

Original sponsor: Bennett by request

Offered: 4/7/80  
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 212 (2d Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the regulation of real estate  
7 brokers and salesmen and to the real estate surety  
8 fund; and providing for an effective date."

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

10 \* Section 1. AS 08.88.041(b) is amended to read:

11 (b) Of the five members of the commission who must be real estate  
12 brokers or associate brokers, one [ONE] member [OF THE COMMISSION] shall  
13 be from the First Judicial District, one shall be from the Second Judi-  
14 cial District, one shall be from the Third Judicial District, one shall  
15 be from the Fourth Judicial District and one shall be from the state at  
16 large. However, if no licensed real estate broker or licensed associate  
17 broker [PERSON] is eligible or available for appointment from the Second  
18 Judicial District, then two licensed real estate brokers or licensed  
19 associate brokers shall be appointed from the state at large.

20 \* Sec. 2. AS 08.88.071(a) is amended by adding a new paragraph to read:

21 (6) issue a temporary permit to the personal representative  
22 of the estate of a deceased broker or to some other person designated by  
23 the commission in order to secure proper administration in concluding  
24 the affairs of decedent broker's real estate business.

25 \* Sec. 3. AS 08.88.081 is amended to read:

26 Sec. 08.88.081. COMMISSION REGULATIONS. The commission shall  
27 adopt [SUBSTANTIVE] regulations pertaining to [MAKING MORE SPECIFIC] the  
28 responsibilities of persons licensed under this chapter and the  
29 [GENERAL] grounds for revoking or suspending a license.

1 \* Sec. 4. AS 08.88.091 is amended to read:

2 Sec. 08.88.091. EDUCATION. The commission may conduct and assist  
3 in conducting real estate clinics, meetings, courses, or institutes.

4 The commission may

5 (1) assist libraries and educational institutions in sponsor-  
6 ing studies and programs; and

7 (2) publish informational materials for the purpose of  
8 raising the standards of the real estate business and the competency of  
9 licensees.

10 \* Sec. 5. AS 08.88.171(a) is amended to read:

11 (a) A person is entitled to a real estate broker license if he  
12 satisfies the requirements of AS 08.88.211, if he is [HAS BEEN] a resi-  
13 dent of the state, [FOR 90 DAYS AND] if he applies for his license  
14 within six months after receipt of notice that he has passed the real  
15 estate brokers examination, if he [, FILES THE REQUIRED BOND, AND] is an  
16 owner of a real estate business or employed as a real estate broker by a  
17 corporation or a partnership, and if that [THE] corporation or partner-  
18 ship does not have an existing licensed broker. Unless the broker [HE]  
19 fails to pay the biennial renewal fee or unless his license is suspended  
20 or revoked under AS 08.88.071(a)(3) or AS 08.88.276, the [A] real estate  
21 broker's license continues in effect so long as he is an owner of a real  
22 estate business, or he is employed as a real estate broker by a  
23 corporation or a partnership. If he stops being an owner of a real  
24 estate business, or stops being employed as a real estate broker by a  
25 corporation or partnership, his license is suspended from the time he  
26 stops until

27 (1) he again becomes an owner of a real estate business or is  
28 again employed as a real estate broker by a corporation or a partner-  
29 ship; or

1 (2) he is employed by a licensed real estate broker as an  
2 associate real estate broker, in which case his real estate broker  
3 license is returned to the department, and the department issues him an  
4 associate real estate broker license.

5 \* Sec. 6. AS 08.88.171(b) is amended to read:

6 (b) A person is entitled to an associate real estate broker li-  
7 cense if he satisfies the requirements under AS 08.88.211, if he is [HAS  
8 BEEN] a resident of the state, [FOR 90 DAYS AND] if he passes the real  
9 estate brokers examination, if he applies for his license within six  
10 months after receipt of notice that he has passed the examination [,  
11 FILES THE REQUIRED BOND], and if he is employed by a licensed real  
12 estate broker as an associate real estate broker. Unless the associate  
13 broker [HE] fails to pay the biennial renewal fee or unless his license  
14 is suspended or revoked under AS 08.88.071(a)(3) or AS 08.88.276, the  
15 [AN] associate real estate broker's license continues in effect so long  
16 as he is employed by a licensed real estate broker as an associate  
17 broker. If he stops being employed by a licensed real estate broker,  
18 his license is suspended from the time he stops until

19 (1) he again is employed by a real estate broker as an asso-  
20 ciate broker; or

21 (2) he becomes an owner of a real estate business, in which  
22 case his associate real estate broker license is returned to the depart-  
23 ment, and the department issues him a real estate broker license.

24 \* Sec. 7. AS 08.88.171(c) is amended to read:

25 (c) A person is entitled to a real estate salesman license if he  
26 satisfies the requirements under AS 08.88.211, if he is [HAS BEEN] a  
27 resident of the state, [FOR 90 DAYS AND] if he passes the real estate  
28 salesman examination, if he applies for his license within six months  
29 after receipt of notice that he has passed the examination [, FILES THE

1       REQUIRED BOND], and if he is employed by a real estate broker. Unless  
2       the salesman [HE] fails to pay the biennial renewal fee or unless his  
3       license is suspended or revoked under AS 08.88.071(a)(3) or AS 08.88.-  
4       276, the [A] real estate salesman's license continues in effect so long  
5       as he is employed as a salesman by a licensed real estate broker. If  
6       he stops being employed as a real estate salesman, his license is  
7       suspended from the time he stops until he again is employed as a sales-  
8       man by a licensed real estate broker.

9       \* Sec. 8. AS 08.88.181(a) is amended to read:

10           (a) The real estate examination may include, but is not neces-  
11           sarily limited to, [INCLUDES] questions on business ethics; arithmetic;  
12           elementary principles of land economics and appraisal; the general  
13           principles in state statutes relating to deeds, mortgages, real estate  
14           contracts, subdivisions, legal descriptions, building restrictions,  
15           agency and brokerage; and the general provisions of [IN] this chapter  
16           and of the [IN] regulations of the commission.

17       \* Sec. 9. AS 08.88.191 is repealed and re-enacted to read:

18           Sec. 08.88.191. ADMINISTRATION OF EXAMINATION. (a) The depart-  
19           ment shall offer written examinations at periodic intervals but at least  
20           once a year.

21           (b) If the commission contracts with a national testing service to  
22           prepare, administer and grade examinations,

23                   (1) the commission shall review the examination and approve  
24                   its contents;

25                   (2) application for the examination, accompanied by the  
26                   proper filing fee, may be transmitted by the applicant directly to the  
27                   national testing service.

28           (c) An applicant who fails the written examination may request  
29           that his examination be reevaluated. The commission shall provide by

1 regulation for a system of reevaluating examinations on request of an  
2 applicant who fails the examination. The system provided by the com-  
3 mission may provide for reevaluation by the testing service or by any  
4 other person.

5 \* Sec. 10. AS 08.88.211 is amended to read:

6 Sec. 08.88.211. QUALIFICATIONS [QUALIFICATION FOR EXAMINATION].

7 (a) A person is entitled to be licensed as [TAKE A] real estate broker  
8 or associate broker [EXAMINATION] if he

9 (1) has had at least 24 months of active and continuous  
10 experience as a licensed real estate salesman;

11 (2) (repealed)

12 (3) (repealed)

13 (4) has not been convicted of forgery, theft, extortion,  
14 conspiracy to defraud creditors or similar offense or any other [A]  
15 felony involving moral turpitude within the past 10 years, is not under  
16 indictment for forgery, theft, extortion, conspiracy to defraud creditors  
17 or similar offense or any other felony involving moral turpitude [FRAUD  
18 OR EMBEZZLEMENT] and has not engaged in conduct that demonstrates that  
19 he is unfit to be a real estate broker;

20 (5) (repealed)

21 (6) (repealed)

22 (b) A person is entitled to be licensed as [TAKE A] real estate  
23 salesman [EXAMINATION] if he

24 (1) is at least 19 years old;

25 (2) (repealed)

26 (3) has not been convicted of forgery, theft, extortion,  
27 conspiracy to defraud creditors or similar offense or any other [A]  
28 felony involving moral turpitude within the past 10 years, is not under  
29 indictment for forgery, theft, extortion, conspiracy to defraud creditors

1 or similar offense or any other felony involving moral turpitude [FRAUD  
2 OR EMBEZZLEMENT] and has not engaged in conduct that demonstrates that  
3 he is unfit to be a real estate salesman;

4 (4) (repealed)

5 (5) (repealed)

6 (c) In addition to the requirements of (a) or (b) of this section,  
7 [TO BE QUALIFIED TO TAKE AN EXAMINATION] a person shall [MUST]

8 (1) within the time specified by a [DEPARTMENT] regulation  
9 of the commission, return application forms [TO THE DEPARTMENT] showing  
10 the information specified; and [IN REGULATIONS OF THE COMMISSION,]

11 (2) pay all required fees, including the examination fee,  
12 license fee, surety fee, and any amount owed to the real estate surety  
13 fund [THE APPLICATION FEE]; and

14 (3) meet the requirement of AS 08.88.171 applicable to the  
15 license for which he is making application.

16 (d) (repealed)

17 \* Sec. 11. AS 08.88.221(c) is amended to read:

18 (c) The fee for amending or transferring a license is \$5 [\$2].

19 \* Sec. 12. AS 08.88.221 is amended by adding a new subsection to read:

20 (d) If the commission contracts with a national testing service to  
21 prepare, administer and grade examinations, the examination fee charged  
22 under (a)(1) or (b)(1) of this section which the applicant is required  
23 to pay to the department shall be reduced by the amount of the fee  
24 charged the applicant by the national testing service for the examina-  
25 tion.

26 \* Sec. 13. AS 08.88.241 is amended to read:

27 Sec. 08.88.241. REINSTATEMENT OF LAPSED LICENSE. A licensee who  
28 was required to take an examination before receiving a license and whose  
29 license has lapsed for more than six months [THREE YEARS] shall be

1 re-examined before reinstatement.

2 \* Sec. 14. AS 08.88.251(b) is repealed and re-enacted to read:

3 (b) An inactive licensee may not attempt or offer to do any of the  
4 activities listed in AS 08.88.161.

5 \* Sec. 15. AS 08.88.251(c) is amended to read:

6 (c) A person who is inactive may become active by applying for an  
7 active license and paying the required fees [BY RETURNING TO THE DEPART-  
8 MENT HIS INACTIVE LICENSE CERTIFICATE, THE ACTIVE LICENSE BIENNIAL  
9 RENEWAL FEE, IF HE BECOMES ACTIVE MORE THAN FIVE MONTHS BEFORE JANUARY 1  
10 FOLLOWING, AND A COMPLETED FORM PROVIDED BY THE DEPARTMENT]. In the  
11 application form he shall state the date on which he intends to become  
12 active. His active status begins on the date stated. The department  
13 shall send him a license certificate. A person is entitled to change  
14 from an inactive to an active status without examination if he has not  
15 been inactive more than three years. If he has been inactive more than  
16 three years, he is required to take an examination.

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

18 Sec. 08.88.263. LICENSE BY ENDORSEMENT. A person who holds a  
19 valid active real estate license issued by another state shall be  
20 granted an equivalent Alaska real estate license if he

21 (1) passes the portion of the real estate examination which  
22 examines on Alaska law; and

23 (2) meets the requirements of AS 08.88.171 and 08.88.211.

24 Sec. 08.88.276. SUSPENSION OF LICENSE. When a payment is made  
25 from the real estate surety fund in satisfaction of a claim against a  
26 broker or salesman under AS 45.85.060, the license of the broker or  
27 salesman shall be suspended by the commission. A suspension under this  
28 section is effective on the date of the first payment of a claim from  
29 the real estate surety fund. A suspension under this section continues

1 until the broker or salesman reimburses the real estate surety fund, or  
2 the commissioner of commerce and economic development recovers amounts  
3 paid from the real estate surety fund in accordance with AS 45.85.090.

4 \* Sec. 17. AS 08.88.361 is amended to read:

5 Sec. 08.88.361. WHEN COMMISSION IS EARNED. A commission is earned  
6 when the real estate broker fulfills the terms of a written personal  
7 services contract [FINDS A BUYER WILLING AND ABLE TO PURCHASE AT A PRICE  
8 AND ON TERMS SET BY THE SELLER, PROVIDING NEGOTIATIONS WITH THE BUYER  
9 WERE INITIATED DURING THE TERM OF A VALID LISTING AGREEMENT AND WITHIN  
10 THE TIME LIMIT OF THE LISTING].

11 \* Sec. 18. AS 08.88.421(1) is amended to read:

12 (1) a person who is not licensed under this chapter who makes  
13 [MAKING] a real estate transaction with respect to real estate he owns  
14 or on his own behalf, unless the transaction involves land defined in  
15 AS 34.55.044(6) which is not in Alaska;

16 \* Sec. 19. AS 08.88.421(9) is amended to read:

17 (9) each of the following:

18 (A) a domestic or foreign corporation, or a general or  
19 limited partnership, [,] or

20 (B) a partner or regular employee of a domestic or  
21 foreign corporation or a general or limited partnership [ONE OF  
22 THESE], when performing an act [ACTS] described in AS 08.88.161 in  
23 the regular course, or as an incident to, the management, sale or  
24 other disposition of real estate owned by the corporation or part-  
25 nership; [HOWEVER,] the exemption provided in this subparagraph  
26 does not apply to a person who performs an act described in  
27 AS 08.88.161 either [MAY NOT PERFORM THESE ACTS] as a vocation or  
28 for compensation if the amount of the compensation is dependent  
29 upon or directly related to the value of the real estate with

1           respect to which the act is [ACTS ARE] performed.

2       \* Sec. 20. AS 08.88.421 is amended by adding a new paragraph to read:

3           (10) a resident manager of rented real estate if his duties  
4           are limited to the negotiation of leases and rental agreements and the  
5           collection of rent for the use of the real estate and if he is

6                   (A) employed by the owner of the real estate; or

7                   (B) employed by, or engaged under contract with, a

8           licensed real estate broker.

9       \* Sec. 21. AS 08.88.431 is amended by adding a new paragraph to read:

10           (5) "resident manager" means a person who resides on real  
11           property and manages it for the benefit of another person.

12       \* Sec. 22. AS 45.85.010 is amended to read:

13           Sec. 45.85.010. REAL ESTATE SURETY FUND. There is created a  
14           special account in the general fund known as the real estate surety fund  
15           to carry out the purposes of this chapter. The fund shall be composed  
16           of payments made by licensed real estate brokers and salesmen under  
17           AS 45.85.020. The fund may not exceed \$500,000 [\$300,000] and amounts  
18           in the fund in excess of \$250,000 may be appropriated for real estate  
19           educational purposes as provided in AS 08.88.091.

20       \* Sec. 23. AS 08.88.181(b), 08.88.191(b) - (e), and 08.88.261 are re-  
21       pealed.

22       \* Sec. 24. Section 1 of this Act takes effect February 1, 1981.

23       \* Sec. 25. Section 22 of this Act takes effect June 1, 1980.

24       \* Sec. 26. Sections 2 - 21 and 23 - 26 of this Act take effect immedi-  
25       ately in accordance with AS 01.10.070(c).

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