

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) am S

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 AS 08.88.071(b) is repealed and reenacted to read: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 with the commission on terms and conditions for the
19 repayment to the real estate surety fund of the money awarded to the
20 claimant and the costs of hearing the claim under AS 08.88.465. The
21 suspension shall be reimposed if the broker, associate broker, or
22 salesman violates the terms of a repayment agreement entered into
23 under this subsection.

24 * Sec. 2. AS 08.88.450 is amended to read:

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

1 AS 08.88.455 and filing fees retained in accordance with AS 08.88.460.
2 The fund may not exceed \$500,000 and amounts in the fund in excess of
3 \$250,000 may be appropriated for real estate educational purposes as
4 provided in AS 08.88.091.

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

6 (a) A licensed real estate broker, [OR] associate broker, or
7 salesman when obtaining or renewing a real estate license, in lieu of
8 obtaining a corporate surety bond, shall pay to the commission in
9 addition to the license fee, a surety fund [BOND] fee not to exceed
10 \$125 [, AND A LICENSED SALESMAN, WHEN OBTAINING OR RENEWING A LICENSE,
11 IN LIEU OF OBTAINING A CORPORATE SURETY BOND, SHALL PAY TO THE COMMIS-
12 SION IN ADDITION TO THE LICENSE FEE, A BOND FEE NOT TO EXCEED \$40].
13 After the fund reaches \$250,000 the commission shall by regulation
14 adjust the surety fund [BOND] fees so that, taking into account anti-
15 cipated expenditures for claims against the fund and real estate
16 educational purposes, the fund is maintained at a level not less than
17 \$250,000.

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

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

1 claims action in the appropriate state court.

2 (d) A claimant under this section shall pay a filing fee of \$250
3 to the commission at the time the claim is filed. The filing fee
4 shall be refunded only if

5 (1) the commission makes an award to the claimant from the
6 real estate surety fund;

7 (2) the claim is dismissed under (c) of this section; or

8 (3) the claim is withdrawn by the claimant before the
9 commission holds a hearing on the claim.

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

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

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

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