.
2 The violation of this chapter by a salesman, employee, or
3 associated broker of an employing broker is not cause for
4 suspension or revocation of the license of the employing
5 broker unless the employer had actual knowledge of the viola-
6 tion and was a guilty party to it.

7 Sec. 08.88.381. ADMINISTRATIVE PROCEDURE. All pro-
8 ceedings under this chapter are governed by the Administra-
9 tive Procedure Act (AS 44.62).

10 ARTICLE 3. PENALTIES.

11 Sec. 08.88.401. PROHIBITION OF UNLICENSED OPERATION.

12 (a) After the effective date of this chapter, no person may
13 engage in or conduct, directly or indirectly, or advertise or
14 hold himself out as engaging in or conducting the business
15 or acting in the capacity, of a real estate broker or a real
16 estate salesman within this state without first obtaining a
17 license.

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

20 Sec. 08.88.411. SALES OF OUT-OF-STATE REAL ESTATE. No
21 person may advertise, offer for sale, or attempt to sell real
22 estate in another state to a resident of this state unless he
23 is licensed under this chapter.

24 Sec. 08.88.421. COMPENSATING UNLICENSED OPERATOR. No
25 person, firm or corporation, whether or not he is an obligor
26 or escrow holder, may pay or deliver compensation for per-
27 forming an act specified in this chapter to a person who is
28 not a licensed broker at the time payment or delivery is
29 made. A current license or pocket card issued by the com-

1 mission is sufficient proof to relieve the obligor, escrow
2 holder or other person from criminal liability under this
3 section.

4 Sec. 08.88.431. MISREPRESENTATION. No person may

5 (1) knowingly authorize, direct, or aid in the
6 publication of a false statement or misrepresentation con-
7 cerning land or a subdivision offered for sale or lease; or

8 (2) with knowledge that an advertisement, pamphlet,
9 or letter concerning land or a subdivision contains a written
10 statement that is false or fraudulent, issue, circulate,
11 publish or distribute it or cause it to be issued, circulated,
12 published, or distributed.

13 Sec. 08.88.441. COMMISSION ORDER. No person may
14 wilfully violate or fail to comply with a proper order, per-
15 mit, decision, demand or requirement of the commission issued
16 under this chapter.

17 Sec. 08.88.451. PENALTIES. A person who vioates a
18 provision of this chapter is guilty of a misdemeanor, and
19 upon conviction is punishable by a fine of not more than
20 \$500, or by imprisonment for not more than six months, or
21 by both. A corporation may be fined in an amount not to
22 exceed \$5,000.

23 ARTICLE 4. GENERAL PROVISIONS.

24 Sec. 08.88.471. EXCEPTIONS. This chapter does not
25 apply to

26 (1) an owner of real estate;

27 (2) an attorney-in-fact under a power of attorney
28 authorizing the consummation of a specific real estate trans-
29 action;

1 (3) an attorney at law in the performance of his
2 duties as an attorney;

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

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

7 (6) a person acting under court order;

8 (7) a person acting under the authority of a will
9 or trust instrument;

10 (8) a person dealing in mineral rights transactions.

11 Sec. 08.88.481. WHEN COMMISSION IS EARNED. A commis-
12 sion is earned when the broker finds a buyer willing and
13 able to purchase at a price and on terms set by the seller,
14 providing negotiations with the buyer were instigated during
15 the term of a valid listing agreement and within the time
16 limit of the listing.

17 Sec. 08.88.491. DEFINITIONS. In this chapter

18 (1) "real estate" means an interest or estate in
19 land, corporeal or incorporeal;

20 (2) "broker" or "real estate broker" means a
21 person, other than a salesman, who, for another for compen-
22 sation or other valuable consideration, or with intent, in
23 the expectation, or upon the promise of receiving or collect-
24 ing compensation or other valuable consideration

25 (A) lists or offers to list for sale, sells,
26 exchanges, rents or leases, or offers, attempts or
27 agrees to negotiate a sale, exchange, purchase or rental
28 of real estate,

29 (B) collects, or offers, attempts, or agrees

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to collect rent for the use of real estate,

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

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

(E) advertises or holds himself out as engaged in the business of selling, exchanging, buying, renting or leasing real estate, or counseling, or acts as a consultant,

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

(G) buys, offers to buy, sells, offers to sell, or otherwise deals in options in real estate or improvements to real estate as a business;

(3) "salesman" or "real estate salesman" means a person employed by or on behalf of a broker of real estate for compensation to sell real estate, business opportunities to sell real estate in lots, subdivisions, acreage, or other parcels, and who deals, or exchanges, or offers, attempts, or agrees to negotiate the sale or exchange, or trade, of any lot, parcel, acreage or subdivision of real estate;

(4) "associate broker" means a licensed real estate broker engaged by or associated with a designated broker, who may perform any act or transaction included in

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the definition of a real estate broker and salesman;

(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, 1964.