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FISCAL NOTE

REQUEST: _____

Revision Date: _____
Title: Act relating to the real
estate commission
Sponsor: Sen. Sturgulewski
Requestor: Senate Finance

Agency Affected: Commerce & Economic Dev.
BRU: Occupational Licensing
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)



Prepared by: Senator Rick Uehling, Co-chairman Phone: 465-4821
Division: Senate Finance Committee Date: March 8, 1990

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by preparer) :
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

BY SEN. STURGULEWSKI

1 IN THE SENATE

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 288

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND 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 08.88.081 is amended to read:

10 Sec. 08.88.081. COMMISSION REGULATIONS. The commission shall
11 adopt regulations necessary to carry out the purposes of this chapter
12 [PERTAINING TO THE RESPONSIBILITIES OF PERSONS LICENSED UNDER THIS
13 CHAPTER AND THE GROUNDS FOR REVOKING OR SUSPENDING A LICENSE].

14 * Sec. 2. AS 08.88.091 is amended by adding new subsections to read:

15 (b) An applicant for licensure under AS 08.88.171(c) must com-
16 plete 20 hours of education approved by the commission before the
17 person may be licensed under that subsection.

18 (c) An applicant for licensure under AS 08.88.171(a) or (b) must
19 complete 15 hours of education approved by the commission before the
20 person may be licensed under either of those subsections.

21 (d) A person who is licensed under this chapter must complete 20
22 hours of continuing education approved by the commission before the
23 person's license may be renewed.

24 (e) The commission may not approve an education or continuing
25 education course required under this section unless the commission
26 certifies the course outline and approves the instructor of the course
27 before the course is conducted.

28 * Sec. 3. AS 08.88.171(a) is amended to read:

29 (a) A person is eligible for [ENTITLED TO] a real estate broker

1 license if the person passes the real estate brokers examination, if
2 the person applies for a license within six months after the person
3 has taken the real estate brokers examination, if the person furnishes
4 satisfactory proof of successful completion of the education require-
5 ments of AS 08.88.091, if the person has had at least 24 months of
6 active and continuous experience as a licensed real estate salesman,
7 if the person is not under indictment for, or seven years have elapsed
8 since the person has completed a sentence imposed upon conviction of,
9 forgery, theft, extortion, conspiracy to defraud creditors, or any
10 other felony involving moral turpitude, and if the person is an owner
11 of a real estate business or employed as a real estate broker by a
12 corporation or a partnership, and if that corporation or partnership
13 does not have an existing licensed broker. Unless the broker fails to
14 pay the biennial renewal fee or unless the broker's license is sus-
15 pended or revoked under AS 08.88.071(a)(3), the real estate broker's
16 license continues in effect so long as the broker is an owner of a
17 real estate business, or the broker is employed as a real estate
18 broker by a corporation or a partnership. If the broker stops being
19 an owner of a real estate business, or stops being employed as a real
20 estate broker by a corporation or partnership, the broker's license is
21 suspended from the time the broker stops until

22 (1) the broker again becomes an owner of a real estate
23 business or is again employed as a real estate broker by a corporation
24 or a partnership; or

25 (2) the broker is employed by a licensed real estate broker
26 as an associate real estate broker, in which case the real estate
27 broker license is returned to the commission, and the commission
28 issues the broker an associate real estate broker license.

29 * Sec. 4. AS 08.88.171(b) is amended to read:

1 (b) A person is eligible for [ENTITLED TO] an associate real
2 estate broker license if the person passes the real estate brokers
3 examination, if the person applies for a license within six months
4 after the person has taken the examination, if the person submits
5 satisfactory proof of successful completion of the education require-
6 ments of AS 08.88.091, if the person has had at least 24 months of
7 active and continuous experience as a licensed real estate salesman,
8 if the person is not under indictment for, or five years have elapsed
9 since the person has completed a sentence imposed upon conviction of,
10 forgery, theft, extortion, conspiracy to defraud creditors, or any
11 other felony involving moral turpitude, and if the person is employed
12 by a licensed real estate broker as an associate real estate broker.
13 Unless the associate broker fails to pay the biennial renewal fee or
14 unless the associate broker's license is suspended or revoked under
15 AS 08.88.071(a)(3), the associate real estate broker's license contin-
16 ues in effect so long as the associate broker is employed by a li-
17 censed real estate broker as an associate broker. If the associate
18 broker stops being employed by a licensed real estate broker, the
19 associate broker's license is suspended from the time the associate
20 broker stops until

21 (1) the associate broker again is employed by a real estate
22 broker as an associate broker; or

23 (2) the associate broker becomes an owner of a real estate
24 business, in which case the associate broker's associate real estate
25 broker license is returned to the commission, and the commission
26 issues the associate broker a real estate broker license.

27 * Sec. 5. AS 08.88.171(c) is amended to read:

28 (c) A person is eligible for [ENTITLED TO] a real estate sales-
29 man license if the person passes the real estate salesman examination,

1 if the person applies for a license within six months after the person
2 has taken the examination, if the person submits satisfactory proof of
3 successful completion of the education requirements of AS 08.88.-
4 091, if the person is at least 19 years old, if the person is not
5 under indictment for forgery, theft, extortion, conspiracy to defraud
6 creditors, or any other felony involving moral turpitude, or, if
7 convicted of such an offense, the person has completed the sentence
8 imposed upon conviction, and if the person is employed by a real
9 estate broker. Unless the salesman fails to pay the biennial renewal
10 fee or unless the real estate salesman's license is suspended or
11 revoked under AS 08.88.071(a)(3), a real estate salesman's license
12 continues in effect so long as the salesman is employed as a salesman
13 by a licensed real estate broker. If the salesman stops being employ-
14 ed as a real estate salesman, the real estate salesman's license is
15 suspended from the time the salesman stops until the salesman again is
16 employed as a salesman by a licensed real estate broker.

17 * Sec. 6. AS 08.88.251(c) is amended to read:

18 (c) A person who is inactive may become active by applying for
19 an active license and paying the required fees. In the application
20 form the person shall state the date on which the person intends to
21 become active. The person's active status begins on the date stated.
22 The commission shall send the person a license certificate. A person
23 is eligible for [ENTITLED TO] change from an inactive to an active
24 status without examination if the person has not been inactive more
25 than two [THREE] years. If the person has been inactive more than two
26 [THREE] years, the person is required to take an examination.

27 * Sec. 7. AS 08.88.261 is repealed.

28 * Sec. 8. AS 08.88.091(b), as enacted by sec. 2 of this Act, and secs.
29 3 - 5 of this Act take effect January 1, 1991.

1 * Sec. 9. AS 08.88.091(c), as enacted by sec. 2 of this Act, takes
2 effect July 1, 1991.

3 * Sec. 10. AS 08.88.091(d), as enacted by sec. 2 of this Act, takes
4 effect January 1, 1992.

5 * Sec. 11. Except as provided in secs. 8 - 10 of this Act, this Act
6 takes effect immediately under AS 01.10.070(c).

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 5, 1990

SUBJECT: Sectional Summary
(SSSB 288)

TO: Senator Arliss Sturgulewski

FROM: Terri Lauterbach *TL*
Legislative Counsel

Following is a brief sectional summary of SSSB 288:

Sec. 1. Clarifies the authority of the Real Estate Commission to adopt regulations.

Sec. 2. Establishes various education and continuing education requirements for licensure in real estate occupations. As noted in secs. 8 - 11 of the bill, subsection (b) would take effect January 1991, subsection (c) would take effect July 1991, subsection (d) would take effect January 1992, and subsection (d) would take effect immediately.

Sec. 3. Pertains to real estate broker licensing.

Sec. 4. Pertains to associate broker licensing.

Sec. 5. Pertains to real estate salesman licensing.

Sec. 6. Changes requirements for converting licenses from inactive to active status.

Sec. 7. Repeals a section relating to licensure of persons who were licensed in another jurisdiction. AS 08.88.263, which is not repealed, offers an avenue for licensure of persons licensed in other jurisdictions.

Secs. 8 - 11. Effective dates.

Please let me know if you have further specific questions about the bill.

TL:mi
wkmi6/039

SSSB 288: "An Act relating to the Real Estate Commission; and providing for an effective date."

The Department of Commerce and Economic Development supports passage of SSSB 288. The bill, as revised, beefs up present real estate licensing requirements by adding consumer protection provisions which the Real Estate Commission and the Division of Occupational Licensing wholeheartedly support. What follows is a sectional analysis of the proposed amendments to AS 08.88.

Section 1 of the bill amends AS 08.88.081 to clarify the ability of the Real Estate Commission (hereinafter "commission") to adopt appropriate administrative regulations. AS 08.01.080 gives broad authority to the department to adopt "regulations necessary to implement the licensing statutes." Most of the individual board statutes reiterate this authority, but the commission's existing language limits its authority to adopting "regulations pertaining to the responsibilities of licensees." The proposed amendment would bring the real estate license law into conformity with the centralized licensing statute and give the commission authority parallel to that granted other boards.

Section 2 of the bill amends AS 08.88.091 by establishing a variety of education requirements. Every other licensing jurisdiction in the United States and Canada requires either prelicensing or continuing education. Most require both. Only four (4) other states have no prelicensing educational requirements and only ten (10) other states have no continuing educational requirements. Nationally, prelicensing requirements average fifty-eight (58) hours while continuing education requirements average twenty-five (25) hours over a two-year licensing period. Alaska needs to join the rest of the country by setting some minimum education standards for its applicants and licensees.

Although SB 288 is not specifically modeled after other state legislation, the statutory requirements of other jurisdictions were reviewed before formulating the additions proposed in this section of the bill. The primary objective is to ensure that applicants for initial licensure, salespersons, and salespersons seeking to upgrade their licenses to broker or associate broker have the appropriate level of knowledge. Licensees and applicants should thoroughly understand the complexities of holding title, financing, agency, and representation and disclosure, and should be sensitive to the expectations which the public has of real estate professionals.

The various educational requirements contained in this section were drafted to require: (1) a broader base of knowledge before issuance of an initial license to an applicant for a real estate license; (2) a minimum number of continuing education hours for licensed salespersons and brokers in order to ensure licensees are keeping up-to-date on important industry changes; and (3) specific additional classroom training for persons seeking to become brokers and associate brokers because the responsibilities of these positions are great and not always fully appreciated by those seeking or holding the license.

The number of hours required by this section has been tempered by an appreciation for the complexities of providing real estate education courses to licensees across all areas of the state. The geographic distribution of licensees is a factor that must be considered. As proposed, the Real Estate Commission would not be a provider of classes, but would control course quality by recognizing for credit only those courses and instructors which were approved by the commission prior to presentation [AS 08.88.091(e)].

The increasing complexity of real estate transactions requires that a greater degree of competency and skill be attained in order to adequately protect the public. For example, requiring a minimum number of classroom hours prior to licensure will help to protect prospective home buyers from errors made by the inexperienced licensee [AS 08.88.091(b)]. Requiring additional training focused on office supervisory responsibilities and trust account management prior to being licensed as a broker or associate broker will address the most common causes for complaints received by the division against real estate brokers [AS 08.88.091(c)]. Finally, requiring continuing education during each biennial licensing period should assist in ensuring that all real estate professionals are periodically updated on current real estate laws and practices [AS 08.88.091(d)].

In addition to attaining a new level of credibility and professional respect from other licensing jurisdictions, adoption and implementation of these requirements as an integral part of Alaska's real estate licensing program will enhance the degree of public protection and service available to consumers in the state.

Sections 3 through 5 of SB 288 simply make the amendments necessary to applicant, licensee, and broker provisions of the statute to require proof of having complied with the education requirements set out in Section 2 of the bill. In addition, these sections replace existing language that states a person is "entitled" to a license with language stating that a person is "eligible" for a license, thus allowing the Real Estate Commission some discretion in determining whether an applicant's qualifications meet the intent as well as the letter of the law.

Section 6 amends AS 08.88.251(c) to shorten the maximum time a license may be held inactive. The purpose of limiting the amount of time a person may hold a license in an inactive status and still reactivate without retesting is to protect the public from licensees who have been out of touch with real estate practices for an extended period of time. The current three-year limit does not serve this purpose in today's rapidly changing marketplace. In addition, the need to "renew inactive" in order to prevent the license from lapsing at the end of each licensing biennium is extremely confusing to licensees who assume that the inactive status prevails for a three-year period with nothing required from them during that time.

Section 7 of the bill amends AS 08.88.261 to repeal statutory provisions providing for reciprocity. As it now exists, AS 08.88.261 is operative only when there are reciprocal agreements with other states.

Presently, no state has signed an agreement with Alaska because of the absence of educational requirements. Among states that do have reciprocal agreements, the agreement itself usually contains a clause that requires the applicant to demonstrate familiarity with that state's license law by passing the state law portion of the examination. Assuming SB 288 passes and the educational requirements become necessary, it is anticipated that the requirement to pass the state portion of the Alaska exam would remain.

However, another section of the real estate statute -- AS 08.88.263 (entitled "License by Endorsement") -- presently authorizes the commission to recognize the license and experience of a real estate professional from another state seeking licensure here in Alaska. This existing provision also contains language allowing the commission to ensure that the applicant from another state is familiar with Alaska's license law before issuing him or her an Alaska license.

To have both AS 08.88.261 and 263 in their present form in the statute is confusing to present and potential licensees. Because AS 08.88.263 is the only section currently applicable and would continue to be so following passage of SB 288, this bill repeals the inoperative AS 08.88.261.

Finally, Sections 8-10 of the bill establish varying effective dates. The effective dates of the various educational requirements would allow the Real Estate Commission staff to gradually approve course outlines and instructors on a realistic basis, and still implement the overall program in a timely manner. The first continuing education requirement would coincide with the next biennial renewal (January, 1992).

This bill establishes some very necessary education requirements for the real estate industry and brings Alaska into step with the other licensing jurisdictions. The provisions of the bill have been discussed and debated by the real estate industry and the commission. It reflects a compromise that will benefit Alaskan consumers and ensure better trained and qualified real estate professionals. For these reasons, the department urges passage of the bill.



Larry Merculieff, Commissioner

Date: 11/30/90



ALASKA ASSOCIATION OF REALTORS, INC.[®]
741 Sesame Street, Suite 100 • Anchorage, Alaska 99503
Telephone 907-563-7133

January 17, 1990

Senator Arliss Sturgulewski
P.O. Box V (MS 3100)
Juneau, AK 99811

Attn: Frank Homan

Re: SB 288

Dear Mr. Homan:

During the past several years, members of the Alaska Association of Realtors[®] have been studying the question of mandatory pre-licensing education and mandatory continuing education requirements for real estate licensees. These members have served on several task forces in cooperation with the Alaska Real Estate Commission and special study groups as part of AAR's Legislative Committee. The conclusions of these studies have resulted in our recommending legislation to require both pre-license and continuing education for all real estate licensees in Alaska.

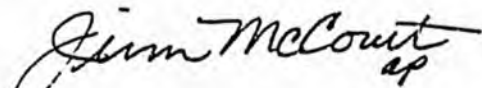
The rationale for these conclusions is, first, Alaska is the only state which has no education requirements. Second, consumers have the right to expect a high degree of knowledge from those who advise them on (in some cases) the largest investment they may make during their lifetime. Third, the field of real estate is constantly changing with its multitude of financing and tax implications. It is imperative that real estate practitioners remain current on taxes, financing, zoning, equal housing laws, hazardous waste, and a myriad of topics to best advise their clients and customers.



January 17, 1990
Page Two

For these reasons, the Alaska Association of Realtors® urges passage of SB 288 during this legislative session. AAR stands ready to testify in support of this bill.

Sincerely,

A handwritten signature in cursive script that reads "Jim McCourt" with a small flourish at the end.

Jim McCourt
President



ALASKA ASSOCIATION OF REALTORS, INC.
741 Sesame Street, Suite 100 • Anchorage, Alaska 99503
Telephone 907-563-7133

January 12, 1990

Senator Arliss Sturgulewski
P.O. Box V
Juneau, AK 99811

Attn: Frank M. Homan

Re: S.B. 288

Dear Senator:

The enclosed background paper and attachments are by way of information in reference to S.B. 288. The background paper is a brief statement describing the rationale for the bill's introduction and the goals it would accomplish. The attachment is the most recent NARELLO report on real estate prelicensing and continuing education requirements throughout the U.S. and Canada.

If I can be of further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads 'Dea Turner'.

Dea Turner
Executive Vice President

Attachment

cc: Joe Hayes



Every other licensing jurisdiction in the US and Canada requires either pre-licensing or continuing education. Many require both. Only four other states have no pre-licensing educational requirements and only 10 other states have no continuing educational requirements. Pre-licensing requirements average 58 hrs; continuing average 25 hours/2-year licensing period.

Although SB288 is not modeled after any other state's legislation, the statutory requirements of other jurisdictions were reviewed. This legislation was drafted in an attempt to amend Alaska's real estate license law (AS 08.88) to provide a higher level of competency and professionalism for present and future licensees in Alaska. In turn, this will enhance the degree of public protection and service available to consumers.

The increasing complexity of real estate transactions requires that this greater degree of competency and skill be attained in order to adequately protect the public.

Requiring minimum educational hours prior to licensure helps to protect consumers from suffering because of the inexperience of new licensees.

Requiring continuing education is a means of ensuring that all licensees have periodic update on current real estate laws and practices each renewal period.

AS 08.88.

Section 261 repeal:

As it now exists, Section 261 is operative only when there are reciprocal agreements with other states.

No other state has been willing to sign an agreement with Alaska because of the absence of educational requirements.

Section 263 allows the Commission to recognize the license and experience of a person coming from another state and to also ensure that they are familiar with Alaska's license law before issuing them an Alaska license.

Among states that do have reciprocal agreements, the agreement itself usually contains a clause that requires the applicant to demonstrate familiarity with the state's license law by passing that portion of the examination.

Assuming SB288 passes and the educational requirements become necessary, it is anticipated that the requirement to pass the state portion of the Alaska exam would remain.

To have both sections 261 and 263 in their present form is confusing to both present and potential licensees. Since Section 263 is the only operative section currently, and would continue to be satisfactory with the passage of the remainder of SB288, the recommendation is to repeal Section 261.

SB 288

Alaska State Legislature



SENATOR
ARLISS STURGULEWSKI
Senate President Pro Tempore
Chairman, Senate Rules Committee

2957 SHELDON JACKSON STREET
ANCHORAGE, ALASKA 99508


While in Juneau
P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3818

Senate

M E M O R A N D U M

February 28, 1990

TO: Senator Rick Uehling, Co-Chairman
Senate Finance Committee

FROM: Senator Arliss Sturgulewski 

RE: Hearing request for SB 288 "An Act relating to the Real Estate Commission; and providing for an effective date."

This legislation was requested by the Alaska Association of Realtors. It would require minimum education standards for prelicensing of real estate agents and for continuing education. Every other licensing jurisdiction in the United States and Canada requires either prelicensing or continuing education.

The legislation is supported by the Alaska Association of Realtors, the Alaska Real Estate Commission, and the Department of Commerce and Economic Development.

It has a minor fiscal note.

A packet of background information is attached. If there are any questions, please contact Frank Homan in my office.

Thank you for your consideration of this legislation. I hope you will be able to schedule it for a hearing at an early date.

Enclosure

SB 288

3/6/90

Barbara Craig Realty

(Formerly Barbara Jaye Realty)

P.O. Box 02-0422

Juneau Alaska 99802

(907) 586-9091

February 10, 1990

Ref: Senate Bill 288

Dear Senator Sturgulewski;

I am opposed to Senate Bill 288 for the following reasons:

1. If the bill passes it will result in creating more government jobs . Do you really think the VOTERS want to elect a governor who is promoting bills that create more state government jobs and bills to further regulate our lives? I do not want to pay for more government employees who will only whine five years from now when they get laid off because we have run out of oil money. And if someone says the real estate industry will pay for more staff with their licensing fee--I am opposed to paying more for licensing. Licensing fees are only another name for taxes or extracting money from the private sector to pay for jobs of non productive government paper pushers. We have far more government employees per capita than another other state--the situation here is totally out of hand! If the legislature does not act responsibly in cutting back the number of government employees drastically and now, then I think there will be such great turmoil in this state when we run out of oil money that it will make the years 1986-87 look like a picnic. You are responsible for promoting bills that solve problems now and for Alaska's future--but creating more unnecessary state jobs is a problem now and for Alaska's future. By sponsoring bills like this YOU are part of the problem--not solution.

2. If those currently licensed are not presently competent or the test is not adequate, then I am not against changing the test or requiring more education or proven ability through past experience to get licensed initially as a sales person or broker. What I am opposed to is requiring all agents who want to renew licenses get some sort of continuing education . I do not want some state employee to tell me what type of education they think is best for my business or type of real estate I handle. This type of mentality treats real estate professionals as second class business people. Alaskans don't need to be protected " for their own good" by some bureaucrat "big brother"--the citizens of Alaska need to be protected from: government intereference and regulation, and "government employeeism"--the cancers that are gobbling away at private sector economic development. In addition, the rationale presented for such across the board recommendations is not well thought through and only serves to illustrate the attitude that government employees have for procreating more state jobs and spending more money in an effort to try to solve a non-existing problem. Following are examples of irrational materials presented supporting passage of the bill:

a) "A minimum number of continuing education hours for licensed salespersons and brokers in order to ensure licenses are keeping up-to-date on important industry changes" (Dept. of Commerce & Economic Development Position Paper-p 1) If a person in the sales business does not keep up to date automatically on market changes they will be out of a job in short order. The position paper does not give credit to those who have been in business successfully. If someone can not keep up with the changing market and industry then lets not spoon feed them to keep them in business. The private sector will automatically weed out those who do not keep up with the time. To assume that a government employee knows more than those who are successfully earning a living in a private sector industry by letting that government employee decide what type of continuing education is pertinent to that business, takes on the typical mentality of most bureaucrats which is " I know what is best for you". Since when did the Real Estate Commission or Dept. of Commerce and Economic Development become experts in the dynamics of education and become more intuned to my business to know what I need to become more wise in my business? If some bureaucrat thinks they know what is best for my business or knows more about my business, then why aren't they busy in the industry making money like me? I don't need any big brothers telling me what I need to be educated on. And if I make the wrong decision by not keeping up to date with market conditions then I alone should be responsible for not being successful in my line of business.

b) "The increasing complexity of real estate transactions requires that a greater degree of competency and skill be attained in order to adequately protect the public" (Dept. of Commerce and Economic Dev. Position Paper page 2) Things are always as simple or complex as anyone wants to make them. I have been in the real estate industry over six years and things do not seem to be getting anymore complex to me. As I get more experience I automatically accumulate more information which makes my skill level greater. Greater COMPETENCY comes with more hands on experience. The same level of complexity has always been there. And the more experience a business person has in any area the more valuable they automatically become to themselves as well as those who pay for their services. AND, It is not logical to assume that the public in some way is not being adequately protected already by the current level competency of people working in the field now. Where are your figures to prove that the profession is not adequately being responsible to the public or is not competent?? Everything in life is always in a state of change and this holds true for the real estate industry as in all industries. For example, one change that has taken place over the last several years in the Juneau market is that transactions involving the selling of many repossessed homes involve more paperwork and persons participating in the paperwork-- but there sure does not seem to be anything difficult in adapting to letting the public know that everything in that particular market takes more time and paperwork. The additional time and paperwork involved in selling many repos over non-repo properties surely can not be the fault of the real estate industry. And if as a business person, I feel selling one particular type of property isn't worth the effort then I don't need to deal in that type of product. I don't bother selling AHFC repos and try to stay away from FDIC repos. The time involved in dealing with their overly bureaucratic system isn't worth the money to me--it takes too long to get paid such a

small amount in most cases. If another real estate professional wants to deal with that type of property then let them. The problem with those type of properties isn't with the real estate professional --it's with the SELLER which in this particular case is a bureaucratic government agency. If a real estate agent or broker chooses freely to deal in those types of sellers or properties then it is in the end that brokers responsibility to do the job correctly. The broker is the private sector individual who freely chooses to deal in any particular type of product and should be responsible for their success and/or failure in their business decisions. If they do not handle selling that type of property or any other type of property correctly then there is already a system in place to protect the public. The system isn't getting more complex--it is the same as it has always been--always in a state of flux.

c) "Requiring additional training focused on office supervisory responsibilities and trust account management prior to being licensed as a broker or associate broker will address the most common causes for complaints received by the division against real estate brokers" (Dept. of Commerce and Economic Dev. Position Paper page 2) It would seem logical to require some sort of skill level in dealing with trust accounts prior to licensing a broker or associate broker but, if they don't know how to add or subtract numbers then don't give them a license. If the current test is deficient in some way perhaps the state should change the test by adding some sort of special trust account section. In addition, requiring some sort of supervisory training is not necessarily pertinent to everyone. Some companies don't have or want staff or agents to supervise--why should they take supervisory training. Some people already have the ability to supervise. And even if a person were given supervisory training it does not mean they will be able to absorb and/or apply any of the information given to them. If a broker is not any good in supervising their staff then they will naturally not earn as much money as other companies, if their business tries to earn money through efforts of agents, nor keep good staff, and perhaps be washed by the wayside in the business world. If a broker is doing something seriously wrong then there are already the statutes in place to protect the public. The real estate regulating body does not need to try to be the judge of what will make a real estate business more successful by demanding education in supervisory responsibility skills or specific education on how to add and subtract numbers in books --I think I learned how to add and subtract in first grade. Neither is it the job description of the real estate regulating body to tell the industry how to be successful in a private sector sales and service business.

d) "Finally, requiring continuing education during each biennial licensing period should assist in ensuring that all real estate professionals are periodically updated on current real estate laws and practices" (Dept. of Commerce and Economic Development Position Paper page 2) Again illogical! If there is a change in state statute pertaining to the real estate laws then all the state real estate office needs to do is send out the changes to each agent and broker. That should be one basic service provided already. And who will tell me what are the updated real estate practices--if I'm not already doing them then I'm not an efficient organized astute business person. The buyers and sellers let you know what are the updated practices and automatically

ask you the questions you need to find answers to--and they set the market standard. You can't get much more consumer oriented than that. And if there are changes in federal laws let the state real estate office send out copies of those too. I don't need to pay someone to read a piece of paper to me in some seminar--I learned how to read in grade school.

e) "Third, the field of real estate is constantly changing with its multitude of financing and tax implications. It is imperative that real estate practitioners remain current on taxes, financing, zoning, equal housing laws, hazardous waste and a myriad of topics to best advise their clients and customers." Letter to Arliss Sturgulewski Jan 17, 1990 from Jim MCourt, President of the Alaska Association of Realtors--Canned educational seminars on all the above will not keep any agent current on the above. I use my phone book and call the appropriate professional or agency when I have a question on any of the above. I don't need a \$300 seminar to answer my zoning questions here in Juneau--I just call the City. If I don't know something about a particular type of financing I call a lender--that's their area of expertise. If a client asks me about tax implications, I suggest they talk with their accountant--that is another profession entirely. If I were to try to become an expert, through canned education programs, in all the fields the President of the Alaskan Association of Realtors suggests, then I would probably make mistakes and get sued. His good advise isn't by my standards a healthy path to follow. The constantly changing world is not a logical reason to have to take canned educational sessions which always seem too watered down and not useful for me. And if a broker thinks one of his agents needs more education, it is that brokers responsibility to correct the situation or be responsible for the consequences of an agent lacking ability in some area.

Who will really profit from passage of the proposed bill as currently written under the guise of "public protection" : the racket the state government employees have going and the National and Alaskan Association of Realtors. We don't need more state employees. We need less state employees. And the National and Alaskan Association of Realtors is the organization who will, if this bill passes, force me to have to pay them money in their effort to make me more wise and more moral under their slogan of "for the good of the public". I think my parents already taught me how to be moral and know the difference between right and wrong by the age of 10. And, I think the public is already wise enough--if you don't like how someone does business you don't have to use their services--the public doesn't need any big brother government helping them think. If someone does wrong to a consumer in their business, then there is already the protection net in place. This bill does not give the average consumer credit for being a thinking responsible person, even though the public does have many other important rights they are trusted with--right to vote, right to freedom of speech, right to free association. Neither myself or the public are second class citizens--I don't want anymore big brother protection. I want protection from government regulations taking away my rights! The people who will smile all the way to the bank in this case is the National and Alaskan Association of Realtors. They will be providing the canned goods to the real estate industry, spoon feeding at their monopolistic prices creating a monopoly in the industry. I RESENT their attempt to

force me to join their glee club, which will happen if I am forced to participate in their "education" system. If I thought they already had something to offer me of value I would inquire or join. Isn't that what private sector--free market is all about. But since their product isn't considered by me and obviously others to be of value as presented through the free market approach, they must try to go through the back door and force me to participate through their using State Government (Dept. of Commerce and Economic Dev.) to promote their cause and lobbying efforts. Maybe I should ring up the Commission and see if he can lobby for me on some issue. I must admit I didn't attend several of the Realtors Association classes but have found them so remedial and so boring it about makes one want to throw up. If you don't believe me try one of their classes yourself! For the type of real estate I deal with I get more out of talking with Dept. of Nat. Resources, Fish and Game, DEC, the City, reading business publications, books and newspapers, talking with my peers in the industry and the CONSUMERS than I've ever got from one of their remedial classes. Let's face it-- you can only learn how to fill out listing forms, earnest money agreements and go to "motivational or goal setting" seminars so often before you learn that type of material. If a business person in the real estate industry does not know how to learn from the market then they are in the wrong business. Besides I just called the local head of the education committee for the Alaska Association of Realtors--we don't even have any classes available here anyway and he said he doesn't even have any idea what educational materials are available statewide. If they aren't even providing a product here and now or to smaller communities then how can they try to say they know that more education is the answer to all their special interest/ real estate industry concerns? The classes if they ever sponsor any in Southeast may provide useful information for some people but currently I have not seen anything pertinent to me or classes helping me make more money or helping me to be a better business person.

Just because Alaska does not have the educational requirements of other states does not mean we are doing something wrong. I would not object to seeing some sort of experience or competency required initially for licensing but the on going education portion is not necessary. But if it is felt that the people passing the test are in some way not competent, then change the test. Additionally, there is not any guarantee we will have or want any reciprocal agreements with any other states if we even did have some sort of "educational requirements". If reciprocal agreements are so important in this industry then why don't we have reciprocal agreements with the four other states that currently have no pre-licensing educational requirements or the 10 other states that have no continuing educational requirements? Alaska is a very different place from any other state--I would think it would be a great risk to try to think I could just jump into the same level, say for example in Washington State as compared to here. Regardless if we had a reciprocal agreement, let's say for example with Washington, it would still take years to gain the same level of competency in that totally different environment. And if there is concern about people who are not competent getting licenses in this state then why even encourage reciprocal agreements in the first place--why not make them pass all tests same as any Alaskan in order to be sure of

their level of competency.

The bill further restricts the private citizen by trying to give the real estate governing agency latitude in deciding who is entitled to be a member of the industry. The way it is written now seems to be just fine--it's currently clear and objective. I haven't heard anything about why they think they need more discretionary judgement rights on who can or who can not receive a license anyway. Here again the bill is chipping away at the rights and strengths of the private sector and public and free market system. I'm not interested in giving any government agency more authority to meddle in my life and business. There is already a list of requirements established objectively outlining what is needed to receive a license. There should not be any need for discretionary authority if the list is clear and objective. If the list is not clear and objective or needs to be changed to make it current with the times, then change the list so that it is clearly understood by the public and pertinent to life today in the State of Alaska.

I resent the bills way of treating me a member of the public like I don't have enough sense to make my own business decisions and downgrading the group of professionals in the real estate industry who at this time show no record of being incompetent. As a member of the public and real estate industry I want protection from further government regulation , protection from special interest groups like the Association of Realtors trying to join forces with Government Agencies (Dept. of Commerce and Economic Dev. and state mandated real estate office staff) trying to force my hard earned money out of my own pocket book. I want protection from those who try to downgrade my business to a second class status like this bill is trying to do. I want protection from those who try to add more state employees while at the same time taking away basic decision making freedoms from the public. I'm tired of public servants (government agencies in this case Dept. of Commerce and Economic Development and state mandated real estate office) trying to gang up against the private sector and lobby against the freedoms of the public. Public servants get paid to dream up these causes in order to really further protect they own skins under the guise of big brother to the public while at the same time lobbying for the National Real Estate Association. No one is paying me to take the time to write this document-- it's my own nickle and my own time. And I made that nickle through my own efforts and through hard work and competency.

This bill is ridiculous--it takes on the mentality of trying to fix something that isn't broken and tries to convict the real estate industry of something they COULD POSSIBLY do wrong in the future when there currently is no evidence of any incompetency in the industry now. If this bill were a case in court the judge would kick it out for lack of evidence.

Sincerely,

Barbara Craig

Barbara Anne Craig
Owner / Broker
P.O. Box 02-0422
Juneau, Alaska 99802

work: 586-9091
home: 364-2818

cc: Senate Labor & Commerce:

Dick Eliason
Pat Rodey
Jan Faiks
J. Kerttula
Jack Coghill

Rep. Bill Hudson



ALASKA ASSOCIATION OF REALTORS, INC.[®]
741 Sesame Street, Suite 100 • Anchorage, Alaska 99503
Telephone 907-563-7133

EDUCATION CALENDAR, 1990

- Jan. 12 HP-12C Advanced Course
- Jan. 15-20 CI 103: Advanced Real Estate Taxation and Marketing
Tools for Investment Real Estate
- Jan. 24-25 Instructor Development Workshop
- March 8-9 RS 201: Listing Strategies for the Residential Specialist
- April 30-May 4 GRI II, Anchorage
- Oct. 11-12 RS 203: Personal and Career Management for the
Residential Specialist



March 6, 1990

Finance Committee
Alaska State Senate
State Capital Building
Juneau, Alaska 99811

Re: Senate Bill 28844

Senators,

It has just come to my attention that SB288, regarding changes to AS08.88 of the Alaskan statutes, contains provision that would require additional education requirements for real estate licensees. I would like to take this opportunity to stress my strong opposition to any provisions that would require "mandatory continuing education".

During my years of service on the Real Estate Commission, including one year as Chairman, there were numerous attempts to get this type of legislation passed. We held many public hearings on this matter and tried to balance the desire with the practicality. While there are acceptable arguments such as, "This is the way it is done in other states so therefore we should do it in Alaska!" or "We have to do something to cut down on the numerous complaints!", our careful analysis always ended in not supporting continuing education as a solution. We simply felt forcing a licensee to sit through a real estate class two days every two years would not materially change the quality of their work. The cost of another layer of bureaucracy versus the expected result is not warranted. I do not feel the arguments for or against mandatory education have changed materially since that time.

It is important to keep the State's position with the real estate industry in perspective when considering the adoption of this type of requirement. The State of Alaska, in it's wisdom, has established a set of laws that regulate the right to perform those functions allowed under AS08.88. You can only perform those functions with a license. Realizing that in the spectrum of the real estate industry that there are all levels of expertise, experience, etc., the law established two levels of licensing, broker and salesman. By passing certain requirements, one can become a salesman. If you have at least two years of experience and pass additional requirements, you can become a Broker. You cannot perform those fuctions authorized in the statutes as a salesman unless your are working under a broker's license. In turn, a Broker can have licensees "working" under his broker's license but the Broker has total responsibility for the actions of the salesmen licensees.

This process is not only simple but affective. The Broker has the responsibility and liability for not only himself but for all of the licensees working under him. The public's recourse is through the courts for damages. The State can prevent further miscarriages

by revoking the license.

The only strong argument against this system was that in many real estate circumstances it was unfair to make someone that had been harmed go through the lengthy court procedure to get monetary recourse. To correct this flaw the surety fund and procedure was established.

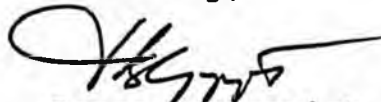
My point is this. The system outlined above works as well as any. Keep it simple and leave clear lines of accountability. It is the licensee's responsibility to educate himself. Since the Broker is responsible he'd better darn well be sure that both he and the licensee's working under him are educated. It is when you cloud this chain of responsibility and accountability that indifference begins. If the State is going to take on a portion this responsibility who is going to be liable? I trust you will not want to accept this liability based upon two days of education every two years.

It is my opinion that strong enforcement of your existing statutes is the solution to improve industry standards, not some mandatory requirement that will only cause dissention and further disburse the liability. If you are inclined to pass this type of legislation, first insist on using the excess surety funds (as they are intended) for voluntary courses. Do this for, say, two years and then get a report. Use this as a test. Poll the licensees. Do they want mandatory education? Do they think it will improve the industry? Remember, many licensees are not Realtors. Realtor is only a designation used by those who belong to a professional organization and many licensees do not espouse to this organizations goals.

In summary, I believe the limited benefits gained from mandatory education are far outweighed by the cost, the insidious bureacracy that will be created, the red tape and the speading of liability resulting from its inception. It is simply not worth the problems that will be caused.

I would be more than happy to discuss this issue with any of you if you so desire. You can reach me in Juneau at 586-8161.

Sincerely,



Lance Youngquist

Folder: Mailbox

Wednesday 03/07/90 07:33 am

To: Randall Burns
Subject: Broker count

From: GRAYCE OAKLEY
Date: 03/06/90

There are 574 licensed brokers in the state, office locations as follows:

Fairbanks, North Pole	44
Wasilla, Palmer, Big Lake	52
Anchorage, Eagle River, Chugiak	383
Kenai, Soldotna	23
Homer, Anchor Point, Ninilchik	13
Kodiak	6
Juneau, Douglas	23
Ketchikan	6
Sitka	3
All other areas*	21

*All others

Bethel	1	Copper Center	1
Dillingham	1	Moose Pass	1
Naknek	1	Seldovia	1
Seward	3	Valdez	2
Willow	3	Delta Junction	2
Nome	1	Tok	1
Gustavus	1	Haines	1
Skagway	1	Wrangell	1

Barbara Craig Realty

(Formerly Barbara Jayo Realty)

P.O. Box 02-0422

Juneau Alaska 99802

(907) 586-9091

March 7, 1990

Real Estate Licenses:

Anchor Point 4
Bethel 2
Copper Center 1
Dillingham 1
Slana 1
Girdwood 7
Homer 33
Kenai 38
Kodiak 27
Moose Pass 1
Naknek 1
Nikiski 7
Nenilchik 3
Ouzinkie 1
Big Lake 13
Seldovia 3
Seward 12
Soldotna 38
Sterling 5
Talkeetna 1
Valdez 6
Willow 6
Dutch Harbor 1
Fairbanks 165
College 2
North Pole 17
Salcha 1
Barrow 2
Delta Junction 8
Nome 2
Tok 2
Juneau 80
Gustavus 1
Sitka 9
Ketchikan 18
Craig 1
Wrangell 1
Haines 1

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

3/6/90
Barbara Craig
STEVE COWPER, GOVERNOR

7TH FLOOR FRONTIER BLDG.
3801 C STREET, SUITE 722
ANCHORAGE, ALASKA 99503
PHONE: (907) 861-2878

To: Gordon Harrison
Legislative Research Agency
From: Grayce Oakley, Executive Secretary *GAO*
Real Estate Commission
Date: March 5, 1990
Re: Request for Surety Fund Information

I was attending a surety fund hearing when your faxed request arrived Thursday. The hearing did not recess until late Friday afternoon. I understand from Terry McGillivary that when she told you the volume involved with minutes of commission meetings, you deleted that request. Here are the remaining statistics:

	FY 86	FY 87	FY 88	FY 89
Income	\$266,960	\$ 26,840	\$205,342	\$ 38,704
Expenses for Claim Settlements	52,357	88,619	90,860	118,031
Expenses paid for Education	136,703	126,239	89,182	76,882
Appropriated for Education*	145,000	145,000	145,000	145,000

* Although the appropriation remained constant, the actual expenditures were cut back because of the anticipated heavier payouts as a backlog of claims were resolved in FY 88 and FY 89.

Current Balance as of June 30, 1989:	\$243,121.
Plus estimated renewal income--FY 90:	302,000
Less claims paid in FY 90:	28,000
Less claims approved 2/22/90	70,542
Less estimated education expenses FY 90:	100,000
Less claims currently on appeal	97,000
Estimated current available balance:	\$249,000

Uehling 5/6

Barbara Craig Realty
(Formerly Barbara Jaye Realty)

P.O. Box 02-0422
Juneau Alaska 99802
(907) 586-9091

March 6, 1990

Finance Committee/SB288-Real Estate

The portion of the bill I am against is Sec. 2 (d)--which would require 20 hours of continuing education to get my real estate license renewed.

Education will not make a dishonest person more honest. People generally learn standards of honesty by age 10. I do not believe continuing education will change the basis moral fiber of people therefore the public will not be any more protected.

If the Real Estate Commission has a full time Education Coordinator, Terry McGillivray who puts out a quarterly newsletter, then why isn't that Education Coordinator including important information or case law data in the newsletter? Why isn't the Education Coordinator sending out yearly updated State Statutes, Ak. Administrative Code and Regs in order to keep the people in the industry informed? I pay into the Surety Fund for important data or educational information--I'm a consumer--where is my important updated information I pay for?

If the continuing education requirement was dropped from the bill, then would there be the need to hire an additional state employee as the fiscal note indicates?

In 1989 I received for my payment into the surety fund 4 each newsletters and I believe that is all! I think the RE Commission Education Coordinator should mail out each year:

- a) the quarterly newsletter containing important case law info and other changes and data the RE Commission thinks are vital
- b) updated set of Statutes dealing with real estate, AAC and Regs by registered mail which will assure agents and brokers have the updated information
- c) copy of the trust account manual the RE Commission developed
- d) Brokers kit which is intended as a desk reference for brokers (the RE Commission claims it is nearly complete if not already finished).

I am not for this bill as it now stands because it 1) creates an unnecessary state job 2) it unnecessarily regulates the industry through forced central government planned educational requirements 3) and no stastical data has been presented by anyone showing that there are any more or less honest people in the industry now compared to the past.

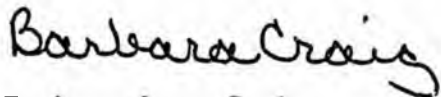
It is my understanding that a number of the surety fund payments being made now are from claims that are YEARS old and have not been responsibly handled until now

which has resulted in heavy draws on the current fund. No one has presented data to prove that current claims are any higher or lower or worse or better than those in the past--only that current claims and complaints are being handled in a more timely fashion now.

Prelicensing educational requirements are something entirely different from the ongoing educational requirements for licensing renewal. Those two distinct matters should be separated when dealing with this bill. I am against the ongoing educational requirements for renewal of license. How can any state government controlled ongoing education program provide equal educational opportunities for people in Kodiak, Nome, Ketchikan, Juneau and Anchorage. Each community is very different and has different needs. If you eliminate the ongoing educational requirements for license renewal (Sec. 1 (d)) then the fiscal note should reflect zero cost for the remainder of the bill-- it should not be necessary to hire additional staff if no central government controlled education programs for renewal of license are approved. In addition the RE Commission anticipates they will spend approx \$25,000 more for education this year over last and those funds are paid directly by people working in the industry. I would be happy to receive the items listed above as fair exchange for my payment into the Surety Fund. But leave the subject matter and methods of ongoing education needed in my business up to me.

Our licensing test is reportedly similar to the test of 25 other states--we are doing exactly what other states are doing, but it is claimed by some not to be working. So should we blindly follow what some states do regarding continuing education? Should we also blindly follow what other states think about locking up Alaska for a wilderness park? Should we also follow the same path in their approach to wetlands? We should learn from other States and find out how they do things but not necessarily follow them. Just because other states have different methods for dealing with an industry does not mean we need to blindly follow their example. Let's think things out slowly and carefully for ourselves. Let's take the time to think about what is best for Alaska and work on what is best for us here and now and for our future.

Respectfully,



Barbara Anne Craig
Owner/Broker

BY SEN. STURGULEWSKI

1 IN THE SENATE

2 SPONSOR SUBSTITUTE FOR SENATE BILL NO. 288

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND 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 08.88.081 is amended to read:

10 Sec. 08.88.081. COMMISSION REGULATIONS. The commission shall
11 adopt regulations necessary to carry out the purposes of this chapter.
12 [PERTAINING TO THE RESPONSIBILITIES OF PERSONS LICENSED UNDER THIS
13 CHAPTER AND THE GROUNDS FOR REVOKING OR SUSPENDING A LICENSE].

14 * Sec. 2. AS 08.88.091 is amended by adding new subsections to read:

15 (b) An applicant for licensure under AS 08.88.171(c) must com-
16 plete 20 hours of education approved by the commission before the
17 person may be licensed under that subsection.

18 (c) An applicant for licensure under AS 08.88.171(a) or (b) must
19 complete 15 hours of education approved by the commission before the
20 person may be licensed under either of those subsections.

21 * ~~(d) A person who is licensed under this chapter must complete 20~~
22 ~~hours of continuing education approved by the commission before the~~
23 ~~person's license may be renewed.~~

24 (e) The commission may not approve an education or ~~continuing~~
25 ~~education~~ course required under this section unless the commission
26 certifies the course outline and approves the instructor of the course
27 before the course is conducted.

28 * Sec. 3. AS 08.88.171(a) is amended to read:

29 (a) A person is eligible for [ENTITLED TO] a real estate broker

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

STEVE COWPER, GOVERNOR

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SUMMARY

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Office Registration
Partnership/Corporation Affidavit
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Surety Fund Claim for Payment

THE REAL ESTATE SURETY FUND

Legislation enacted in 1974 created the Real Estate Surety Fund with a twofold purpose. First it provided indemnification up to \$10,000 per transaction for judgments awarded by the courts to persons who suffered a financial loss because of a licensee's actions that involved fraud, deceit, misrepresentation or conversion of trust funds. Second, it could be a source of funding for real estate education of both the public and licensees after reaching the specified minimum balance of \$250,000.

The Commission-sponsored seminars held periodically in major population areas of the state and the publication of the Listing and Earnest Money Manual are the tangible results of the second stated purpose.

The first and primary purpose of providing indemnity to satisfy uncollectable judgments against real estate licensees was begun when the first surety fund fees were paid into the fund concurrent with the 1976 biennial license renewal.

A 1980 legislative amendment removed the previous requirement that the claimant first obtain a civil court judgment and gave the Commission the quasi-judicial role of adjudicating the surety fund claims via administrative hearings. Since 1980, the basic procedures outlined in AS 44.62.330-630 have been used in conjunction with specific surety fund claim processing instructions set forth in the regulations (12 AAC 64.280-330) adopted by the Commission in December 1982.

Surety Fund Authorization

AS 08.88.450

The Real Estate Surety Fund is administered as a special account of the state's general fund. The primary source of revenue is the fee paid by each licensee in lieu of bonding. Filing fees paid by claimants that are retained by the Commission are also deposited into this account. It may not exceed \$500,000 and any amounts in excess of \$250,000 may be designated for real estate educational purposes, such as those named in AS 08.88.091.

AS 08.88.455

With each initial application for a real estate license and the subsequent renewals, the applicant must pay a surety fund fee of up to \$125. The Commission has the authority to adjust the amount of the fee by regulation, but may not make it higher than \$125 per licensing period. When making an adjustment, the anticipated needs for claims and educational expenses must be considered simultaneously with the statutory directive to maintain a minimum fund balance of \$250,000.

* { Expenditures from the fund for educational purposes are submitted in advance with the proposed budget for the Commission and appropriated from the fund by the legislature.

Supervising Licensed Personnel

- AS 08.88.071 (c) An individual licensee's conduct is not blamed on the broker unless he/she has knowledge of and agrees to it ahead of time or condones it by remaining silent. However, a broker is responsible for supervising the activities of the licensees in the office and for reviewing all agreements relevant to the transactions they produce. This encompasses listings, purchase agreements, addendums, occupancy agreements, etc. The broker is responsible for the conduct he/she should know about in the course of exercising adequate supervision, including trust account records of property owned and managed by the licensee.

Record Keeping

- AS 08.88.331 A licensee must process all transactions through his/her broker, and all money collected by the licensees must be turned over the broker. In turn, the broker must account for all monies he/she receives. Transactions where the licensee is a principal in the transaction must also be processed through the broker.
- AS 08.88.351 A major responsibility of the broker is keeping records. This includes:
- 1) Keeping a complete record of all the real estate transactions of the office for at least three years.
 - 2) Preparing a closing statement accounting for all money receipts and disbursements in each transaction.
 - 3) Maintaining a trust account for separate handling of other people's money temporarily entrusted to his/her keeping. Specific requirements for trust account records are discussed later in this section.
 - 4) Making trust account records available to the Commission for audit.
- 12 AAC 64.135 (a) The Commission must give a broker 72 hours notice to conduct an inspection of transaction records. The inspection is to be done during normal business hours (between 8 a.m. and 5 p.m. Monday through Friday). The Commission is entitled to see listing agreements, purchase agreements, trust account deposit and disbursement records, closing statements, and broker/licensee communications regarding transactions.
- 12 AAC 64.135 (b) The Commission may order a trust account audit without prior notice. The auditor must present the notice during normal business hours. In this circumstance, the broker can request a 24-hour delay, but the trust records must be secured by the auditor for the duration of the delay.

MAINTAINING AN ACTIVE REAL ESTATE LICENSE

An active license is one which is issued in conformity with the criteria described in the preceding section and has not been revoked, suspended, allowed to lapse, or placed on inactive status.

Once obtained, a license is valid as long as the person continues in that position, pays the appropriate renewal fees and does not incur disciplinary action resulting in a suspension or revocation of his/her license.

AS 08.88.455

When & where

Although Alaska does not have a continuing education requirement for license renewal, the Commission encourages licensees to further their professional growth by sponsoring educational courses funded by Surety Fund monies collected in excess of the minimum balance in the fund.

Activities Requiring a License

In general, people who provide real estate services for others for pay must be licensed. A person can sell his/her own property without a license; or a person fitting the exceptions listed in AS 08.88.421 need not be licensed, but usually, only a licensed person can sell property for others.

AS 08.88.161

The activities that are considered "dealing in real estate" for which a person must be licensed are:

- 1) Selling, exchanging, renting, leasing, auctioning or buying real estate.
- 2) Listing real estate for sale, exchange, rent, or lease. Listing means contracting with a property owner to act as his agent in marketing his property. The fee or commission paid for this service is usually based on a percentage of the sale price.
- 3) Collecting rent for the use of real estate.
- 4) Dealing in real estate options for the improvement, purchase or lease of real property. An option is the right to purchase, lease or improve the property in the future at a predetermined price.
- 5) Helping to find a buyer for a parcel of real property and/or assisting in the negotiation of a real estate transaction.
- 6) Presenting oneself to the public as doing any of these things.
- 7) Trying to offer to do any of the above listed things.

Examination Content

AS 08.88.191

The Commission is required to offer a real estate exam at least once a year. In Anchorage it is given twelve times a year; in Fairbanks, Juneau and Kenai the exam is offered quarterly. Other locations are by individual application.

There are two versions: the salesperson's and the broker's exam. Alaska is one of the 25 states whose Commission contracts with Educational Testing Service (ETS) of New Jersey to prepare, administer and grade both versions of the exam. The Commission is responsible for reviewing exam contents, but ETS retains full copyright over its examinations, including the portions covering the individual state's statutes.**

The broker's exam is a little longer and more difficult than the salesperson's, but both cover essentially the same material. Five hours are allowed to complete either exam.

Approximately three-fourths of the exam is uniform for all states on general real estate principles and includes such topics as: real estate contracts, financing, deeds, interest in real property, condominiums, fair housing, agency, property management, settlement procedures, appraisals, planning and zoning, property descriptions, and taxes and assessment. The remainder is tailored to the statutes and regulations of each state. In Alaska it encompasses the following statutes and regulations with additional emphasis in the broker's exam on trust account and supervisory responsibilities:

AS 08.88.011-500	Real Estate Brokers and Salesmen
AS 34.03.010-380	Uniform Residential Landlord and Tenant Act
AS 34.08.010-995	Uniform Common Interest Ownership Act
AS 45.55.010-270	Alaska Securities Act of 1959
12 AAC 64.010-950	Real Estate Regulations

A copy of these statutes can be obtained for \$15 plus \$5 for mailing from the Commission office. Also available is an information bulletin published by ETS that outlines testing and scoring procedures and provides sample questions for both exams.

Administration of the Exam

AS 08.01.050

Exams are given on the fourth Saturday of the month unless that is a holiday weekend. In those months, the exam is on the third Saturday. Notices are published in local newspapers prior to the exam in each community where it is offered. The application forms to preregister for taking the exam are available at the office or from most of the pre-licensing schools. An application form and the \$65 exam fee should be mailed to ETS before the first of the month in which an individual wishes to take the exam. He/she should receive an admission ticket from ETS at least one week

AS 08.88.221
12 AAC 64.910

12 AAC 64.040

extortion, conspiracy to defraud creditors, or any other felony involving moral turpitude, or, if convicted of such an offense, the person has completed the sentence imposed upon conviction, and if the person is employed by a real estate broker. Unless the salesman fails to pay the biennial renewal fee or unless the real estate salesman's license is suspended or revoked under AS 08.88.071(a)(3), a real estate salesman's license continues in effect so long as the salesman is employed as a salesman by a licensed real estate broker. If the salesman stops being employed as a real estate salesman, the real estate salesman's license is suspended from the time the salesman stops until the salesman again is employed as a salesman by a licensed real estate broker.

(d) A licensee shall promptly inform the commission of a change in business association that affects the status of the licensee's license under this section. (sec. 1 ch 95 SLA 1964; am sec. 3 ch 130 SLA 1966; am sec. 1 ch 55 SLA 1969; am secs. 5-7 ch 28 SLA 1974; am secs. 12-15 ch 167 SLA 1980)

NOTES TO DECISIONS. Relationship between brokers and salespersons. — The Alaska statutory system governing real estate brokers and salespersons implies that the relationship is one of employer and employee. Calvo v. Calhoun, Sup. Ct. Op. No. 1368 (File No. 2839), 559 P.2d 111 (1977)

Applied in Black v. Dahl, Sup. Ct. Op. No. 2318 (File No. 4770), 625 P.2d 876 (1981).

Collateral references. — Real estate broker. 39 ALR2d 606.

Attorney's right to act as real estate broker without having been licensed as such. 99 ALR2d 1151.

Licensed real estate broker's right to compensation as affected by lack of license on the part of partners, coadventurers, employees, or other associates. 8 ALR3d 523.

Procurement of real estate broker's license subsequent to execution of contract for services as entitling broker to compensation for service. 80 ALR3d 318.

Necessity of having real estate broker's license in order to recover commission as affected by fact that business sold included real property. 82 ALR3d 1139.

→ **Sec. 08.88.181. Content of examination.** (a) The real estate examination may include, but is not necessarily limited to, questions on business ethics; arithmetic; elementary principles of land economics and appraisal; the general principles in state statutes relating to deeds, mortgages, real estate contracts, subdivisions, legal descriptions, building restrictions, agency and brokerage; and the general provisions of this chapter and of the regulations of the commission.

(b) The real estate salesman examination covers the same subjects as the real estate broker examination, but is less difficult.

(7)

→ **(c) The only purpose of an examination under this chapter is to disqualify those whose lack of ability to participate in real estate transactions would create a serious risk of serious financial loss to members of the public.** (sec. 1 ch 95 SLA 1964; am sec. 2 ch 55 SLA 1969; am sec. 16 ch 167 SLA 1980)

Sec. 08.88.191. Administration of examination. (a) The commission shall offer written examinations at periodic intervals but at least once a year.

(b) If the commission contracts with a national testing service to prepare, administer and grade examinations,

→ **(1) the commission shall review the examination and approve its contents;**

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

(c) An applicant who fails the written examination may request that the examination be reevaluated. The commission shall provide by regulation for a system of reevaluating examinations on request of an applicant who fails the examination. The system provided by the commission may provide for reevaluation by the testing service or by any other person. (sec. 1 ch 95 SLA 1964; am sec. 2 ch 108 SLA 1970; am secs. 1, 2 ch 24 SLA 1972; am sec. 8 ch 28 SLA 1974; am sec. 17 ch 167 SLA 1980)

Sec. 08.88.201. Reexamination. A person who fails an examination may apply for a subsequent examination, but shall pay the application fee for each application. (sec. 1 ch 95 SLA 1964; am sec. 32 ch 6 SLA 1984)

Sec. 08.88.061. Assistants. The commission may employ assistants to

(1) prepare questions on examinations;

(2) grade examinations;

(3) investigate alleged violations of this chapter. (sec. 1 ch 95 SLA 1964; am sec. 57 ch 218 SLA 1976; am sec. 4 ch 167 SLA 1980)

Sec. 08.88.071. Duties of the commission. (a) The commission shall

(1) pass on qualifications of applicants for licenses and issue licenses to those who qualify;

→ (2) prepare and grade examinations;

(3) after hearing, have the authority to suspend or revoke the license of a licensee who

(A) with respect to a real estate transaction

(i) made a substantial misrepresentation;

(ii) made a false promise likely to influence, persuade, or induce;

(iii) in the case of a real estate broker, pursued a flagrant course of misrepresentation or made a false promise through an agent, associate real estate broker, or real estate salesman;

(iv) has engaged in conduct that is fraudulent or dishonest;

(v) violates AS 08.88.391;

(B) procures a license by deceiving the commission, or aids another to do so;

(C) has engaged in conduct in which the commission had no knowledge at the time the licensee was licensed demonstrating the licensee's unfitness to engage in the business for which the licensee is licensed;

(D) knowingly authorizes, directs, connives at or aids in publishing, distributing, or circulating a material false statement or misrepresentation concerning the licensee's business or concerning real estate for sale in the licensee's business in this or any other state;

(E) if a real estate broker, wilfully violates AS 08.88.171(d) or 08.88.291;

(F) if an associate real estate broker, claims to be a real estate broker, or, if a real estate salesman, claims to be a real estate broker or associate real estate broker;

(G) if a real estate broker, employs an unlicensed associate real estate broker or real estate salesman;

(H) if an associate real estate broker or real estate salesman, fails immediately to turn money collected in a real estate transaction over to the employing real estate broker;

(4) prosecute, through the Department of Law, violations of the provisions of this chapter or lawful regulations promulgated under this chapter;

Annual Report for
FY 87, 88, 89

STATE OF ALASKA
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
Real Estate Commission

To: Grayce Oakley 6 July 1989
From: Joseph P Koss, Jr. *JPIC*
Subject: Activity summary for FY 1989

Opening Inventory	60		
Complaints filed	<u>71</u>		
		131	
Closed without action	(57)		
License actions	<u>(18)</u>		
Total complaints closed		(<u>75</u>)	
Closing inventory			<u>56</u>

Action	Licensees	Complaints
Revoked	6	8
Suspended	2	4
Denied	1	1
Reprimand	1	1
Dismiss	1	1
Fined	2	3

- Revoked--Burbridge, Hartlieb, Staniszewski, Szymanski, Travers, Yoder
- Suspended--Rich, Shelden
- Denied--McGahan
- Reprimand--Rice
- Dismiss--Carter
- Fined--Klug, Klug

Eleven random trust account audits were completed, with results published in the newsletter.

SURETY FUND CLAIM STATISTICS

	FY89	
Opening inventory	47	
(includes 2 appeals to Superior Court)		
New claims filed	<u>16</u>	
Total claim inventory		63
Claims paid		
Approved FY88, paid FY89	6	\$ 46,449
Approved & paid FY89	11	75,806
Approved FY89, payment pending	<u>0</u>	
Total claims paid FY89		<u>\$122,255</u>
Claims closed without payment		
Withdrawn/settled before hearing	3	
Dismissed	3	
Denied	<u>14</u>	
Total		20
Appeals		
Filed in Superior Court in FY89	7	
(1 appeal dismissed)		
(6 pending)		
Carried over from FY88	2	
(1 sustained REC decision; appealed to Supreme Court)		
(1 dismissed; closed unless appealed to Supreme Court)		
Total appeals pending		<u>[7]</u>
Total claims closed		30
Closing inventory		33
Of the closing inventory		
For REC action this meeting	17	
In progress, filed in FY89	7	
Appeals pending	7	
In abeyance	2	

SURETY FUND CLAIM STATISTICS

	FY88	
Opening inventory	67	
New claims filed	<u>11</u>	
Total claim inventory		78
Approved & paid in 88	2	
Approved in 88, paid in 89	4	
Approved in 88, pmt. pending	3	
Approved in 88, withdrawn after appeal filed	1	
Approved pre-88, paid in 88	<u>1</u>	
Total Claims Paid in FY88		11
Dismissed	7	
Appeal pending	<u>(1)</u>	
Total Dismissed		6
Denied	17	
Appeal pending	<u>(1)</u>	
Total Denied		<u>16</u>
Total Claim Files Closed/closed		<u>33</u>
Closing Inventory		<u>45</u>

In addition to the above claims listed as paid, checks were delivered on three claims charged to the fund in FY87 for a total of \$30,000.

STATE OF ALASKA
 DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
 DIVISION OF OCCUPATIONAL LICENSING
 Summary of Investigative Activity for FY 1988

Opening inventory	147	
Complaints filed	<u>106</u>	
		253
Closed without action	(161)	
Closed active	(1)	
License actions	(<u>31</u>)	
Total complaints closed		(193)
Closing inventory		<u>60</u>

	Licensees	Complaints
Revoked	10	21
Suspended	1	1
Denied	1	1
Probation	2	3
Reprimand	1	1
Dismiss	5	4

Revoked	Brown, Palmer, Poulson, Saxon, Gentry, Cotro-Manes, Walton, Jones, Crowell, Thomas
Suspended	Stephens
Denied	Armbruster
Probation	Rockstad, Harness
Reprimanded	Batchelor
Dismissed	Tapley, Walrath, Morgan, Rough, Wilson

Note--the numbers of cases closed do not match exactly with the names shown above because four individuals had multiple complaints filed against them and because three complaints resulted in multiple license actions.

FY 87

License Actions Taken

Shoultz, Rita	Accusation withdrawn.	070386
Clark, Terri	Accusation withdrawn.	071686
Smith, Linda	Statement of Issues dismissed.	071686
Lange, William	Associate broker license application withdrawn.	081586
Mathis, Joe	Salesman license denied; uncontested.	081586
Rutledge, John	Broker license denied; uncontested.	081586
Shafer, Gene	Associate broker license denied; uncontested.	081586
Price, William	Salesman license revoked; reinstated; contested.	091986
Ballard, Edrie	Broker license revoked; uncontested.	091986
Lange, William	Salesman license retained; contested.	112286
Hanson, Ted	Salesman license retained; contested.	112286
West, Robert	Salesman license granted; contested.	112286
Koch, Larry	Broker license revoked; contested.	011687
Green, Janet	Salesman license revoked; uncontested.	011687
Pahoresky, Herbert	Salesman license reinstated; contested.	011687
Rockstad, Lynn	Salesman license retained; NSF; contested.	011687
Jackson, Carol	Salesman license retained; NSF; contested.	011687
Wyatt, Sarah	Salesman license revoked; NSF; uncontested.	020787
West, Jo Nyla	Salesman license revoked; NSF; uncontested.	020787
Boyd, Biff	Salesman license revoked; NSF; uncontested.	020787
Sayer, Robert	Broker license revoked; NSF; uncontested.	020787
Hennings, Kerry	Salesman license revoked; NSF; uncontested.	020787

License Complaints Summary

Opening Inventory	164	
Filed	<u>106</u>	
		270
Closed without action	(74)	
Closed active	(36)	
License actions	<u>(13)</u>	
Total closed		<u>(123)</u>
Closing inventory		<u>147</u>

Surety Claims Summary

Opening Inventory	44	
Filed	<u>45</u>	
		89
Paid	(11)	
Dismissed	(6)	
Denied	<u>(5)</u>	
Total Closed		<u>(22)</u>
Closing Inventory		<u>67</u>

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Anchorage, AK 99501-3587
Telephone: 907 272-2482



State of Alaska
Department of Commerce & Economic Development
Division of Occupational Licensing
Alaska Real Estate Commission
Real Estate Surety Fund

We have compiled the accompanying statements of receipts and disbursements of the Alaska Real Estate Commission, Real Estate Surety Fund, for the years ended June 30, 1987 and 1986, in accordance with standards established by the American Institute of Certified Public Accountants.

Our compilation was limited to presenting in the form prescribed by the Alaska Real Estate Commission, information that is the representation of management. We have not audited or reviewed the financial statements referred to above and, accordingly, do not express an opinion or any other form of assurance on them.

The financial statements are presented in accordance with the requirements of the Alaska Real Estate Commission which differ from generally accepted accounting principles. Accordingly, these financial statements are not designed for those who are not informed about such differences.

Touche Ross & Co.

Certified Public Accountants
April 14, 1988

STATE OF ALASKA
 DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
 DIVISION OF OCCUPATIONAL LICENSING
 ALASKA REAL ESTATE COMMISSION
REAL ESTATE SURETY FUND

STATEMENTS OF RECEIPTS AND DISBURSEMENTS

	<u>Year ended June 30,</u>	
	<u>1987</u>	<u>1986</u>
RECEIPTS:		
Licensee fees	\$ 26,840	\$266,960
Recoveries of claims paid	18,468	8,009
Claim filing fees	9,250	8,750
Exam fees from ETS	3,745	
Educational reimbursements	<u>2,166</u>	<u>635</u>
TOTAL RECEIPTS	<u>60,469</u>	<u>284,354</u>
DISBURSEMENTS:		
Educational	126,239	136,703
Claims paid	160,804	52,357
Filing fee reimbursements	4,750	500
Hearing	3,156	5,072
Licensee fee reimbursements	1,135	750
NSF adjustments to licensee fee receipts	320	2,125
Reimbursement of recoveries of claims paid		<u>2550</u>
TOTAL DISBURSEMENTS	<u>296,404</u>	<u>200,057</u>
EXCESS (DEFICIENCY) OF RECEIPTS OVER DISBURSEMENTS	<u>\$(235,935)</u>	<u>\$ 84,297</u>

See accountants' compilation report
 and note to statements of receipts and disbursements.

STATE OF ALASKA
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
ALASKA REAL ESTATE COMMISSION
REAL ESTATE SURETY FUND

NOTE TO STATEMENTS OF RECEIPTS AND DISBURSEMENTS

YEARS ENDED JUNE 30, 1987 AND 1986

A. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES:

Organization -

The Real Estate Surety Fund is a designated fund within the General Fund of the State of Alaska. The primary purpose of the Fund is to reimburse consumers who have suffered losses because of the unlawful actions of a licensee. There is a statutory limitation of \$50,000 per licensee on such reimbursements. In addition, there is a \$10,000 cap, including interest paid, per transaction. The Fund may not exceed \$500,000. Amounts in the Fund in excess of \$250,000 may be appropriated for real estate educational purposes. The fund did not exceed \$500,000 at June 30, 1987 or 1986.

A portion of the initial licensee fee is deposited to the fund. Every other year, licensees are required to renew their licenses, and a portion of this renewal fee is also deposited to the fund.

Basis of reporting -

The Fund prepares financial statements using the cash receipts and disbursements basis of accounting. This policy recognizes revenue when received rather than when earned, and expenses when paid rather than when obligations are incurred. The financial statements are not intended to comply with generally accepted accounting principles.

April 14, 1988

State of Alaska
Department of Commerce & Economic Development
Division of Occupational Licensing
3601 C Street, Suite 722
Anchorage, Alaska 99503

At your request, we have performed the procedures enumerated below with respect to the receipts and disbursements of the Real Estate Commission, Real Estate Surety Fund, of the above-referenced Department and Division of the State of Alaska for the years ended June 30, 1987 and 1986. It is understood that this report is solely for the information of the Real Estate Commission for management practices and is not to be used for any other purpose.

Because the procedures listed below do not constitute an examination made in accordance with generally accepted auditing standards, we do not express an opinion on any of the items referred to below. Had we performed additional procedures, or had we made an examination of the financial statements in accordance with generally accepted auditing standards, other matters might have come to our attention that would have been reported to you. This report relates only to the accounts and items specified below and does not extend to any financial statements of the Real Estate Surety Fund taken as a whole.

STATEMENTS OF RECEIPTS AND DISBURSEMENTS

We have compiled statements, attached to this report, of receipts and disbursements of the fund for the years ended June 30, 1987 and 1986.

Receipts -

Lois Waugh, Licensing Examiner for the period under investigation, provided us with a summary of receipts by day (receipt batches). In some cases, Lois did not have the information available. For example, summaries were not available for the period July 1, 1985 through September 10, 1985. In those cases, we obtained the information through Philanne Bennett, Fiscal Officer for the Department of Commerce in Juneau. Receipt batches were sequentially numbered. We accounted for all numbers except receipt number 800002. Neither the Anchorage office nor the Juneau office were able to locate this receipt batch. The receipt batches were totaled to arrive at gross receipts.

Based on information obtained through discussions with Grayce Oakley, Executive Secretary, Alaska Real Estate Commission, we classified the receipts into categories as follows:

\$40 - Old renewal fee (Note: Per statutes, all renewal fees for this period should have been at the \$80 level. However, our work revealed amounts in this category of \$40 and \$880 for fiscal year ended June 30, 1987 and 1988, respectively).

\$80 - Initial licensee fees and renewal fees.

\$250- Surety claim filing fees.

Odd Amounts - Claim reimbursements from licensees and miscellaneous items which are mainly reimbursements for educational materials provided to licensees.

While performing the classification procedure, some discrepancies were located between summaries and detail. In those cases, the detail was examined to see which was correct and, if necessary, an adjustment was made to the summary receipt batch total.

Where the composition of a batch was not immediately evident, we referred to a listing of the amounts individually. Again, in some instances, Lois (Anchorage) did not have the information, and we obtained it from Philanne (Juneau). Where a gross amount on a batch receipt was divisible by \$80.00, we assigned the whole batch to the \$80.00 category (licensee fees). We discussed this procedure with Grayce Oakley. She concurred that it would not result in any material misclassifications. In addition, we checked the back-up on the larger receipt batches of this kind of receipt to determine that the composition was indeed all \$80.00 amounts.

We obtained, from the Alaska Real Estate Commission's annual reports to the State, the number of new licenses issued for each fiscal year. Since fiscal year 1986 was a renewal year, we also obtained the number of active license renewals for that year and prepared the following analysis.

	<u>1987</u>	<u>1986</u>
Number of new licenses issued	260	540
Number of active license renewals		<u>2,492</u>
Rate per statutes	\$ <u>80</u>	\$ <u>3,032</u> <u>80</u>
Expected licensee fee receipts	20,800	242,560
Per receipt batch information	<u>26,840</u>	<u>266,960</u>
Difference	<u>\$ 6,040</u>	<u>\$ 24,400</u>

The above indicates that the licensee receipts may be overstated for each year or that the issue and renewal numbers taken from the annual report are incorrect. No attempts were made at reconciling these differences. Discussions with Grayce Oakley indicate there should be some allowance made for untabulated sales of educational materials for each year.

Surety claims filing fees

Grayce Oakley provided us with beginning and ending claim filing numbers for each fiscal year. Based on this information, we calculated the expected receipts from claim filing fees as follows:

	<u>1987</u>	<u>1986</u>
Number of claims filed	48	37
Claim filing fee per statutes	\$ 250	\$ 250
Expected receipts	12,000	9,250
Per receipt batch information	<u>9,250</u>	<u>8,750</u>
Difference	<u>\$(2,750)</u>	<u>\$ (500)</u>

No explanation was available for these discrepancies.

Recoveries of claims paid

Grayce Oakley provided us a listing of recoveries from licensees maintained by the Anchorage office, which we summarized. This was compared to information obtained in Juneau (see Exhibit 1).

DISBURSEMENTS:

Disbursements are compiled from information obtained in Juneau; Anchorage retains information only for claims paid.

Juneau provided a report "Special Period Audit Trail Report." This report lists transactions individually by collocation and account code. From this report, we requested supporting documentation for disbursements in excess of \$100.00. The primary form of documentation was invoices. On occasion documentation given to us consisted only of a memo from James Magowan, or in one case from Betty Robertson. We did not include this type of back-up in the documentation available category; rather we classified such expenditures as documentation unavailable. For those disbursements, which had back-up available, we examined the documentation to determine if authorization for this specific disbursement was noted and, if so, whose authorization was present.

A summary of documentation requested appears below. A summary of authorizations appears on page 5.

	<u>1987</u>	<u>\$</u>	<u>1986</u>	<u>\$</u>
Total disbursements	\$296,404		\$200,057	
Documentation requested	264,218	89	178,314	89
Documentation unavailable	<u>19,263</u>	<u>5</u>	<u>17,175</u>	<u>10</u>
Documentation available and examined	<u>\$244,955</u>	<u>84</u>	<u>\$161,139</u>	<u>79</u>

Breakdown of documentation unavailable category:

	<u>1987</u>	<u>1986</u>
No documentation, authorization or other paperwork available	\$14,608	\$13,494
Memos from James Magowan	4,655	2,363
Memos from Betty Robertson		1,318
	<u>\$19,263</u>	<u>\$17,175</u>

Components of disbursements are as follows:

	<u>1987</u>	<u>1986</u>
Disbursements:		
Claims paid	\$160,804	\$ 52,357
Educational	126,239	136,703
Filing fee reimbursements	4,750	500
Hearing	3,156	5,072
Licensee fee reimbursements	1,135	750
NSF adjustments to licensee fee receipts	320	2,125
Reimbursement of recoveries of claims paid		2550
Total disbursements	<u>\$296,404</u>	<u>\$200,057</u>

Authorization for disbursements took the following form:

Claims paid: All claims paid had the executed proposed decision attached and the amounts disbursed agreed to the proposed decision (see Exhibits 2 and 3 for a listing of claims paid).

Payroll expenditures within the Educational category: From the payroll registers in Juneau, we determined which individual's salaries were being charged to the fund. In both 1987 and

1986, varying percentages of James Magowan, Joseph Koss, Lois Waugh and Terry McGillivary's salaries have been charged to the fund. Juneau retrieved the personnel action forms on these individuals, and we examined them for Real Estate Surety Fund allocations. Additional payroll charges entered, by journal entry, were charged to the fund. Per discussion with Philanne Bennett, these additional charges were the result of a study performed by James Magowan.

Other charges: Authorization was in the form of signatures or initials on invoices or memos signed by James Magowan. Following is a breakdown of the types of authorizations found for expenditures other than claims or payroll:

	<u>1987</u>	<u>%</u>	<u>1986</u>	<u>%</u>
Magowan	\$14,442	56	\$53,380	60
Walrod	4,350	17	27,181	31
McGillivary	2,776	11		
Magowan/Walrod			1,827	2
No authorization (see Exhibit 4)	<u>4,038</u>	<u>16</u>	<u>6,663</u>	<u>7</u>
Documentation provided for disbursements other than claims or payroll	<u>\$25,606</u>	<u>100</u>	<u>\$89,051</u>	<u>100</u>

RECONCILIATION OF RECEIPT INFORMATION TO JUNEAU:

We compared the receipt information obtained through examination of the batch receipts to information obtained from Juneau. Juneau records certain disbursements as debits to the revenue accounts. These items are claim payments, licensee fee reimbursements, and claim reimbursement refunds. These amounts are reflected in collocation code number 08-53-8-025. For purposes of this report, these amounts have been included in disbursements.

Juneau's records indicate the following:

	<u>1987</u>	<u>1986</u>
Receipts per report:		
"Reconciliation of other Reserve Accounts"	\$(23,133)	\$242,068
Add:		
Claims paid, including filing fee reimbursement	94,554	52,857
Licensee fee refunds	1,135	750
NSF adjustments to licensee fee receipts	320	2,125
Reimbursements of recoveries of claims paid		<u>2,550</u>
Gross receipts per Juneau reports	72,876	300,350
Gross receipts per receipt batches reviewed	<u>60,469</u>	<u>284,354</u>
Difference	<u>\$(12,407)</u>	<u>\$(15,996)</u>

FUND BALANCE:

Juneau reports the following fund balance information:

For year ended June 30, 1986:

Collocation Code 08-53-8-004 (Hearing Costs)

Beginning balance, July 1, 1985	\$541,530	
Receipts FYE June 30, 1986	0	
Disbursements FYE June 30, 1986	<u>(5,072)</u>	

Balance, June 30, 1986		\$536,458
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Collocation Code 08-53-8-020 (Training Costs)

Beginning balance, July 1, 1985	(130,428)	
Receipts FYE June 30, 1986	0	
Disbursements FYE June 30, 1986	<u>(136,703)</u>	

Balance, June 30, 1986		(267,131)
------------------------	--	-----------

Collocation Code 08-53-8-025 (Receipts)

Beginning balance, July 1, 1985	54,487	
Disbursements FYE June 30, 1986	0	
Receipts FYE June 30, 1986	<u>242,068</u>	

Balance, June 30, 1986		<u>296,555</u>
------------------------	--	----------------

Combined ending fund balance, June 30, 1986		<u>\$565,882</u>
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For year ended June 30, 1987:

Collocation Code 08-53-8-004 (Hearing Costs)

Beginning balance July 1, 1986	\$536,458	
Receipts FYE June 30, 1987	0	
Disbursements FYE June 30, 1987	<u>(3,156)</u>	

Balance, June 30, 1987		\$533,302
------------------------	--	-----------

Collocation Code 08-53-8-020 (Training Costs)

Beginning balance, July 1, 1986	(267,131)	
Receipts FYE June 30, 1987	0	
Disbursements FYE June 30, 1987	<u>(126,138)</u>	

Balance, June 30, 1987		(393,269)
------------------------	--	-----------

Collocation Code 08-53-8-025 (Receipts)

Beginning Balance, July 1, 1986	296,555
Disbursements FYE June 30, 1987	0
Receipts FYE 6/30/87	<u>(23,133)</u>
Balance, June 30, 1987	<u>273,422</u>
Combined ending fund balance June 30, 1987	<u>\$413,455</u>

As discussed above, it is important to note that Juneau treats certain disbursements as debits to the collocation code 08-53-8-025 (Receipts). These items are claim payments, licensee fee reimbursements, NSF adjustments, and claim reimbursement refunds. For purposes of this report, and the statement of receipts and disbursements, these amounts have been included as disbursements.

The fund balance indicated above was obtained from Juneau's records. Our review disclosed that this may not be an accurate balance; items noted were:

The 1987 Special Audit Trail Report indicates \$81,000 in additional claim payments (see Exhibit 3) that were to be charged to the fiscal year ended 1986 fund balance. These amounts are not included in either the fiscal year ended 1986 or 1987 fund balance reconciliations reported above. These amounts are included as fiscal year ended 1987 claim payments made on the statement of receipts and disbursements included with this report.

Our reconciliation of receipt information indicates that the receipt information per Juneau may be incorrect (see previous sections).

SUGGESTIONS FOR IMPROVEMENT OF THE ACCOUNTABILITY OF THE FUND

Communication

The Anchorage office has inadequate accounting information. We believe this is due to a lack of communication.

Juneau provided us with a report labeled "Special Audit Trail Report." This report shows detail regarding document number, payee (vendor), transaction type, warrant number, fiscal year ended, collocation code, accounts charged, date of transaction, and amount of transaction. If this report was available on a periodic basis, preferably monthly, Anchorage could review the information and compare it to what they have accumulated during the same time period. If there were discrepancies or unexplained charges, they could be resolved in a timely manner.

We suggest that the report "Reconciliation of Other Reserve Accounts," which shows the yearly activity in summary form by collocation code, be provided to the Anchorage office for their examination and information. To clearly show the performance of the fund, the annual report should include a financial statement for the fund.

Receipts

The Anchorage office has detail information regarding receipts; however, they do not summarize it or use it to corroborate the information processed by Juneau. We recommend that this information be summarized and used in the comparative procedures discussed above.

Claims Paid

Warrants for claims are prepared by Juneau upon the receipt of an approved proposed decision. Warrants should not be ordered until the specified appeal period has lapsed. Warrants are remitted to the Anchorage office for disbursement. We recommend that prior to disbursement, the claim file should be reviewed to determine that a prior payment has not been made. In addition, to prevent any other type of unauthorized disbursement, we recommend that the proposed decision and file be reviewed at this time to determine if subsequent action, such as an appeal, deems payment at this time inappropriate.

Reimbursement of Claim Filing Fee

Effective October 10, 1984, a \$250 claim filing fee was required. The statutes state that the claim filing fee is to be reimbursed if the claim is approved. During our work, we noted several claims were paid without the \$250 filing fee reimbursement. To comply with statutes, we suggest that the filing fee be reimbursed where appropriate.

Disbursement Authorization

During our work we noted several disbursements which had no authorization for payment. In addition, the remaining disbursements had a variety of authorizations. It is very important that all disbursements made, be properly authorized first. The authorization should be by an individual who is familiar with the fund and the statutes regarding the fund. We suggest that a listing be made of individuals who may authorize disbursements. This listing should be sent to Juneau for their use. An authorization form should be developed. This form should be filled out for every disbursement. Juneau should be instructed not to make disbursements without a properly executed authorization form. In this manner, the fund will not be charged inappropriately.

Touche Ross & Co.

Certified Public Accountants

ALASKA REAL ESTATE COMMISSION
REAL ESTATE SURETY FUND

RECOVERIES OF CLAIMS PAID

EXHIBIT 1

YEAR ENDED JUNE 30, 1987 AND 1986

<u>Claim Number</u>	<u>Broker</u>	<u>Amounts Recovered</u>	
		<u>1987</u>	<u>1986</u>
<u>Recoveries per Anchorage Office</u>			
81-046	Mary Peterson*		\$ 100
83-011	William Price*	\$ 4,000	
83-031	Michael Buss*	900	66
83-045	Ben Waldrop	4,297	
84-090	Chris Ryherd*	800	
84-102	Homer Beedle*	1,233	
84-108	Walter Hanni		1,259
84-117	Ralph Cook*	3,585	2,500
85-021	Ken Calhoun	1,740	
86-004	Ben Shennum	1,015	
Not Available	Barbara Tanner		2,550
Not Available	Camillie Davis*	1,198	750
Not Available	Johnson		1,000
Not Available	Barry Shennum*	100	
		<u>18,868</u>	<u>8,225</u>
Adjustments - Amounts not traceable to receipt batches:			
83-011	Michael Buss	200	66
84-090	Chris Ryherd	200	
Not Available	Camillie Davis		<u>150</u>
Total receipts on recoveries of claims paid		<u>\$18,468</u>	<u>\$ 8,009</u>

* Information obtained in Anchorage office agrees to receipt batch information. Items not so noted were obtained through examination of receipt batch detail.

ALASKA REAL ESTATE COMMISSION
REAL ESTATE SURETY FUND

CLAIMS PAID

EXHIBIT 2

YEAR ENDED JUNE 30, 1986

<u>Claim Number</u>	<u>Claimant</u>	<u>Date Proposed Decision Signed</u>	<u>Warrant Number</u>	<u>Date Issued</u>	<u>Amounts Paid</u>
<u>Claims paid per 1986 Special Audit Trail Report</u>					
83-103	Janet Mischler	12/10/85	20316265	02/11/86	\$ 13,035
83-105	John Godfrey	12/14/85	20316266	02/11/86	11,876
83-114	Michael Balanger*	12/14/85	20316264	02/11/86	4,594
83-120	Gary Morrell*	12/14/85	20316263	02/11/86	6,116
84-032	Beverly Thompson	03/06/85	20191458	11/01/85	82
84-058	Charles Jones*	Not Available	20311485	02/18/86	193
84-085	Wilburn Evans	05/27/86	20476916	06/25/86	10,000
84-089	Erlinda Gonzalez*	12/14/85	20316262	02/11/86	4,157
84-090	Robert Miller*	02/10/86	20415134	05/02/86	6,430
84-116	Jim Martin/AHFC	11/05/85	20306559	02/11/86	827
84-117	Kurt Kramer*	12/06/85	20316261	02/11/86	5,719
85-003	Dietmar Kubb*	12/06/85	20316260	02/11/86	12,055
85-007	Mary Dean*	09/11/85	20315168	09/18/85	3,511
Subtotal					78,595
Less funds not disbursed:					
83-103	Janet Mischler		20316265		(13,035)
83-105	John Godfrey		20316266		(11,876)
84-116	Jim Martin/AHFC		20306559		(827)
					52,857
Less filing fee reimbursements included in above amounts					
					500
Total claims paid					<u>\$ 52,357</u>

* Information agrees to information obtained from the Anchorage office.

ALASKA REAL ESTATE COMMISSION
REAL ESTATE SURETY FUND

Touche Ros

CLAIMS PAID

EXHIBIT 3

YEAR ENDED JUNE 30, 1987

<u>Claim Number</u>	<u>Claimant</u>	<u>Date Proposed Decision Signed</u>	<u>Warrant Number</u>	<u>Date Issued</u>	<u>Amounts Paid</u>
<u>Claims paid per 1987 Special Audit Trail Report</u>					
84-070	Anna Montgomery	11/21/86	20747162	02/02/87	\$ 10,000
84-085	Wilburn Evans*	01/16/87	20756561	02/02/87	10,000
84-100	Vera Angles	01/16/87	20728573	02/02/87	9,616
84-102	Estelita Quiere*	09/19/86	20611525	10/08/86	1,483
85-008	Larry Nicholas*	01/16/87	20728570	02/02/87	1,472
85-010	Claude Harter*	11/21/86	20670792	12/02/86	10,250
85-012	Lyle Dickey*	11/22/86	20670793	12/02/86	3,750
85-071	Rodney Clark	08/19/86	20611528	10/08/86	5,316
85-022	Mary Finstad*	01/16/87	20728572	02/02/87	2,543
86-004	Mary Solstad*	01/16/87	20728568	02/02/87	4,417
86-005	James Thomas*	09/19/86	20611526	10/08/86	10,250
86-009	Stanley	N/A	20810087	N/A	250
86-018	George Hunziker*	01/16/87	20728569	02/02/87	10,250
86-021	Ken Strain*	01/16/87	20728571	02/02/87	2,815
86-023	Donald McDermott*	09/19/86	20611527	10/08/86	10,250
86-033	Norma Gentry	09/19/86	20611529	10/08/86	1,392
86-041	John Jorgen	N/A	20796374	N/A	250
Not avail.	Kathleen Hamb	N/A	20674794	N/A	250
Subtotal					94,554
Add: Disbursements from "1987 Special Period Audit Trail Report," not included in Juneau's fund balance reconciliation:					
84-091	Pat Burke*		20676229		10,000
84-093	Roger Head*		20676230		20,000
85-011	Chris Brown*		20676228		20,250
86-016	City Mortgage*		20676231		10,250
86-017	Robert Buell*		20676233		10,250
86-022	Gary Gerling*		20676232		10,250
Subtotal					175,554
Less funds not disbursed:					
84-085	Wilburn Evans		20476916		10,000
Less filing fee reimbursements included in above amounts					4,750
Total claims paid					<u>\$160,804</u>

* Information agrees to information obtained from Anchorage office.

ALASKA REAL ESTATE COMMISSION
REAL ESTATE SURETY FUND

BREAKDOWN OF NO AUTHORIZATION AMOUNTS BY PAYEE

EXHIBIT 4

YEARS ENDED JUNE 30, 1987 AND 1986

	<u>1987</u>	<u>1986</u>
RMRS	\$2,000	
Frontier Travel	960	
Wang Laboratories	408	\$5,000
Anchorage Telephone	254	
Going Places		1,031
Municipality (phone bill)		428
Individual amounts less than \$200	<u>416</u>	<u>204</u>
	<u>\$4,038</u>	<u>\$6,663</u>

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Economic Dev.
Title: An Act relating to the Real Estate Commission BRU: Occupational Licensing
Sponsor: Senator Sturquilewski Components: _____
Requestor: Senate Labor & Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	17.5	17.5	17.5	17.5	17.5	17.5
TRAVEL	3.5	3.5	3.5	3.5	3.5	3.5
CONTRACTUAL	2.0	2.0	2.0	2.0	2.0	2.0
SUPPLIES	1.0	1.0	1.0	1.0	1.0	1.0
EQUIPMENT	7.7	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	31.7	24.0	24.0	24.0	24.0	24.0

CAPITAL	0	0	0	0	0	0
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REVENUE	19.8	17.5	18.5	23.4	22.9	26.3
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER GF/PR	31.7	24.0	24.0	24.0	24.0	24.0
TOTAL	31.7	24.0	24.0	24.0	24.0	24.0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	1	1	1	1	1	1
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary) The bill beefs up present real estate licensing requirements by adding consumer protection provisions to AS 08.88. Specifically, the bill provides the Real Estate Commission authority to establish minimum education requirements prior to licensure; and to establish continuing education requirements for license renewal. (CONTINUED)

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
Division: Occupational Licensing Date: 2/21/90

Approved by Commissioner: Larry Northrup Date: 21 Feb 90
Agency: Department of Commerce & Economic Development

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

CONTINUATION OF FISCAL NOTE ANALYSIS - SSSB 228

The new provisions of the bill will require considerable staff resources in reviewing course outlines for approval, reviewing instructor resumés for approval, interviewing instructor candidates, and visiting course presentations, and responding to licensee inquiries regarding education requirements. This fiscal note provides for an additional one-half time position to assist with the new prelicensing and continuing education requirements.

PERSONAL SERVICES: \$17.5

One Seasonal Occupational Licensing Examiner I
12 months (half days), GGU, Range 12A

TRAVEL: \$ 3.5

Funding will provide transportation and per diem to visit and review course presentations in various locations throughout the State.

CONTRACTUAL SERVICES: \$ 2.0

Funding provides for printing, advertising, postage, and communication costs.

SUPPLIES: \$ 1.0.

Funding will provide standard office supplies.

EQUIPMENT: (One time costs) \$ 7.1

Telephone line and equipment	.6
DP/WP Computer terminal	2.2
Desk	.7
Chair	.2
Calculator	.2
File Cabinet	.6
Typewriter	.7
Workstation/modular furniture	2.5

REVENUES: The revenues shown for each year are based on fees to be charged for prelicensing education, continuing education, and recertification.

FY 91: Prelicensing -

25 offerings of the 20-hour prelicensing course	
20 hours x \$15 x 25	\$ 7,500
40 instructors @ \$250 for initial certification	
40 x \$250	10,000
10 offerings of the 15-hour broker course	
15 hours x \$15 x 10	<u>2,250</u>
FY 91 TOTAL:	<u>\$19,750</u>

FY 92: Prelicensing -

13 offerings of the 20-hour prelicensing course	
20 hours x \$15 x 13	\$ 3,900
20 instructors @ \$250 for initial certification	
20 x \$250	5,000
5 offerings of the 15-hour broker course	
15 hours x \$15 x 5	<u>1,100</u>

Subtotal: \$10,000

25 offerings of the 20-hour continuing education course	
20 hours x \$15 x 25	\$ 7,500

FY 92 TOTAL: \$17,500

FY 93: Prelicensing -

13 offerings of the 20-hour prelicensing course	
20 hours x \$15 x 13	\$ 3,900
20 instructors @ \$250 for initial certification	
20 x \$250	5,000
5 offerings of the 15-hour broker course	
15 hours x \$15 x 5	<u>1,100</u>

Subtotal: \$10,000

Recertification:

25 offerings of the 20-hour prelicensing course	
20 hours x \$10 x 25	\$ 5,000
40 instructors @ \$50 for recertification	
40 x \$50	2,000
10 offerings of the 15-hour broker course	
15 hours x \$10 x 10	<u>1,500</u>

Subtotal: \$ 8,500

FY 93 TOTAL: \$18,500

FY 94: Prelicensing -

13 offerings of the 20-hour prelicensing course	
20 hours x \$15 x 13	\$ 3,900
20 instructors @ \$250 for initial certification	
20 x \$250	5,000
5 offerings of the 15-hour broker course	
15 hours x \$15 x 5	<u>1,100</u>

Subtotal: \$10,000

Recertification:

13 offerings of the 20-hour prelicensing course	
20 hours x \$10 x 13	\$ 2,600
20 instructors @ \$50 for recertification	
20 x \$50	5,000
5 offerings of the 15-hour broker course	
15 hours x \$10 x 5	<u>750</u>
Subtotal:	\$ 8,350

25 offerings of the 20-hour continuing education course	
20 hours x \$10 x 25	<u>\$ 5,000</u>

FY 94 TOTAL: \$23,350

FY 95: Prelicensing -

13 offerings of the 20-hour prelicensing course	
20 hours x \$15 x 13	\$ 3,900
20 instructors @ \$250 for initial certification	
20 x \$250	5,000
5 offerings of the 15-hour broker course	
15 hours x \$15 x 5	<u>1,100</u>
Subtotal:	\$10,000

Recertification:

38 offerings of the 20-hour prelicensing course	
20 hours x \$10 x 38	\$ 7,600
60 instructors @ \$50 for recertification	
60 x \$50	3,000
15 offerings of the 15-hour broker course	
15 hours x \$10 x 15	<u>2,250</u>
Subtotal:	\$12,850

FY 95 TOTAL: \$22,850

FY 96: Prelicensing -

13 offerings of the 20-hour prelicensing course	
20 hours x \$15 x 13	\$ 3,900
20 instructors @ \$250 for initial certification	
20 x \$250	5,000
5 offerings of the 15-hour broker course	
15 hours x \$15 x 5	<u>1,100</u>
Subtotal:	\$10,000

Recertification:

40 offerings of the 20-hour prelicensing course	
20 hours x \$10 x 40	\$ 8,000
60 instructors @ \$50 for recertification	
60 x \$50	3,000
15 offerings of the 15-hour broker course	
15 hours x \$10 x 15	<u>2,250</u>
Subtotal:	\$13,250
15 offerings of the 20-hour continuing education course	
20 hours x \$10 x 15	\$ 3,000
FY 96 TOTAL:	<u>\$26,250</u>