

SB

39

*rec'd  
4-22 BK*

5-0008X ✓  
Utermohle  
4/21/87

Original sponsor: Zharoff

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 39 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Real Estate Commission; and  
7 providing for an effective date."

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

9 \* Section 1. AS 08.01.010 is amended by adding a new paragraph to read:

10 (27) Real Estate Commission (AS 08.88.011).

11 \* Sec. 2. AS 08.01.050(a) is amended to read:

12 (a) The department shall perform the following administrative  
13 and budgetary services when appropriate:

14 (1) collect fees and issue receipts;

15 (2) maintain records and files;

16 (3) issue and receive application forms;

17 (4) notify applicants of acceptance or rejection of appli-  
18 cants as determined by the board or as determined by the department  
19 under AS 08.11 for audiologists, under AS 08.45 for naturopaths, or  
20 under AS 08.55 for hearing aid dealers;

21 (5) designate dates examinations are to be held and notify  
22 applicants;

23 (6) publish notice of examination;

24 (7) arrange space for holding examinations;

25 (8) notify applicants of results of examinations;

26 (9) issue licenses and certificates or temporary licenses  
27 or certificates as authorized by the board or as authorized by the  
28 department under AS 08.11 for audiologists, under AS 08.45 for naturo-  
29 paths, or under AS 08.55 for hearing aid dealers;

1 (10) issue duplicate licenses or certificates upon proof by  
2 the licensee of loss of the original and payment by the licensee of a  
3 fee of \$2 except as otherwise provided in this title;

4 (11) notify licensees of renewal dates at least 30 days  
5 before the expiration date of their licenses;

6 (12) compile and maintain current a register of licenses;

7 (13) answer routine inquiries;

8 (14) maintain files relating to individual licensees;

9 (15) arrange for printing and advertising;

10 (16) purchase supplies;

11 (17) employ secretarial help when needed;

12 (18) perform other services that may be requested by the  
13 board;

14 (19) provide investigative services to the boards estab-  
15 lished under AS 08.04, AS 08.20, AS 08.36, AS 08.64, AS 08.68, AS 08.-  
16 70, AS 08.71, AS 08.72, AS 08.80, AS 08.84, [AND] AS 08.86, and  
17 AS 08.88, for the purpose of assisting those boards in matters of  
18 professional discipline and in responding to consumer complaints.

19 \* Sec. 3. AS 08.01.065(a) is amended to read:

20 (a) The department shall adopt regulations that establish the  
21 amount and manner of payment of application fees, examination fees,  
22 license fees, registration fees, permit fees, investigation fees, and  
23 all other fees as appropriate for the occupations covered by this  
24 chapter [AND FOR REAL ESTATE BROKERS AND SALESMEN UNDER AS 08.88].

25 \* Sec. 4. AS 08.03.010(c)(18) is amended to read:

26 (18) Real Estate Commission (AS 08.88.011) -- June 30, 1991  
27 [1987].

28 \* Sec. 5. AS 08.88.031 is repealed and reenacted to read:

29 Sec. 08.88.031. EXECUTIVE SECRETARY OF COMMISSION. The

1 department shall, after consultation with the commission, employ a  
2 person, who is not a member of the commission, to serve as executive  
3 secretary for the commission. The executive secretary shall perform  
4 duties as assigned by the commission.

5 \* Sec. 6. AS 08.88.037 is amended to read:

6 Sec. 08.88.037. INVESTIGATION AND INJUNCTION. (a) The commis-  
7 sion may request the department to [, UPON ITS OWN MOTION,] conduct  
8 investigations to determine whether a person has violated a provision  
9 of this chapter or a regulation adopted under it, or to secure infor-  
10 mation useful in the administration of this chapter.

11 (b) If it appears to the department [EXECUTIVE DIRECTOR] that a  
12 person has engaged in or is about to engage in an act or practice in  
13 violation of a provision of this chapter or a regulation adopted under  
14 it and that action is warranted in the public interest, the department  
15 [EXECUTIVE DIRECTOR] shall notify all commission members by telephone  
16 or telegraph of a proposed order or action, and, if a majority of the  
17 members of the commission approve, the department [EXECUTIVE DIRECTOR]  
18 may

19 (1) after reasonable notice of and an opportunity for a  
20 hearing is given to the person, issue an order directing the person to  
21 stop the act or practice; the department [EXECUTIVE DIRECTOR] may  
22 issue a temporary order before a hearing is held; a temporary order  
23 remains in effect until a final order affirming, modifying, or revers-  
24 ing the temporary order is issued or until 15 days have elapsed after  
25 the person receives the notice and has not requested a hearing; a  
26 temporary order becomes final if the person to whom the notice is  
27 addressed does not request a hearing within 15 days after receiving  
28 the notice; if a hearing is requested, a hearing shall be conducted by  
29 a hearing officer within 30 days; the commission shall issue a final

1 order within 10 days after the hearing;

2 (2) bring an action in superior court to enjoin the act or  
3 practice and to enforce compliance with this chapter, a regulation  
4 adopted under it, or an order issued under it;

5 (3) examine or have examined the books and records of a  
6 person whose business activities require licensure under this chapter  
7 and the department [EXECUTIVE DIRECTOR] may require the person to pay  
8 the reasonable costs of the examination; and

9 (4) issue subpoenas for the attendance of witnesses, and  
10 the production of books, records, and other documents.

11 \* Sec. 7. AS 08.88.061 is amended to read:

12 Sec. 08.88.061. ASSISTANTS. The commission may use [EMPLOY]  
13 assistants to

14 (1) prepare questions on examinations;

15 (2) grade examinations [;

16 (3) INVESTIGATE ALLEGED VIOLATIONS OF THIS CHAPTER].

17 \* Sec. 8. AS 08.88.081 is repealed and reenacted to read:

18 Sec. 08.88.081. COMMISSION REGULATIONS. The commission shall  
19 adopt regulations necessary to carry out the purposes of this chapter  
20 including regulations

21 (1) pertaining to the responsibilities of persons licensed  
22 under this chapter;

23 (2) defining the grounds for revoking or suspending a  
24 license;

25 (3) establishing procedures for the conduct of examinations  
26 administered under this chapter; and

27 (4) establishing application procedures for examination,  
28 for licensing, and for registration of principal and branch offices.

29 \* Sec. 9. AS 08.88.191(b) is amended to read:

1 (b) If the commission authorizes the department to contract  
2 [CONTRACTS] with a national testing service to prepare, administer and  
3 grade examinations,

4 (1) the commission shall review the examination and approve  
5 its contents;

6 (2) application for the examination, accompanied by the  
7 proper filing fee, may be transmitted by the applicant directly to the  
8 national testing service.

9 \* Sec. 10. AS 08.88.034, 08.88.101, 08.88.111, 08.88.121, and 08.88.231  
10 are repealed.

11 \* Sec. 11. This Act takes effect immediately under AS 01.10.070(c).  
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FOR SB-39 (1987)  
MEMORANDUM

State of Alaska

TO: Michael Thill, Staff Assistant  
Senate Labor & Commerce Committee

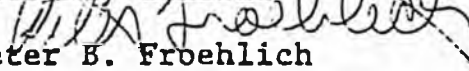
DATE: April 30, 1986

FILE NO:

TELEPHONE NO: 465-3600

FROM: Harold M. Brown  
Attorney General

SUBJECT: Proposed amendment  
to SB 487 concern-  
ing general regula-  
tion adoption  
authority

By:   
Peter B. Froehlich  
Assistant Attorney General

As I mentioned to you by telephone yesterday, there is an additional clarifying amendment that should be included in SB 487 on the Real Estate Commission. That amendment would correct an apparent oversight which has resulted in the absence of an explicit grant to the commission of general regulation adoption authority. Currently, AS 08.88 includes two explicit grants to the commission of specific regulation adoption authority, but no grant of the typical general regulation adoption authority usually given to occupational licensing boards and commissions.

The commission has the following explicit specific regulation adoption authority:

Sec. 08.88.081. COMMISSION REGULATIONS. The commission shall adopt regulations pertaining to the responsibilities of persons licensed under this chapter and the grounds for revoking or suspending a license.

Sec. 08.88.111. COMMISSION REGULATIONS. The commission shall adopt procedural regulations describing

(1) how it conducts an examination;

(2) how a person applies to take an examination, applies for a license, and registers that person's office.

I propose that AS 08.88.081 be amended to add a general regulation adoption authorization and at the same time consolidate the two specific authorities as follows:

\* Sec. 2. AS 08.88.081 is amended to read:

Sec. 08.88.081. COMMISSION REGULATIONS. The commission shall adopt regulations necessary to carry out the purposes of this chapter including regulations

(1) pertaining to the responsibilities of persons licensed under this chapter and the grounds for

revoking or suspending a license;

(2) describing how it conducts an examination;  
and

(3) describing how a person applies to take an examination, applies for a license, and registers that person's office.

Renumber the following sections of the bill accordingly.

Of course, AS 08.88.111 should then be repealed.

This additional amendment would clarify that the Real Estate Commission has the same general regulation adoption authority as do other agencies. We believe that the commission has this authority implicitly, even without this amendment but it would be better to make the authority explicit.

Concerning SB 487 as a whole, we believe that the bill includes both some desirable housekeeping amendments and some amendments that may not be desirable, or that at least may require more study.

Please let me know if I can provide you or the committee any further information on this proposed amendment to SB 487, or on the entire bill.

PBF:md

cc: Hon. Loren Lounsbury, Commissioner  
Dept. of Commerce & Economic Development

James Magowan, Director  
Real Estate Commission

Arthur H. Peterson  
Assistant Attorney General  
Legislation/Regulations Section

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: SSSB 39 (200)  
Publish Date: 4/7/87

REQUEST: \_\_\_\_\_  
Revision Date: \_\_\_\_\_  
Title: An Act relating to the  
Real Estate Commission.  
Sponsor: Senator Zharoff  
Requestor: \_\_\_\_\_

Agency Affected: Commerce and Economic Dev.  
BRU: Real Estate Commission/Occupational  
Licensing  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	0	[62.0]	0	0	0	0
TRAVEL	0	[15.1]	0	0	0	0
CONTRACTUAL	0	[75.7]	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	[152.8]	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	[152.8]	0	0	0	0
TOTAL	0	[152.8]	0	0	0	0

POSITIONS:

FULL-TIME	0	[1]	0	0	0	0
PART-TIME	0	1	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS :

(See Attached)

Prepared by: Kathy Marshall  
Division: Occupational Licensing  
Approved by Commissioner: J. Mulholland  
Agency: Commerce and Economic Development

Phone: 465-2534  
Date: April 9, 1987  
Date: \_\_\_\_\_

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

es SSSB 39 (LAC)

SSSB 39 amends the statutes to transfer the semiautonomous Real Estate Commission within the Department of Commerce and Economic Development to the Division of Occupational Licensing within the same department. As a result, the reorganization will create a cost savings of \$152,800.00 as a one-time impact in FY 88.

The decrement of \$62,000.00 in personal services result through reclassification of certain positions currently providing support to the Real Estate Commission. In addition, one position is being reduced from full-time to part-time.

The attached forms document the costs associated with the transfer.

SSSB 39: An Act relating to the Real Estate Commission.

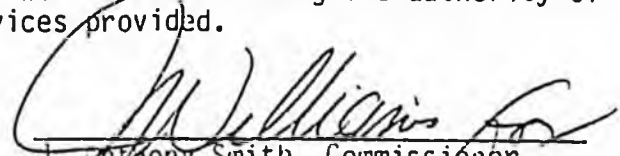
SSSB 39 transfers the Real Estate Commission in the Department of Commerce and Economic Development to the Division of Occupational Licensing, also within the Department of Commerce and Economic Development, and extends the commission to June 30, 1991. In September 1985, Legislative Audit issued a performance report on the commission which recommended it be reestablished.

The department maintains its support for continuation of the Real Estate Commission and recognizes the important functions it provides. However, the department concurs with the proposal to reestablish the commission within the Division of Occupational Licensing.

There are a number of advantages to the plan for both the State of Alaska and licensed realtors.

1. The regulation of the occupation would be more cost effective. The number of licensed realtors has decreased by approximately 50% since the Real Estate Commission became semiautonomous which has increased the cost of service provided per licensee while decreasing the commission's ability to be self-supporting. The commission was unable to generate sufficient program receipts for FY 87 to maintain its current level of expenditures. The department believes the commission can be as effectively administered under the Division of Occupational Licensing at a much lower cost. The transfer of the commission to the Division of Occupational Licensing would save approximately \$150,000.00 per year and would enable the commission to be supported by the licensing fees.
2. As indicated in the Legislative Audit, the Real Estate Commission is in dire need of regulatory and statutory revision. The Division of Occupational Licensing employs both a legislative and a regulations specialist who could more effectively assist the commission in its efforts to improve regulations and statutes.
3. The transfer of administrative responsibilities, such as budget preparation and fiscal monitoring, to the division would enable the commission and staff to concentrate their efforts on increasing services to licensees including auditing of trust accounts, recovering surety fund claims, coordinating with the Real Estate Association, and improving functions.

In summary, the department believes the transfer of the Real Estate Commission will increase efficiency without diminishing the authority of the commission or the level of services provided.

  
 J. Anthony Smith, Commissioner  
 Department of Commerce & Economic  
 Development

DATE: 4/9/87

*Back-up SSSB 39 L1C*

STATE OF ALASKA  
Office of Management & Budget  
Division of Budget Review

REVISED PROGRAM SUMMARY  
by  
BUDGET COMPONENT

CATEGORY Public Protection  
PROGRAM Consumer Protection  
AGENCY Commerce & Economic Dev  
DIVISION Real Estate Commission  
BRU Real Estate Commission  
COMPONENT

	FY '88 REQUEST	SSSB 39 Note	ADJUSTED - AUTH	ADN	ADJUSTED AUTH	ADN	ADJUSTED AUTH	ADN	ADJUSTED AUTH	ADN	ADJUSTED AUTH
70010 UNALLOCATED											
71000 PERS SVCS	300.5	-300.5	0.0								
72000 TRAVEL	36.1	-36.1	0.0								
73000 CONT SVCS	166.9	-166.9	0.0								
74000 SUPPLIES	10.3	-10.3	0.0								
75025 LAND/STRCT											
75090 EQUIPMENT											
77000 GRANTS											
78000 DEBT SVC											
TOTAL	513.8	-513.8	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
68515 GEN FUND											
68516 CF MATCH											
51010 FED REC											
51015 TA REC											
51080 PROG REC	513.8	-513.8	0.0								
51200 CIP REC											
FULL TIME	6.0	-6.0	0.0								
PART TIME	2.0	-2.0	0.0								
TEMPORARY MONTHS	82.0	-82.0	0.0								

STATE OF ALASKA  
Office of Management & Budget  
Division of Budget Review

REVISED PROGRAM SUMMARY  
by  
BUDGET COMPONENT

CATEGORY Public Protection  
PROGRAM Consumer Protection  
AGENCY Commerce & Economic Dev  
DIVISION Occupational Licensing  
BRU Occupational Licensing  
COMPONENT Administration

	FY '88 REQUEST	SSSB 39 Note	ADJUSTED AUTH	ADN	ADJUSTED AUTH	ADN	ADJUSTED AUTH	ADN	ADJUSTED AUTH	ADN	ADJUSTED AUTH
70010 UNALLOCATED											
71000 PERS SVCS	713.3	271.5	984.8								
72000 TRAVEL	14.1	21.0	35.1								
73000 CONT SVCS	311.9	91.2	403.1								
74000 SUPPLIES	10.4	10.3	20.7								
75000 LAB/STRICT											
75000 EQUIPMENT											
77000 GRANTS											
78000 DEBT SVC											
TOTAL	1049.7	394.0	1443.7	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
50010 GEN FUND											
50010 CF FUND											
51010 FED REC											
51010 TA REC											
51000 PROG REC	1049.7	394.0	1443.7								
51000 CIP REC											
FULL TIME	19.0	5.0	24.0								
PART TIME	1.0	3.0	4.0								
TEMPORARY											
POSITIONS	234.0	76.0	310.0								