

HOUSE BILL NO. 453

**IN THE LEGISLATURE OF THE STATE OF ALASKA
SEVENTEENTH LEGISLATURE - SECOND SESSION**

BY REPRESENTATIVES G.PHILLIPS, Gruenberg

Introduced: 2/7/92

Referred: Transportation, Labor & Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act providing for the licensing of boat brokers and salespersons."**

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

3 *** Section 1.** AS 08 is amended by adding a new chapter to read:

4 **CHAPTER 15. BOAT BROKERS AND SALESPERSONS.**

5 **Sec. 08.15.010. QUALIFICATION FOR BOAT BROKER AND SALESPERSON**
6 **LICENSES; POSSESSION OF SALESPERSON LICENSE.** (a) The department shall issue a
7 license to act as a boat salesperson to an individual who

8 (1) is 18 years of age or older;

9 (2) applies on a form provided by the department;

10 (3) furnishes evidence satisfactory to the department that the individual

11 (A) has not been convicted of a felony involving dishonesty, theft, or
12 moral turpitude; and

13 (B) has not engaged in conduct that is a ground for imposing disciplinary
14 sanctions under AS 08.15.045;

1 (4) pays the fee set by the department under AS 08.01.065; and
2 (5) is employed by a boat broker licensed in this state, who signs the application
3 and is covered by the boat broker's bond as required under AS 08.15.020.

4 (b) The department shall issue a license to act as a boat broker to a person who
5 (1) applies on a form provided by the department;
6 (2) satisfies the requirements for issuance of a salesperson license under (a)(1)
7 and (3) of this section;

8 (3) pays the fee set by the department under AS 08.01.065, which shall be not
9 less than two times the amount of the fee under (a)(4) of this section;

10 (4) has obtained the bond required under AS 08.15.020; and

11 (5) either

12 (A) for the two consecutive years immediately preceding the application
13 has been licensed in this state as a salesperson and has active and continuous experience
14 as a salesperson during that time; or

15 (B) is a partnership or corporation, and at least 50 percent of the partners
16 or officers for the two consecutive years immediately preceding the application have been
17 licensed in this state as salespersons or brokers and have active and continuous experience
18 as salespersons or brokers during that time.

19 (c) A license issued under (a) of this section shall be delivered to the boat broker
20 employing the salesperson to be retained by the broker and displayed as required by
21 AS 08.15.025. If the salesperson ceases to be employed by the broker, the broker shall return
22 the license to the department. A salesperson whose license has been returned under this section
23 may have the license transferred to another broker if the salesperson submits proof of
24 employment with the new broker and pays a transfer fee set by the department under
25 AS 08.01.065.

26 Sec. 08.15.015. RENEWAL OF LICENSES; LAPSED LICENSES. (a) A license issued
27 under AS 08.15.010 is valid for two years and shall be renewed on a date set by the department
28 by the payment of a renewal fee set under AS 08.01.065 and by the completion of forms and the
29 furnishing of information required by the department.

30 (b) A renewal of a license issued under AS 08.15.010 submitted after the expiration date
31 is subject to a late fee. The department may not accept a renewal for a license that is submitted

1 six months or more after the expiration date of the license; the holder of the expired license must
2 reapply for a new license under AS 08.15.010.

3 Sec. 08.15.020. REQUIREMENT OF BOND. (a) Before a broker's license is issued
4 or renewed by the department for an applicant, the applicant shall procure, file, and maintain with
5 the department a good and sufficient bond in the amount of \$25,000 with a corporate surety duly
6 licensed to do business as a surety in the state and conditioned that the applicant and all
7 salespersons employed by the applicant will not violate the provisions of this chapter in the
8 conduct of the business for which the applicant is licensed. The bond shall be in the favor of
9 the department and any person who suffers a loss as a result of a violation of this chapter.

10 (b) When the department determines that a person may have incurred a loss as a result
11 of a violation of this chapter, the department shall notify the person in writing of the existence
12 of the bond.

13 (c) A person who has suffered a loss or damage by reason of a broker or the broker's
14 salesperson's violation of this chapter may commence an action against the boat broker, the
15 salesperson, or the surety upon the broker's bond. If an action is commenced upon the bond, the
16 surety and the licensed broker or salesperson shall immediately notify the department of the
17 action.

18 (d) When an action is commenced on the bond of a licensed broker the department may
19 require the filing of an additional bond.

20 (e) When a broker's bond is cancelled for a reason other than an action being
21 commenced upon it, a new bond shall be filed by the broker immediately.

22 (f) If a broker's license expires or is suspended or revoked by the department, the broker
23 shall maintain the bond required by (a) of this section for a period of one year after the broker
24 ceases to be licensed as a broker.

25 Sec. 08.15.025. BROKER'S OFFICE; DISPLAY OF LICENSE. (a) A person licensed
26 to act as a boat broker shall maintain a principal place of business in this state and may establish
27 branch offices throughout the state.

28 (b) A person licensed to act as a boat broker or salesperson shall display the license in
29 a prominent place at each place of business of the person.

30 (c) If a person licensed to act as a boat broker or salesperson has more than one place
31 of business, the department shall, on request and payment of a fee set by the department under

1 AS 08.01.065, issue a duplicate license for each place of business of the person.

2 (d) A person licensed as a boat broker or salesperson shall immediately inform the
3 department of a change in the address of the offices of a broker or of the employment of a
4 salesperson.

5 Sec. 08.15.030. ESCROW DEPOSITORY; CLOSING TRANSACTIONS. (a) A broker
6 shall deposit money received under a transaction involving a boat into a trust account in a
7 savings and loan association, bank, or trust company located in the state until the broker
8 disburses the money. A separate record shall be maintained of all money received and disposed
9 of.

10 (b) At the closing of a transaction in which title to a boat is transferred, a broker shall
11 provide the seller and purchaser with an itemized closing statement, including the selling price
12 and all charges and credits, a description of the boat to be sold or exchanged, and the amount
13 of consideration, if any. If the transaction is closed through escrow and the escrow holder
14 provides the seller and purchaser with a closing statement that reveals this information, that
15 statement is considered compliance with this subsection on the part of the broker.

16 Sec. 08.15.035. REQUIREMENT OF LICENSE; TEMPORARY SALESPERSON
17 LICENSE. (a) A person may not act as a boat broker or salesperson or accept compensation,
18 for performing the duties of a boat broker or salesperson unless licensed under this chapter.

19 (b) A licensed boat broker may not employ or compensate, directly or indirectly, a person
20 for performing any of the acts of a boat broker or salesperson unless that person is a licensed
21 boat broker or salesperson under this chapter.

22 (c) A broker may not engage in business as a broker under a fictitious name unless the
23 broker's license has been issued in that name.

24 (d) Notwithstanding (b) of this section, a boat broker may employ an individual who is
25 not licensed as a salesperson if the individual applies for a license under AS 08.15.010 within
26 five days of becoming employed. When the individual applies for a license, the department shall
27 issue a temporary license to the individual by delivery to the employing boat broker. The
28 temporary license is valid from the date of initial employment for 60 days or until the department
29 accepts or rejects the application under AS 08.15.010.

30 Sec. 08.15.040. FRAUD OR MISREPRESENTATION BY LICENSED BROKER OR
31 SALESPERSON PROHIBITED. A licensed boat broker or salesperson may not practice fraud

1 or deceit or make a fraudulent or grossly negligent representation with respect to an act for which
2 a license is required under this chapter.

3 Sec. 08.15.045. **FOUNDATIONS FOR IMPOSITION OF DISPOSITION OF DISCIPLINARY**
4 **SANCTIONS.** After a hearing, the department may impose a disciplinary sanction on a boat
5 broker or salesperson when the department finds that the licensee

6 (1) secured or maintained a license through deceit, fraud, intentional
7 misrepresentation, or material omission;

8 (2) made a material and intentional misrepresentation, with respect to a transaction
9 involving a boat, upon which another person who is a party to the transaction has relied;

10 (3) engaged in continued misrepresentation, or made false warranties, with respect
11 to transactions involving boats, whether or not relied upon by another person;

12 (4) acted for both the buyer and the seller in a transaction involving a boat
13 without the knowledge and written consent of both parties;

14 (5) commingled the money or other property of the licensee's principal with the
15 licensee's own money;

16 (6) committed fraud or dishonest acts in the conduct of a transaction involving
17 a boat;

18 (7) allowed an unlicensed person to use the name of the licensee to evade the
19 provisions of this chapter;

20 (8) violated a provision of this chapter or a law governing transactions involving
21 a boat.

22 Sec. 08.15.050. **DISCIPLINARY SANCTIONS.** If it finds that a boat broker or
23 salesperson has committed an act listed in AS 08.15.045, the department may impose a sanction
24 as provided in AS 08.01.075.

25 Sec. 08.15.055. **EXEMPTIONS.** A license is not required under this chapter for

26 (1) a person who sells or exchanges a boat owned by the person;

27 (2) an attorney at law for services rendered in the attorney's professional capacity;

28 (3) a sale of a new boat;

29 (4) a receiver, trustee, or other person acting under a court order; or

30 (5) a transaction involving the foreclosure of a security interest in a boat.

31 Sec. 08.15.060. **PENALTY.** A person who violates a provision of this chapter is guilty

1 of a class B misdemeanor.

2 Sec. 08.15.065. DEFINITIONS. In this chapter

3 (1) "boat" means a vessel that is propelled in the water by sail or machinery and
4 that exceeds 16 feet in length and weighs less than 300 gross tons;

5 (2) "broker" means a person who, for or in expectation of compensation, sells,
6 exchanges, or buys, or offers, negotiates, or solicits to sell, exchange, or buy boats for other
7 persons or obtains listings of boats for sale or exchange or wanted to be purchased by another
8 person;

9 (3) "department" means the Department of Commerce and Economic
10 Development;

11 (4) "salesperson" means an individual who, for or in expectation of compensation
12 is employed by a broker to perform any acts of a broker.

13 * Sec. 2. Notwithstanding AS 08.15.010(b)(5), added by sec. 1 of this Act, the department shall issue
14 a boat broker's license to a person who applies within one year of the effective date of this Act, meets
15 the qualifications provided in AS 08.15.010(b)(1) - (4), and provides proof satisfactory to the department
16 that the person has active and continuous experience as a boat broker or salesperson, or if the person
17 is a corporation or partnership, that 50 percent of the officers or partners have active and continuous
18 experience as a boat broker or salesperson, as those terms are defined in AS 08.15.070, in this state for
19 the two consecutive years immediately preceding the date of application.