

Introduced: 2/25/85
Referred: Labor & Commerce,
Judiciary and Finance

1 IN THE HOUSE

BY CLOCKSIN

2

HOUSE BILL NO. 232

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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

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

9 * Section 1. AS 08.88.460(a) is amended to read:

10 (a) A person seeking reimbursement for a loss suffered in a
11 transaction as a result of fraud, innocent, negligent or intentional
12 misrepresentation, deceit, or the conversion of trust funds on the
13 part of a real estate broker, associate real estate broker, or real
14 estate salesman licensed under this chapter shall make a claim to the
15 commission for reimbursement on a form furnished by the commission.
16 The form shall be executed under penalty of perjury, and information
17 required to be supplied shall include the following:

18 (1) the name and address of the real estate broker,
19 associate real estate broker, or real estate salesman;

20 (2) the amount of the alleged loss;

21 (3) the date or period of time during which the alleged
22 loss occurred;

23 (4) the date upon which the alleged loss was discovered;

24 (5) the name and address of the claimant; or

25 (6) the general statement of facts relative to the
26 claimant.

27 * Sec. 2. AS 08.88.460(d) is amended to read:

28 (d) A claimant under this section shall pay a filing fee of \$25
29 [\$250] to the commission at the time the claim is filed. The filing

1 fee shall be refunded only if

2 (1) the commission makes an award to the claimant from the
3 real estate surety fund; or

4 (2) [THE CLAIM IS DISMISSED UNDER (c) OF THIS SECTION; OR

5 (3)] the claim is withdrawn by the claimant before the
6 commission holds a hearing on the claim.

7 * Sec. 3. AS 08.88.465(d) is amended to read:

8 (d) The claimant bears the burden of proof of establishing that
9 the claimant suffered losses in a transaction as a result of fraud,
10 innocent, negligent or intentional misrepresentation, deceit, or the
11 conversion of trust funds on the part of a real estate broker,
12 associate real estate broker, or real estate salesman and the extent
13 of those losses. All facts shall be established by a preponderance of
14 the evidence.

15 * Sec. 4. AS 08.88.474 is amended to read:

16 Sec. 08.88.474. PAYMENT OF [SMALL CLAIMS] JUDGMENT. If a
17 [CLAIM ORIGINALLY FILED WITH THE COMMISSION IS DISMISSED AND IS HEARD
18 AS A SMALL CLAIMS ACTION UNDER AS 08.88.460(c) AND THE] claimant
19 prevails in a court [THE SMALL CLAIMS] action against a [THE] real
20 estate broker, associate real estate broker, or salesman, and the
21 action was based on conduct substantially similar to that set out in
22 AS 08.88.460(a), the commission shall make an award from the fund of
23 any outstanding portion of the [SMALL CLAIMS] judgment. The
24 commission shall make the award after [ON] receipt of a copy of the
25 final judgment and an affidavit from the claimant stating that more
26 than 30 days have elapsed since the judgment became final and that the
27 broker, associate broker, or salesman has not satisfied the judgment
28 during that time. After payment of a [SMALL CLAIMS] judgment the
29 commission is subrogated to the claimant's rights in the judgment

1 under AS 08.88.490.

2 * Sec. 5. This Act does not apply to a claim that a real estate broker,
3 associate real estate broker, or real estate salesman has elected to remove
4 to small claims court under AS 08.88.460(c) before the effective date of
5 this Act.

6 * Sec. 6. The commission shall refund \$225 of the filing fee paid under
7 AS 08.88.460(d) to a claimant whose case is pending on the effective date
8 of this Act.

9 * Sec. 7. AS 08.88.460(c) and 08.88.465(f) are repealed.