

Offered: 5/25/84  
Referred: Rules

Original sponsor: Labor and Commerce  
Committee

BY THE LABOR AND  
COMMERCE COMMITTEE

1 IN THE HOUSE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 705 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the real estate surety fund."

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

8 \* Section 1. AS 08.88.071(b) is repealed and reenacted to read:

9 (b) When an award is made from the real estate surety fund under  
10 this chapter in reimbursement of losses suffered by a claimant as a  
11 result of fraud, misrepresentation, deceit, or conversion of trust  
12 funds on the part of a licensed broker, associate broker, or salesman,  
13 the commission may consider the hearing on the claim to be a hearing  
14 on the suspension of the license of the broker, associate broker, or  
15 salesman, and may suspend the license of the broker, associate broker,  
16 or salesman. A suspension ordered under this subsection shall be  
17 lifted if the commission and the broker, associate broker, or salesman  
18 reach an agreement on terms and conditions for the repayment to the  
19 real estate surety fund of the money awarded to the claimant and the  
20 costs of hearing the claim under AS 08.88.465. The suspension shall  
21 be reimposed if the broker, associate broker, or salesman violates the  
22 terms of a repayment agreement entered into under this subsection.

23 \* Sec. 2. AS 08.88.450 is amended to read:

24 Sec. 08.88.450. REAL ESTATE SURETY FUND. The real estate surety  
25 fund is established [THERE IS CREATED A SPECIAL ACCOUNT] in the gener-  
26 al fund [KNOWN AS THE REAL ESTATE SURETY FUND] to carry out the pur-  
27 poses of AS 08.88.450 - 08.88.500. The fund is [SHALL BE] composed of  
28 payments made by licensed real estate brokers and salesmen under  
29 AS 08.88.455 and filing fees retained in accordance with AS 08.88.460.

1 The fund may not exceed \$500,000 and amounts in the fund in excess of  
2 \$250,000 may be appropriated for real estate educational purposes as  
3 provided in AS 08.88.091.

4 \* Sec. 3. AS 08.88.455(a) is amended to read:

5 (a) A licensed real estate broker, [OR] associate broker, or  
6 salesman when obtaining or renewing a real estate license, in lieu of  
7 obtaining a corporate surety bond, shall pay to the commission in  
8 addition to the license fee, a surety fund [BOND] fee not to exceed  
9 \$125 [, AND A LICENSED SALESMAN, WHEN OBTAINING OR RENEWING A LICENSE,  
10 IN LIEU OF OBTAINING A CORPORATE SURETY BOND, SHALL PAY TO THE COMMIS-  
11 SION IN ADDITION TO THE LICENSE FEE, A BOND FEE NOT TO EXCEED \$40].  
12 After the fund reaches \$250,000 the commission shall by regulation  
13 adjust the surety fund [BOND] fees so that, taking into account anti-  
14 cipated expenditures for claims against the fund and real estate  
15 educational purposes, the fund is maintained at a level not less than  
16 \$250,000.

17 \* Sec. 4. AS 08.88.460 is amended by adding new subsections to read:

18 (c) Within seven days after receipt of notice of a claim under  
19 (b) of this section the real estate broker, associate real estate  
20 broker, or real estate salesman against whom the claim is made may  
21 elect to defend the claim as a small claims action in district court  
22 under District Court Civil Rules 8 - 22, if the claim does not exceed  
23 the small claims jurisdictional limit. An election to defend a claim  
24 in district court under the small claims rules may not be revoked by  
25 the broker, associate broker, or salesman without the consent of the  
26 claimant. Upon receipt of a valid written election under this subsec-  
27 tion the commission shall dismiss the claim filed with the commission  
28 and notify the claimant that the claim must be brought as a small  
29 claims action in the appropriate state court.

1 (d) A claimant under this section shall pay a filing fee of \$250  
2 to the commission at the time the claim is filed. The filing fee  
3 shall be refunded only if the commission makes an award to the claim-  
4 ant from the real estate surety fund, or if the claim is dismissed  
5 under (c) of this section.

6 \* Sec. 5. AS 08.88.465 is amended by adding a new subsection to read:

7 (f) The provisions of this section do not apply to a claim that  
8 is dismissed under AS 08.88.460(c).

9 \* Sec. 6. AS 08.88 is amended by adding a new section to read:

10 Sec. 08.88.474. PAYMENT OF SMALL CLAIMS JUDGMENT. If a claim  
11 originally filed with the commission is dismissed and is heard as a  
12 small claims action under AS 08.88.460(c) and the claimant prevails in  
13 the small claims action against the real estate broker, associate real  
14 estate broker, or salesman, the commission shall make an award from  
15 the fund of any outstanding portion of the small claims judgment on  
16 receipt of a copy of the final judgment and an affidavit from the  
17 claimant stating that more than 30 days have elapsed since the judg-  
18 ment became final and that the broker, associate broker, or salesman  
19 has not satisfied the judgment during that time. After payment of a  
20 small claims judgment the commission is subrogated to the claimant's  
21 rights in the judgment under AS 08.88.490.