

3-1-82

HB 722

HB 704

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 1, 1982
1:07 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Rogers
Rep. Randolph
Rep. Gardiner

Members Absent: No members absent.

COMMITTEE CALENDAR

HB 704 An Act continuing the existence of the Real Estate Commission; and providing for an effective date.

HB 722 An Act relating to landlord remedies.

WITNESS REGISTER

Representative Metcrafe
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
465-4947

Position Statement: Prime sponsor of HB 722; explained bill.

Lance Youngquist, Chairman
Real Estate Commission
195 South Franklin
Juneau, Alaska 99801
586-1612

Position Statement: Offered suggestions for changes to HB 704.

PREVIOUS ACTION

HB 704 No previous action.

Statutory Reference: AS 08.03.010(c)(18).
After amendments during meeting, references also include AS 08.88.221; AS 08.88.401.

Action Taken: The committee adopted portions of a document entitled, "Proposed Statutory Changes in AS 08.88 Presented to the House Labor and Commerce Committee by the Alaska Real Estate Commission, March 1, 1982"; specifically:

Rep. Rogers moved, on page 1 of the proposed changes, referring to Sec. 08.88.241: to change statutory reference to read, "AS 08.88.221"; and after the word "FEES", to delete the remainder of the first line and insert "(a) The following fees shall be charged a", and to add, after the word "applicant" on the second line, the words "when applicable:", and to delete the third line; and to add fees to the subsections as follows: (1) \$50; (2) \$100; (3) \$100; (4) \$100; (5) \$50; and to add a new subsection (b), which would correspond to subsection (d) of existing statutes.

Rep. Randolph moved to amend Rep. Rogers motion by deleting subsection (6). There being no objection, both motions passed.

Rep. Rogers moved to repeal and reenact AS 08.88.401, as set forth on pages 2 and 3 of the proposed changes, and add a new subsection (e). Motion passed without objection.

Rep. Rogers moved to incorporate the amendments into a draft committee substitute and bring the bill before the committee at the earliest possible time. Rep. Rogers amended his motion, on page 1, line 10 of HB 704, to delete "1984" and insert "1986". There being no objection, the motions passed.

HB 722

No previous action.

Statutory Reference: AS 34.03

Action Taken: Rep. Rogers moved to delete everything after page 1, line 27. He withdrew the motion.

Representatives Bylsma and Gardiner were appointed to a subcommittee. Rep. Rogers moved the bill be reported back to the committee only by unanimous vote of the subcommittee. There being no objection, the motion passed.

ACTION NARRATIVE

Tape #29
Recording

Number 000 The meeting was called to order by Chairman Martin at 1:07 p.m. Members present were: Representatives Martin, Bylsma, Randolph, and Rogers. Representative Gardiner arrived later in the meeting. Representative Metcalfe was attending to testify on HB 722.

Number 008 Rep. Metcalfe, prime sponsor of HB 722, went over changes the bill would make to the landlord/tenant act.

Number 064 Rep. Rogers said he was concerned about the section dealing with disturbances. Rep. Martin felt there were other remedies-- police, etc. As Rep. Metcalfe had to leave the meeting, Rep. Martin said he would delay action until Rep. Metcalfe could return to give further testimony.

Number 095 HB 704 was brought before the committee. Lance Youngquist, Chairman of the Real Estate Commission, went over the commission's history and past dealings regarding sunset provisions. He told of the committee's activities: seminars, educational booklets, newsletter. He spoke of problems such as the surety fund and investigations (see Legislative Audit Report) and resolutions of problems. He gave a list of proposed statutory changes to the committee which he asked the committee to consider. He went over these proposed changes, section by section. There was discussion.

Number 174 Rep. Rogers said he was concerned about fees, and asked Youngquist for clarification. There was discussion of fees and status (active and inactive).

Number 454 Rep. Rogers moved, on page 1 of the proposed changes, referring to Sec. 08.88.241, to change the statutory reference to read, "AS 08.88.221"; and after the word "FEES", to delete the remainder of the first line and insert "(a) The following fees shall be charged a", and to add after the word "applicant" on the second line, the language "when applicable:", and to delete the third line; and to add fees to the subsections as follows: (1) \$50; (2) \$100; (3) \$100; (4) \$100; (5) \$50; and to add a new subsection (b), which would correspond to subsection (d) of existing statutes. There was

discussion.

- Number 556 Rep. Randolph moved to amend the motion to delete subsection (6). There being no objection, both motions passed.
- Number 575 There was discussion of fees to charge for inactive licenses.
- Number 727 Rep. Rogers moved and asked unanimous consent to repeal and reenact AS 08.88.401, as set forth on pages 2 and 3 of the proposed changes, and to add a new subsection (e). The motion passed without objection.
- Side B, Number 030 Rep. Rogers moved to incorporate these changes into a draft committee substitute and bring the committee substitute before the committee at the earliest possible time. Rep. Rogers amended his motion, on page 1, line 10 of HB 704, to delete "1984" and insert "1986". There being no objection, the motions passed.
- Number 079 HB 722 was brought back to the committee's attention. Rep. Rogers moved, page 1, to delete everything after line 27 (including all of page two). There was discussion. Rep. Rogers withdrew the motion. He then suggested appointing a subcommittee. There was discussion of what to do with bills and problems of landlords/tenants.
- Representatives Bylsma and Gardiner were appointed to a subcommittee to consider the bill. Rep. Rogers moved the bill he reported back to the committee only by unanimous vote of the subcommittee. There being no objection, the motion passed.
- Number 150 Rep. Rogers reported on progress on HB 159 and the fiscal note. He said the bill would be back to the committee early the next week.
- Number 165 There was discussion of HB 641 and HB 642. No action was taken.
- Number 187 There being no further business to come before the committee, the meeting was adjourned at 2:08 p.m.

371

Amendments to HB 704

Please incorporate the following amendments into a draft committee substitute for HB 704.

Amendment #1:

Line 10--Change "1984" to "1986".

Additions to bill:

See attached document which was entitled "Proposed Statutory Changes in AS 08.88 presented...by the Alaska Real Estate Commission".

Sections to be incorporated, with changes noted, are marked by yellow highlighter running along the margin. Please note one change which may be confusing; that is, p. 1, last change says to add sub (b) which is the same as old sub (d). This is referring to present AS 08.88.221(d), which will now become AS 08.88.221(b).

If you have any questions, please contact me at 465-3657. You may prepare this as a draft committee substitute, as there may be other changes.

Joan Mathews
Committee Secretary

Absent:

1:07 3/1/82

Metcalf present

000 Call to order

HB 722 - Intro to bill

008 Metcalf, prime sponsor - minor amendments to landlord/tenant act. went over changes & examples of situations bill would remedy.

064 Rogers - concerned w/ section dealing w/ disturbances - what is unreasonable; ~~is~~ concerned that 1/2 the neighbors in a duplex is just one person.

Metcalf said he had no objection to ~~including~~ ^{ex}cluding landlord from this.

Martin felt there were other remedies - police, etc.

Metcalf said this does not cover recovery of property.

Chmn said he wd delay action until Rep. Metcalf rd return to give further testimony. (Metcalf had to leave for another mtg)

075
HB 704

Lance Youngquist, Chmn, Real Estate Commission
Went over his commission's history & past dealings re sunset provisions. Told of the commission's activities - seminars, educational booklets, newsletter. ^{spoke of} Problems - surety fund & investigations (see Legislative Audit Report) - & resolutions of problems. Requested statutory changes (see handout given to committee)

.091 - want authority to charge printing costs of manuals, etc

.101 - wd like to set by regn when renewals occur; having problems w/ Dec. renewals, prefer 1/31

.151 - clarification

.221

~~151~~ - want to set fees by regn.

174 Rogers requested clarification of who wd set fees - Occ'l Licensing or Commission.

~~Discussion~~ Youngquist explained reason

- .251 - chng inactive status to 2 yrs - same as lapsed license
- .361 - add "or fee" because many use fees rather than commissions
- .401 - clarification
- .401(b) - clarification
- .401(c) - "
- (d) - gives authority to issue stop orders

211 Rogers - concerned abt fees issue; asked Youngquist which fees he wants chnged

Y - renewal fees for active & inactive both \$100

224 Randolph said cost is same, but adv rec'd isn't same.

Discussion.

243 Y - want salesmen & brokers both to pay \$100 ~~rather than the~~
Rand suggested reducing brokers to \$50 (same as salesmen)
rather than raising salesmen

Y said they wanted to increase their funds.

Discussion.

275 Rogers - under (d) - there are other sections of that section which ~~also~~ refer to fees of testing oves - requested clarification of whether this wd be repealed.

Y - explained procedure

Rogers said keeping this procedure in wd require amendmt.

[221(e)]

320 Martin gotred fees

Y explained statuses of licensed - lapsed, inactive

feel both shd have same re-testing reqmts (2 yrs for both)

341 Martin asked how many of the 4,000 license are inactive

Y thought abt 1,000.

Discussion.

359 Bylsma - 88.251 - asked what inactive person wd pay to

become active; Y said only fee wd be \$5 for changing
license.

373 Martin felt this wd encourage everyone to remain active

Y said this is not so - liability is a factor, didn't think
money was important consideration

Discussion. Y said broker had to hire them before they cd
go active.

400 Rogers asked for clarification of deletion of .261; Y said
shd have been done 1980; housekeeping.

409 Rogers ~~is~~ noted conflict w/new sec ~~(d)~~ 401. (d); said
^{reenact}

(435?) we shd repeal all of .401. Shd add new (e): a

person who violates any prov of this act or art 161~~8~~ of this
Chapter
is guilty of a class A (?) misdemeanor

454 Rogers - p.1 shd read AS 08.88.221 [241]

Res - after FEES - delete word

(a) the following fee shall be chgd ~~2~~
after applicant

add: ^{which}
(b), wd be old (d)

520 Discussion of what to chg for amending or x'ing license,
or whether to chg anything.

556 Rand moved to amend mo to delete (b); Rogers asked unan
consent; no objection; passed

575 Discussion of fees to chg for inactive license.

636 Martin - re "30 days before renewal" language - said this had
come up before, was found to be cumbersome & complicated.
Y said intent is to move renewal date to 1/31 for everyone; no
plans to stagger.

678 Bylsma - asked clarification of licensing dates & methods of
determining status

727 Rogers - re .401 - moved & asked unan consent to repeal &
re enact .401 (as set out) adding new (e)

side B motion passed w/o objection

005 Martin requested further clarification of active/inactive status.

030 Rogers moved to enc these chgs into a draft CS & bring vll
before committee at ^{earliest possible time.} ~~calendar~~

036 Rogers moved p. 1, ln 10, ^(of vll) delete 1984, insert 1986. No obj, mo ^{passed.}

048 Barry requested clarification - wondered if legis. audit findings
cd be used into report to (spkr.); Rogers said there is problem
w/that.

069 Rogers asked unan consent; no obj; no passed to have
CS drafted to be brought before comm at later date.

079 HB 727

Rogers - landlord/tenant act is to provide balance -
not sure bill does this.

p. 1, ln 28, delete sec. 227 (bottom p. 1, all of p. 2)

095 Hardiner commented on unresolvable bills.

100 Rogers w/drew motion. Suggested appointing subcommittee.

Discussion of what to do w/ bills of problems of landlords/
tenants.

~~119 Byloma Disc comm~~

Hardiner & Byloma were appointed to subcomm.

Rogers moved bill be reported back to comm only by unan
vote of subcomm; no obj.

150 Rogers reported on HB 159 & fiscal note; said bill wd be
back to committee Tues or Wed.

165 Discussion of HB 64(?) or 642. No action taken.

187 Adjourned 2:08

!mHLC!x

March 1, 1982

1:07

!mMP1!xRep. Martin, Chairman

!mMP2!xRep. Bylsma, Vice Chairman

!mMP2!xRep. Rogers

!mMP2!xRep. Randolph

!mMP2!xRep. Gardiner

!mMA!xNo members absent.

!mCAL!x

HB 704 An Act continuing the existence of the Real Estate Commission; and providing for an effective date.

HB 722 An Act relating to landlord remedies.

!mREG!x

!mWI!xRepresentative Metcalfe

Alaska State Legislature

Pouch V

Juneau, Alaska 99811

465-4947

!mPS!xPrime sponsor of HB 722; explained bill.

!mWI!xLance Youngquist, Chairman

Real Estate Commission

195 South Franklin

Juneau, Alaska 99801

536-1612

!mPS!xOffered suggestions for changes to HB 704.

!mPA!x

HB 704 No previous action.

Statutory Reference: AS 08.03.010(c)(18). After amendments during meeting, references also include AS 08.88.221; AS 08.88.401.

Action Taken: The committee adopted portions of a document entitled, "Proposed Statutory Changes in AS 08.88 Presented to the House Labor and Commerce Committee by the Alaska Real Estate Commission, March 1, 1982"; specifically:

Rep. Rogers moved, on page 1 of the proposed changes, referring to Sec. 08.88.241: to change statutory reference to read, "AS 08.88.221"; and after the word "FEES", to delete the remainder of the first line and insert "(a) The following fees shall be charged a", and to add, after the word "applicant" on the second line, the words "when applicable:", and to delete the third line; and to add fees to the subsections as follows: (1) \$50; (2) \$100; (3) \$100; (4) \$100; (5) \$50;

and to add a new subsection (b), which would correspond to subsection (b) of existing statutes.

Rep. Randolph moved to amend Rep. Rogers motion by deleting subsection (6). There being no objection, both motions passed.

Rep. Rogers moved to repeal and reenact AS 08.88.401, as set forth on pages 2 and 3 of the proposed changes, and add a new subsection (e). Motion passed without objection.

Rep. Rogers moved to incorporate the amendments into a draft committee substitute and bring the bill before the committee at the earliest possible time. Rep. Rogers amended his motion, on page 1, line 10 of HB 704, to delete "1984" and insert "1986". There being no objection, the motions passed.

HB 722

No previous action.

Statutory Reference: AS 34.03

Action Taken: Rep. Rogers moved to delete everything after page 1, line 27. He withdrew the motion.

Representatives Bylsma and Gardiner were appointed to a subcommittee. Rep. Gardiner moved the bill be reported back to the committee only by unanimous vote of the subcommittee. There being no

LABOR & COMMERCE COMMITTEE
DAILY COMMITTEE HEARING

Date: 3/1/82

Place: _____

<u>Members</u>	<u>Present</u>	<u>Absent</u>	<u>Time Arrived</u>	<u>Time Left</u>
Rep. B. Bylsma, V. Chair	✓		1:01	
Rep. D. Randolph	✓		1:09	
Rep. B. Rogers	✓		1:03	
Rep. T. Gardiner	✓		1:58	
Rep. T. Martin, Chair	✓		10:55	

Subject Matter:

House Bill No. 722 704 _____

Senate Bill No. _____

Special Orders:

Alaska State Legislature



MEMBERS:
TERRY MARTIN, CHAIRMAN
BERNARD BYLSMA, VICE CHAIRMAN
RICHARD RANDOLPH
TERRY GARDINER
BRIAN ROGERS

POUCH V
STATE CAPITOL
JUNEAU, AK 99811
PHONE (907) 465-3783
OFFICIAL BUSINESS

House Representatives LABOR AND COMMERCE COMMITTEE

Amendments to HB 704

Please incorporate the following amendments into a draft committee substitute for HB 704.

Amendment #1:
Line 10--Change "1984" to "1986".

Additions to bill:

See attached document which was entitled "Proposed Statutory Changes in AS 08.88 presented...by the Alaska Real Estate Commission".

Sections to be incorporated, with changes noted, are marked by yellow highlighter running along the margin. Please note one change which may be confusing; that is, p. 1, last change says to add sub (b) which is the same as old sub (d). This is referring to present AS 08.88.221(d), which will now become AS 08.88.221(b).

If you have any questions, please contact me at 465-3657. You may prepare this as a draft committee substitute, as there may be other changes.

Joan Mathews
Joan Mathews
Committee Secretary

PROPOSED STATUTORY CHANGES IN AS 08.88 PRESENTED TO HOUSE LABOR AND COMMERCE COMMITTEE BY THE ALASKA REAL ESTATE COMMISSION, MARCH 1, 1982:

- * Sec. 08.88.091 is amended by adding a new paragraph to read:
(3) The commission may make available to the public manuals, texts or other materials prepared with funds from the surety fund. When these materials are made available the commission may make a reasonable charge for them designed to recover the actual costs of the item provided. Funds collected under this section shall be paid at least once a month into the general fund. These payments shall be credited to the real estate surety fund.
- * Sec. 08.88.101 (11) is repealed and reenacted to read:
(11) print and distribute duplicate license certificates to replace lost certificates;
- * Sec. 08.88.101 (12) is amended to read:
(12) send notice 30 days before (, BEFORE DECEMBER 1 OF EACH YEAR,) the date that licenses must be renewed;
- * Sec. 08.88.201 is repealed and reenacted to read:
08.88.201. REEXAMINATION. A person who fails an examination may apply for a subsequent examination, but shall pay the examination fee each time he applies.

- ^{AS 221}
* ~~Sec.~~ 08.88.221 is repealed and reenacted to read:
08.88.221. FEES. ^{(a) the following fees shall be charged} ~~Fees for the following categories for a~~ real estate broker, associate broker, or salesman licensee or applicant ^{when applicable.}
~~are established by regulations adopted under AS 08.01.065:~~
- (1) examination; \$50
 - (2) reciprocity; \$100
 - (3) initial license; \$100
 - (4) renewal of an active license; \$100
 - (5) renewal of an inactive license; \$50
 - ~~(6) amending or transferring a license.~~

(b) — old subsection (d)

(b) pymnt of fees or commissions:
does this ever get litig? If so,
is this a knowing violation. (~~does person~~
~~leave to person~~ is person guilty of
misdemeanor if he doesn't know whether
broker is licensed or not?)

Diane Colvin

2450

* Sec. 08.88.251 is amended to read:

(c) A person who is inactive may become active by applying for an active license and paying the required fees. In the application form he shall state the date on which he intends to become active. His active status begins on the date stated. The commission shall send him a license certificate. A person is entitled to change from an inactive to an active status without examination if he has not been inactive more than two (THREE) years. If he has been inactive more than two (THREE) years, he is required to take an examination.

* Sec. 08.88.261 is repealed;

* Sec. 08.88.361 is amended to read:

Sec. 08.88.361. WHEN COMMISSION IS EARNED. A commission or fee is earned when the real estate broker fulfills the terms of a written personal services contract.

~~* Sec. 08.88.401 (a) is repealed and reenacted to read:~~

AS 08.88.401
is repealed + reenacted
to read

Sec. 08.88.401 (a) a licensee may not in any way represent that he holds or has been awarded any degree or designation to which he is not entitled nor may he represent himself as being a member or affiliate of any professional organization to which he does not belong.

~~* Sec. 08.88.401 (b) is repealed and reenacted to read:~~

~~Sec. 08.88.401~~ (b) commissions or fees for performance of acts specified in Section 161 of this chapter may be paid only to a licensed Alaska real estate broker except when a real estate broker properly licensed in another state assists an Alaskan real estate broker, the out-of-state broker's commission or portion of the commission may be paid directly to the out-of-state broker by the seller or escrow holder. Commissions or portions of commissions paid to a licensed real estate salesman must be paid by the broker or under the authorization of the broker with whom the real estate salesman is licensed.

~~* Sec. 08.88.401 (c) is amended to read:~~

(c) knowingly make, authorize, direct or aid in the publication of a false statement or misrepresentation concerning land or a subdivision of other real estate offered for sale or lease;

~~* Sec. 08.88.401 is amended by adding a new paragraph to read:~~

(d) The commission or its executive director may issue a stop order to any person or firm who is or appears to be about to pay a commission or fee for acts specified in Section 161 of this chapter to a person who is not a licensed real estate broker in another state authorized to receive commissions under part (t) of this section.

(e) a person who violates any provision of this section or Section 161 of this chapter is guilty of a Class A misdemeanor.

covered
by sec.
037

PROPOSED STATUTORY CHANGES IN AS 08.88 PRESENTED TO THE HOUSE LABOR AND COMMERCE COMMITTEE BY THE ALASKA REAL ESTATE COMMISSION, MARCH 1, 1982:

* ~~AS~~ AS. 08.88.091 is amended by adding a new paragraph to read:

(3) The commission may make available to the public manuals, texts or other materials prepared with funds from the surety fund. When these materials are made available the commission may make a reasonable charge for them designed to recover the actual costs of the item provided. Funds collected under this section shall be paid at least once a month into the general fund. These payments shall be credited to the real estate surety fund.

* ~~AS~~ AS. 08.88.101 (11) is repealed and reenacted to read:

(11) print and distribute duplicate license certificates to replace lost certificates;

* ~~AS~~ AS. 08.88.101 (12) is amended to read:

(12) send notice 30 days before (, BEFORE DECEMBER 1 OF EACH YEAR,) the date that licenses must be renewed;

* ~~AS~~ AS. 08.88.201 is repealed and reenacted to read:

08.88.201. REEXAMINATION. A person who fails an examination may apply for a subsequent examination, but shall pay the examination fee each time he applies.

* ~~AS~~ AS 08.88.221 is repealed and reenacted to read:

08.88.221. FEES. ^{(a) The following fees shall be charged a} ~~fees for the following categories for a~~ real estate broker, associate broker, or salesman licensee or applicant ^{when} ~~are established by regulations adopted under AS 08.01.065:~~ ^{fees applicable}

(1) examination; ⁵⁰

(2) reciprocity; ~~50~~ ¹⁰⁰

(3) initial license; ¹⁰⁰

(4) renewal of an active license; ¹⁰⁰

(5) renewal of an inactive license; ~~50~~ ¹⁰⁰

~~fees for transfer from a license~~
(b) - old (d)

APPS
KBM
50

~~AS~~* ~~AS~~. 08.88.251 is amended to read:

(c) A person who is inactive may become active by applying for an active license and paying the required fees. In the application form he shall state the date on which he intends to become active. His active status begins on the date stated. The commission shall send him a license certificate. A person is entitled to change from an inactive to an active status without examination if he has not been inactive more than two (THREE) years. If he has been inactive more than two (THREE) years, he is required to take an examination. ~~TA~~

* ~~AS~~. 08.88.261 is repealed.

* ~~AS~~. 08.88.361 is amended to read:

Sec. 08.88.361. WHEN COMMISSION IS EARNED. A commission or fee is earned when the real estate broker fulfills the terms of a written personal services contract.

* ~~AS~~. 08.88.401 ~~(a) is repealed and reenacted to read:~~

Sec. 08.88.401 (a) a licensee may not in any way represent that he holds or has been awarded any degree or designation to which he is not entitled nor may he represent himself as being a member or affiliate of any professional organization to which he does not belong.

~~* Sec. 08.88.401 (b) is repealed and reenacted to read:~~

~~Sec. 08.88.401~~ (b) Commissions or fees for performance of acts specified in Section 161 of this chapter may be paid only to a licensed Alaska real estate broker except when a real estate broker properly licensed in another state assists an Alaskan real estate broker, the out-of-state broker's commission or portion of the commission may be paid directly to the out-of-state broker by the seller or escrow holder. Commissions or portions of commissions paid to a licensed real estate salesman must be paid by the broker or under the authorization of the broker with whom the real estate salesman is licensed.

~~* Sec. 08.88.401 (c) is amended to read:~~

(c) knowingly make, authorize, direct or aid in the publication of a false statement or misrepresentation concerning land or a subdivision of other real estate offered for sale or lease;

~~* Sec. 08.88.401 is amended by adding a new paragraph to read:~~

(a) The commission or its executive director may issue a stop order to any person or firm who is or appears to be about to pay a commission or fee for acts specified in Section 161 of this chapter to a person who is not a licensed real estate broker in another state authorized to receive commissions under part (b) of this section.

(e) A person who violates a provision of this section or ~~the~~ section 161 of this chapter is guilty of a class A misdemeanor.