

HB

257

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

May 4, 2003

SUBJECT: CSHB 257(JUD): retrospective operation
(Work Order No. 23-LS0893\V)

TO: Representative Lesil McGuire, Chair
House Judiciary Committee
Attn: Vanessa
flb

FROM: Theresa L. Bannister
Legislative Counsel

This memo accompanies the bill described above. The comments in this memo are not triggered by the changes made for this committee substitute but were present in HB 257. The following comments are to advise you that the applicability section may raise constitutional issues. I do not know how they would be resolved, but wanted you to be aware that they exist.

1. Application of disciplinary sanctions to pre-enactment activity (bill sec. 5(a)). The first issue originates with sec. 5(a) allowing the new provision in bill sec. 1 to apply to a person for a violation of AS 08.88.396 that occurs before the bill takes effect. The imposition of these sanctions on pre-enactment activity may be considered to be unconstitutional as an ex post facto law if the sanctions are considered punitive. However, if there is a sufficiently rational relationship between the past activity and the public interest, this may not be considered a punishment and the law may not be considered ex post facto.
2. Removal of cause of action (bill sec. 5(b)). Section 5(b) removes a cause of action a person may have accrued or filed before the bill takes effect for a violation of AS 08.88.396, unless a final judgment has been entered. This may be inconsistent with the due process clause to the extent the cause of action is considered to be a vested property right in the particular case.
3. Equal protection (bill sec. 5(b)). Section 5(b) may violate equal protection to the extent it draws a distinction that is based solely on when a person received a final decision in a court action. To survive a state equal protection challenge, part of the test is that the distinction must be reasonable and not arbitrary. The reasonableness of a distinction based on the date a final judgment is received is not evident on the face of the bill, although there may be underlying reasons why it is reasonable.

May 4, 2003

Page 2

Notwithstanding the above comments, a court may consider the law more favorably if the provision is passed to cure defects in prior law. I do not know if this would be found to be the case here.

If I may be of further assistance, please advise.

TLB:lmb

03-170.lmb

HOUSE COMMITTEE REPORT

4-15-03

(7)

Date Referred to Committee: April 10, 2003

FURTHER REFERRALS: Judiciary

Date of Committee Action: April 14, 2003

The LABOR AND COMMERCE Committee considered:

HB 257

HOUSE BILL NO. 257

DISCLOSURES BY REAL ESTATE LICENSEES

"An Act relating to the disclosure requirements for real estate licensees, to disciplinary action against real estate licensees, to private actions against real estate licensees, and to real estate licensee agency relationships, fiduciary duties, and other duties; and providing for an effective date."

Recommends it be replaced with HCS or CS for _____ (_____)
 For Senate Bills with new title: Technical Title New Title: HCR _____ Same Title New Title

- attach amendments
- add new referral to _____ Committee
- Letter of Intent _____ Committee

List of Abbrev for Depts.:
 ADM
 CED
 COR
 CRT
 EED
 DEC
 DFG
 GOV
 HSS
 LEG
 LAW
 LWF
 MVA
 DNR
 DPS
 REV
 DOT
 UA

<u>NEW FISCAL NOTES</u>				
*Assigned by Chief Clerk's Office				
List by Dept(s):	*FN#	Fiscal	Indet.	Zero
CED	1			✓

<u>PREVIOUS FISCAL NOTES</u>				
List by Dept(s):	FN#	Fiscal	Indet.	Zero

<u>Signing with recommendations</u>	Printed Last Name	DP	DNP	NR	AM
	LYNN	①		⑤	
	CRAWFORD			X	
	GUTTENBERG			X	
	DAHLSTROM			X	
	ROKBERG	✓			
Chair:	ANDERSON			X	
Chair:					

ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair
Rep. Tom Anderson, Vice-Chair
Rep. John Coghill
Rep. Jim Holm
Rep. Ralph Samuels
Rep. Les Gara
Rep. Max Gruenberg



State Capitol, Room 120
Juneau, AK 99801-1182
(907) 465-4990
Fax (907) 465-6592

House Judiciary Committee

Memorandum

To: Terri Bannister, Leg. Legal
From: Vanessa Tondini, Committee Aide
House Judiciary Committee
Date: May 3, 2003
Re: CS Request

Please create a final draft House Judiciary Committee Substitute for work order # 23-LS0893\U, HB 257, incorporating the four amendments listed below. The bill passed out of committee yesterday. I have also written the changes into the attached copy of the bill for clarification of the amendments.

Amendment #1:

P.4, L. 17

Before "consent" delete "blanket" and insert "written preauthorized"

Amendment #2:

P.3, L. 3

After "relationships" insert ", law of agency,"

***Perhaps it should instead read "agency law" if we want to conform to the rest of this section.

If you agree, please make that change.***

Amendment #3:

P.3, L.13, 17, 19, 28

Reinsert "agency"

Amendment #4:

P.4, L. 8

After BOTH "dual"'s (between "dual" and "representation") insert "agency"

If you have any questions, please call me at 4990. Thank you!

ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair
Rep. Tom Anderson, Vice-Chair
Rep. John Coghill
Rep. Jim Holm
Rep. Ralph Samuels
Rep. Les Gara
Rep. Max Gruenberg



State Capitol, Room 120
Juneau, AK 99801-1182
(907) 465-4990
Fax (907) 465-6592

House Judiciary Committee

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23-LS0893U
Bannister
5/1/03

CS FOR HOUSE BILL NO. 257()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, Foster

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to the disclosure requirements for real estate licensees, to disciplinary**
2 **action against real estate licensees, to private actions and remedies against real estate**
3 **licensees, and to real estate licensee agency, relationships, and duties; and providing for**
4 **an effective date."**

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

6 *** Section 1. AS 08.88.071(a)(3) is amended to read:**

7 (3) after hearing, have the authority to suspend or revoke the license of
8 a licensee or impose other disciplinary sanctions authorized under AS 08.01.075 on a
9 licensee who

10 (A) with respect to a real estate transaction

11 (i) made a substantial misrepresentation;

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

14 (iii) in the case of a real estate broker, pursued a

L

1 flagrant course of misrepresentation or made a false promise through
2 another real estate licensee;

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

5 (v) violates AS 08.88.391;

6 (vi) violates AS 08.88.396;

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

9 (C) has engaged in conduct of which the commission did not
10 have [HAD NO] knowledge at the time the licensee was licensed
11 demonstrating the licensee's unfitness to engage in the business for which the
12 licensee is licensed;

13 (D) knowingly authorizes, directs, connives at, or aids in
14 publishing, distributing, or circulating a material false statement or
15 misrepresentation concerning the licensee's business or concerning real estate
16 offered for sale, rent, or lease, or managed in the course of the licensee's
17 business in this or any other state or concerning the management of an
18 association in the course of a licensee's business in this or another state;

19 (E) if a real estate broker, wilfully violates AS 08.88.171(d) or
20 08.88.291;

21 (F) if an associate real estate broker, claims to be a real estate
22 broker, or, if a real estate salesperson, claims to be a real estate broker or an
23 associate real estate broker;

24 (G) if a real estate broker, employs an unlicensed person to
25 perform activities for which a real estate license is required;

26 (H) if an employed real estate licensee of a real estate broker,
27 fails immediately to turn money or other property collected in a real estate
28 transaction over to the employing real estate broker;

29 * Sec. 2. AS 08.88.181(a) is amended to read:

30 (a) The real estate examinations may include questions on real estate business
31 ethics and standards; arithmetic and accounting; elementary principles of land

1 economics and appraisal; the general principles in state statutes relating to deeds,
 2 mortgages, real estate contracts, subdivisions, common interest communities, legal
 3 descriptions, building restrictions, real estate licensee relationships, [AGENCY], ^{law of agency, (or agency law)}
 4 brokerage, disclosure requirements, trust accounting requirements, and landlord and
 5 tenant law; property management ethics and standards; community association
 6 management operations, ethics, and standards; and the general provisions of this
 7 chapter and of the regulations of the commission.

8 * Sec. 3. AS 08.88.396 is amended to read:

9 **Sec. 08.88.396. Licensee relationships, disclosures, and activity**
 10 **[DISCLOSURE OF AGENCY TO PROSPECTIVE BUYERS AND SELLERS].**

11 (a) A person licensed under this chapter shall, when acting as a real estate licensee
 12 [AN AGENT] for a prospective seller or lessor of real estate, ^{reinsert}

13 (1) disclose in writing the licensee's (AGENCY) relationship with the
 14 seller or lessor to each prospective buyer or lessee at the time that the licensee begins
 15 to provide specific assistance to locate or acquire real estate for the buyer or lessee,
 16 and obtain from each prospective buyer or lessee a signed acknowledgment
 17 [ACKNOWLEDGEMENT] that the buyer or lessee is aware of the (AGENCY) ^{reinsert}
 18 relationship between the licensee and the seller or lessor; and

19 (2) include in the purchase agreement a statement of the (AGENCY) ^{reinsert}
 20 relationship between the licensee and the seller or lessor.

21 (b) A person licensed under this chapter shall, when acting as a real estate
 22 licensee [AN AGENT] for a prospective buyer or lessee of real estate,

23 (1) disclose the licensee's relationship with the buyer or lessee to a
 24 prospective seller or lessor of real estate, or to the seller's or lessor's real estate
 25 licensee [AGENT], at the time of the initial contact between the licensee and the
 26 prospective seller or lessor, or the seller's or lessor's real estate licensee [AGENT],
 27 and confirm the relationship in writing as soon as possible after the initial contact;

28 (2) include in the purchase agreement a statement of the (AGENCY) ^{reinsert}
 29 relationship between the licensee and the buyer or lessee;

30 (3) if the prospective seller or lessor has an unexpired exclusive listing
 31 contract for a property, present all offers to purchase that property through the seller's

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or lessor's real estate licensee [AGENT]; and

(4) disclose in writing to all parties to a transaction when the licensee's compensation as real estate licensee [AGENT] for the buyer or lessee is to be paid by anyone other than the buyer or lessee being represented by the licensee.

(c) A person licensed under this chapter may act as a real estate licensee [AN AGENT] for both a prospective seller or lessor and a prospective buyer or lessee of real estate only after the licensee informs both the seller or lessor and the buyer or lessee of the dual ^{agency} representation [AGENCY] and obtains written consent to the dual ^{agency} representation [AGENCY] from both principals.

(d) When a change occurs during a transaction that makes a prior written disclosure required by this section incomplete, misleading, or inaccurate, the licensee shall make a revised disclosure, in writing, to all parties to the transaction as soon as possible. The revised disclosure must include the date of the revision and shall be acknowledged in writing by all the parties. However, until the nature of the licensee's relationship with a party is completely established, a revised disclosure is not required under this subsection if the licensee obtains from the party a ~~blanket~~ consent to changes before the changes occur. ^{written. preauthorized}

* Sec. 4. AS 08.88.396 is amended by adding a new subsection to read:

(e) The failure of a licensee to make a written disclosure as required by this section or to obtain a written acknowledgment or consent as required by this section does not give a person a cause of action against the licensee for the failure. However, this subsection does not limit a person's ability to take any other action or pursue any other remedy to which the person may be entitled under other law to recover for damages or losses suffered.

* Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to read.

APPLICABILITY AND RETROSPECTIVITY. (a) The provisions of this Act apply to a real estate transaction that occurs before, on, or after the effective date of this Act, and to that extent, are retrospective under AS 01.10.090. In this subsection, "real estate transaction" has the meaning given in AS 08.88.990.

(b) In addition to the application of AS 08.88.396(e), enacted by sec. 4 of this Act,

1 under (a) of this section, AS 08.88.396(e) applies to an action pending in a court in the state in
2 which a final judgment has not been rendered before the effective date of this Act and, to that
3 extent, is retrospective under AS 01.10.090.

4 * **Sec. 6.** This Act takes effect immediately under AS 01.10.070(c).

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
LEGISLATIVE ETHICS COMMITTEE, MEMBER

website: <http://www.akrepublicans.org/rokeberg/>



INTERIM:
716 WEST 4TH AVENUE, SUITE 300
ANCHORAGE, AK 99501
PHONE: (907) 269-0117
FAX: (907) 269-0119

SESSION:
ALASKA STATE CAPITOL
JUNEAU, AK 99801-1182
PHONE: (907) 465-4968
FAX: (907) 465-2040

Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

SPONSOR STATEMENT FOR HB 257

BY: Representative Norman Rokeberg

Title: An Act relating to the disclosure requirements for real estate licensees, to disciplinary action against real estate licensees, to private actions against real estate licensees, and to real estate licensee agency relationships, fiduciary duties, and other duties; and providing for an effective date.

HB 257 makes several improvements to Alaska's real estate laws.

Commercial Real Estate Transactions

HB 257 exempts commercial real estate licensees from certain disclosure requirements. The purpose of the disclosure requirements in AS 08.88.896 is to provide consumer protection to those people who may not be familiar with their legal responsibilities and rely in part on real estate licensees for advice when buying and selling real estate. Commercial real estate practitioners should be exempt from these requirements because of the level of sophistication and knowledge typical of parties to commercial real estate transactions. Parties to commercial transactions do not need this protection and the disclosure requirements do not reflect the standards of practice in commercial real estate.

HB 257 also provides that in those cases where the commercial transaction is exempt from the disclosure requirements, and the real estate licensee is representing both the buyer and seller (or both lessor and lessee), the common law principles of agency do not apply. Instead, the licensee shall act with honesty, fairness and good faith when representing both parties.

AS 08.88.396

In addition to the commercial real estate licensees' exemption, HB 257 makes several other changes to the disclosure statute. First, all references to a real estate "agent" have been replaced with real estate "licensee." This is to conform with the rest of the real estate statutes which use the term "licensee." Second, references to lessors and lessees have been added to the statute to reflect that the disclosure statute also applies to real estate lease transactions. Finally, subsection (g) clarifies that a failure to disclose or obtain written consent as required by the statute does not give rise to a private cause of action, but can result in a disciplinary action against the licensee. However, in cases of fraud, misrepresentation or deceit a person can bring an action against the real estate surety fund for damages.

I encourage your support of this legislation.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
LEGISLATIVE ETHICS COMMITTEE, MEMBER

website: <http://www.akRepublicans.org/rokeberg/>



INTERIM:
716 WEST 4TH AVENUE, SUITE 300
ANCHORAGE, AK 99501
PHONE: (907) 269-0117
FAX: (907) 269-0119

SESSION:
ALASKA STATE CAPITOL
JUNEAU, AK 99801-1182
PHONE: (907) 465-4968
FAX: (907) 465-2040

Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

SECTIONAL ANALYSIS FOR HB 257 BY: Representative Norman Rokeberg

Title: An Act relating to the disclosure requirements for real estate licensees, to disciplinary action against real estate licensees, to private actions against real estate licensees, and to real estate licensee agency relationships, fiduciary duties, and other duties; and providing for an effective date.

- Section 1:** Legislative findings and intent.
- Section 2:** Adds the disclosure statute (AS 08.88.396) to the list of actions that the Real Estate Commission can discipline a real estate licensee for violating. Also makes several grammatical corrections.
- Section 3:** Changes "agent" to "real estate licensee." Adds references to lessor and lessee. Corrects misspelling of "acknowledgment."
- Section 4:** Changes "agent" to "real estate licensee." Adds references to lessor and lessee.
- Section 5:** Changes "agent" to "real estate licensee." Adds references to lessor and lessee.
- Section 6:** AS 08.88.396(e): Exempts certain commercial real estate transactions from the disclosure statute.
- AS 08.88.396(f): For those transactions exempt under (e), common law principles of agency do not apply and licensee must act with honesty, fairness and good faith when representing both parties.
- AS 08.88.396(g): Failure to make a disclosure or obtain written consent required by this statute does not give a person a cause of action against the licensee for the failure. An action can be brought against the Real Estate Surety Fund in cases of fraud, misrepresentation or deceit, if there are damages.
- Section 7:** (a) The provisions of this Act apply to a real estate transaction that occurs before, on or after the effective date of this Act.
- (b) AS 08.88.396(g) applies to an action pending in a court in the state in which a final judgment has not been rendered before the effective date of this Act.
- Section 8:** This Act takes effect immediately.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 257
(H) Publish Date: 4/15/03

Revision Date/Time (Note if correction):
Title Disclosures By Real Estate Licensees
Sponsor Representative Rokeberg
Requester House Labor & Commerce
Dept. Affected: DCED
BRU Occupational Licensing (117)
Component Occupational Licensing
Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 257 amends disclosure requirements for real estate licensees. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager
Division: Occupational Licensing
Approved by: Edgar Blatchford, Commissioner
Agency: Department of Community & Economic Development

Phone 907-465-2144
Date/Time 4/14/03 2:08 PM
Date 4/14/2003

Discussion on Residential Dual Agency Issues

By Representative Norman Rokeberg

What is the Problem?

A group of clever lawyers believes it has hit upon a way to force Alaska real estate agents to disgorge millions of dollars worth of commissions even if no one has done anything wrong and no one has been harmed. They filed a class action lawsuit against Prudential Vista seeking that result.

How Does that Work?

These lawyers believe that failure to have proper paperwork will justify forfeiting commissions. They believe almost every dual agency transaction done in Alaska in recent years was not properly documented. They contend AS 08.88.396 requires signed acknowledgements from both buyer and seller every time a prospective buyer wants to see a house listed with the same brokerage; not just blanket consents but new signed acknowledgments from buyer and seller (both parties to the new dual agency relationships) every single time a new buyer wants to see a listed home.

What if the Agent Made Oral Disclosures?

It doesn't matter. Unless the agent obtained signed acknowledgments from both sides before doing any work, these lawyers contend the commission was unlawfully earned and should be forfeited. This is not about whether clients actually got the disclosures they need.

What if No One Was Harmed?

That doesn't matter either. This is not about paying consumers for harm they have suffered. It is about making agents forfeit commissions.

How Does HB 257 Work?

The purpose is to say that failure to document disclosures and obtain signatures in the right form and at the right time will not, all by itself, support a lawsuit.

What if an Agent Lied or Mised Someone?

They can and should be sued. This bill is not intended to excuse anyone for misconduct. If a client can prove that an agent did something wrong, they should recover in full for their actual harm. This bill does not change the duties that an agent owes to his/her clients. This bill is only intended to prevent forfeitures where no one did anything wrong and no one was harmed.

Is this just a Prudential Vista Problem?

Absolutely not. Other brokers have been quoted several times saying this is an industry problem. Every broker and agent can be sued. If these lawyers are right, almost everyone is potentially vulnerable to a lawsuit. Only brokerages that do not engage in dual agency transactions (like buyers brokers) should feel safe.

Is this an Anchorage problem?

No. Dual agency is more common in rural areas than in Anchorage.

Will this Stop with Prudential Vista?

If Vista wins the lawsuit, it might. If they lose, this will definitely not go away. If the bill doesn't pass, and Vista loses its case, every brokerage should assume it will be fighting a class action.

Is this About Bonnie Mehner?

No. The judge found Bonnie committed intentional misconduct, made representations and/or hid facts from her client. Nothing in this bill would have prevented him from suing her and winning. The civil case against her is over. It was settled months ago. Nothing in this bill will provide her a defense against her license.

Will This Harm any Alaskan Agents or Brokers?

No. It is either neutral or will help them.

Why is it Retroactive?

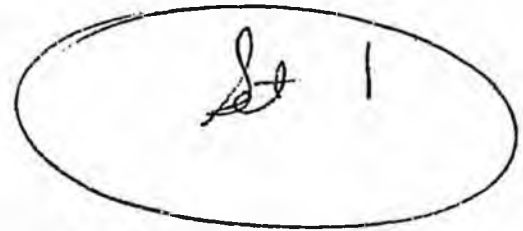
Because what is at issue is forfeiture of commissions earned over the last three years. Changing the law prospectively will not protect Alaska agents and brokers from these class action lawsuits.

Why Not Just Outlaw Class Actions for This?

Class actions are regulated by court rule. It requires a supermajority for the legislature to change a court rule. HB 257 changes a statute to prevent its misuse, something the legislature can do easily if it chooses.

Bond, Stephens & Johnson, Inc.

Fax



To: c/o Heather Nobrega
Attn: Rep. Norm Rokeberg

From: Chris Stephens, CCIM

Fax: 907-465-~~6848~~
2040

Fax: 907-786-7326

Phone: 907-243-1454

Phone: 907-786-7305

Date: 4/11/2003

Pages: *

Subject: Agency Forms Samples

Notes:

Dear Representative Rokeberg:

Attached are the agency disclosure forms that our attorney drafted for us after the court ruling on agency. As you can see, they are very comprehensive because they are our attorney's effort to meet all of the requirements of the judge's ruling. They are also very awkward to work with.

I will be sending you a statement on the proposed House Bill No. 257.

Sincerely,

Chris Stephens, CCIM

* 1st set 17 pages
2nd set 16 pages
3rd set 17 pages

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- Form No. 5 --- Single Party Listing Agreement for Sale and Lease**
- Form No. 6 --- Agency Agreement for Buyers and Tenants**
- Form No. 7 --- Compensation Agreement**
- Form No. 8 --- Undisclosed Principal Addendum to Agency Agreement by Buyers and Sellers**
- Form No. 9 --- Assignment of Purchase and Sale Agreement and Leases by Broker to its Undisclosed Principal**
- Form No.10 --- Revised Disclosure**
- Form No.11 --- Disclaimer of Representations by Company/Agent (Without Acknowledgment)**
- Form No.12 --- Disclaimer of Representations by Company/Agent (With Acknowledgment)**

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Bond, Stephens & Johnson, Inc., Commercial Real Estate Services
3000 "A" Street, Suite 200, Anchorage, AK 99503
Ph 907-563-7733 Fax 907-561-8929
Email bsi@bsjalaska.com www.bsjalaska.com

**BOND, STEPHENS & JOHNSON, INC.
DISCLOSURE OF SELLER/LANDLORD REPRESENTATION**

Disclosure

Pursuant to AS 08.88.396(a)(1), the Company Bond, Stephens & Johnson, Inc., through its Agent, _____, hereby discloses to the Buyer/Tenant, _____, of the following-described real property ("Property"), that it represents the Seller/Landlord, _____, in seeking a sale/lease of the following Property:

BOND, STEPHENS & JOHNSON, INC., an
Alaska Corporation

Dated: _____, 20

By: _____
_____, Agent

Acknowledgment

I (we) hereby acknowledge (a) that such disclosure occurred before Company/Agent began to provide specific assistance to me (us) or my (our) agent with respect to such Property and (b) that Company/Agent represent only Seller/Landlord and not me (us).

Buyer/Tenant:

Dated: _____, 20

By: _____
_____, Buyer

Buyer/Tenant:

Dated: _____, 20

By: _____
_____, Buyer

**BOND, STEPHENS & JOHNSON, INC.
DISCLOSURE OF BUYER/TENANT REPRESENTATION**

Disclosure

Pursuant to AS 08.88.396(b)(1), the Company Bond, Stephens & Johnson, Inc., through its Agent, _____, hereby discloses to the Seller/Landlord, _____, of the following-described real property ("Property"), that it represents the Buyer/Tenant, _____, in seeking a sale/lease of the following Property:

BOND, STEPHENS & JOHNSON, INC., an
Alaska Corporation

Dated: _____, 20

By: _____
_____, Agent

Acknowledgment

I (we) hereby acknowledge (a) that such disclosure of representation of Buyer/Tenant (i) occurred at the time of initial contact between Company/Agent and me (us) or my (our) agent with respect to such Property and (ii) was confirmed by this writing as soon as reasonably possible after such initial contact, and (b) that Company/Agent represent only Buyer/Tenant and not me (us). and not me (us).

Dated: _____, 20

Seller/Landlord:
By: _____
_____, Seller/Landlord

Its:

Dated: _____, 20

Seller/Landlord:
By: _____
_____, Seller/Landlord

Its:

**BOND, STEPHENS & JOHNSON, INC.
CONSENSUAL DUAL AGENCY AGREEMENT**

Seller/Landlord: _____

Buyer/Tenant: _____

Company: Bond, Stephens & Johnson, Inc., through its Agent, _____

Seller/Landlord's Property:

[Property Description]

1. Consensual Dual Agency Representation.

Pursuant to AS 08.88.396(c), Seller/Landlord and Buyer/Tenant hereby acknowledge, consent and agree to Company/Agent becoming **dual agents** of Seller/Landlord and Buyer/Tenant for their sale-purchase/lease of Seller/Landlord's Property.

2. Anticipatory Consensual Dual Agency Representation.

If only Seller/Landlord (Buyer/Tenant) executes this Agreement, it hereby gives its unconditional consent to Broker to enter into a dual **agency** with any Buyer/Tenant (Seller/Landlord) on the terms of this Agreement by (i) having such Buyer/Tenant (Seller/Landlord) execute this Agreement and (ii) delivering a copy of the fully executed Agreement to all of the resulting parties to this Agreement. The dual **agency** allowed by this Agreement shall not commence until such delivery occurs.

3. Dual Agent's Role.

Because Company/Agent will be acting as a **dual agent** for **both** Seller/Landlord and Buyer/Tenant in this transaction, Company/Agent will use their best efforts to remain impartial to Seller/Landlord and Buyer/Tenant. In such **dual agency** role, Company/Agent may obtain information which, if disclosed, could harm the bargaining position of the client who provided that information to them. As a result, Company/Agent shall have no duty to disclose, and not be liable for refusing or failing to disclose, information which, in the reasonable discretion of Company/Agent, might harm Seller/Landlord's or Buyer/Tenant's bargaining position to the benefit of the other. Nothing contained herein shall relieve Company or

Agent from their obligation to disclose to Buyer/Tenant material defects in the physical condition of Seller/Landlord's Property that are then actually known to Company/Agent, but Company/Agent shall have no obligation to independently investigate or inspect for any such defects or retain any contractor or professional to do so.

Seller/Landlord's and Buyer/Tenant's Roles.

Seller/Landlord and Buyer/Tenant shall each have the responsibility to make its own independent investigations and inspections of Seller/ Landlord's Property and to make independent decisions as to what price/rent and other material terms and conditions are to be included in any sale-purchase/lease agreement between them. Seller/Landlord and Buyer/Tenant have each been advised to seek competent independent legal counsel to assist them in their determinations (a) as to whether to enter into this Agreement and (b) the terms and conditions of any sale-purchase/lease agreement between them. Seller/Landlord and Buyer/Tenant have each either consulted with competent independent legal counsel with respect to such matters or knowingly and voluntarily waived their respective rights and opportunities to do so. Seller/Landlord and Buyer/Tenant acknowledge that they, and not Company or Agent, have a duty to carefully negotiate, draft, read and fully understand any purchase-sale/lease agreement to assure that it accurately sets forth the price/rent and other material terms and conditions which each of them wants included in such agreement and it is in their individual best interests.

4. Specific Things That Company/Agent *cannot and will not do.*

- a. Disclose confidential information that they may know about Seller/Landlord and/or Buyer/Tenant (*e.g.* motivation to sell/buy/lease, price/rent/other material terms or conditions, negotiation strategy, etc.) without written permission of the client to whom they owe such confidence.
- b. Disclose the price/rent or other material terms or conditions Seller/Landlord would accept other than the listing price/rent or other material terms and conditions without written permission of Seller/Landlord.
- c. Disclose the price/rent or other material terms or conditions Buyer/Tenant is willing to offer other than the offered price/rent or other material terms and conditions without written permission of Buyer/Tenant.
- d. Recommend or suggest the price/rent or other materials terms and conditions Buyer/Tenant should accept, offer or counteroffer.

- e. Recommend or suggest the price/rent or other material terms and conditions Seller/Landlord should accept, offer or counteroffer.

5. **Specific Things That Company/Agent *can and will do.***

- a. Treat Seller/Landlord and Buyer/Tenant neutrally, fairly and honestly.
- b. Provide information about Seller/Landlord's Property to Buyer/Tenant.
- c. Respond to Buyer/Tenant's questions about Seller/Landlord's Property to the best of their knowledge.
- d. Disclose to Buyer/Tenant all known material defects (if any) in the physical condition of Seller/Landlord's Property (without assuming any independent duty to find any such defects).
- e. Explain local real estate terms, procedures and practices.
- f. Explain closing costs and procedures.
- g. Provide information about comparable properties, so Seller/Landlord and Buyer/Tenant may make an independent educated decision on what price/rent and other material terms to accept, offer or counteroffer.
- h. Assist with preparing purchase-sale/lease agreements and addenda and amendments thereto.
- i. Work diligently to facilitate the sale-purchase/lease.

6. **General.**

- a. In the event that Seller/Landlord and Buyer/Tenant do not enter into an agreement for the sale-purchase/lease of Seller/Landlord's Property or any such agreement does not close by the closing date set forth in such agreement, Company/Agent may terminate such **dual agency** and this Agreement unilaterally by giving written notice thereof to Seller/Landlord and Buyer/Tenant.
- b. If any provision of this Agreement contradicts or conflicts with any earlier

oral or written agreements or any other documents or instruments in any way, such provision of this Agreement shall control.

- c. As used in this Agreement, the term "Agent" includes all brokers, associate brokers and agents employed by or associated with Company, including those at any of the Company's branch offices and the Agent that executed this Agreement on behalf of the Company.

Seller/Landlord and Buyer/Tenant (a) understand the limitations of Company/Agent's dual agency role and the consequential legal disadvantages to them of such dual agency, and (b) have nevertheless independently determined that the benefits of entering into a transaction with Company/Agent acting as dual agents for them outweighs the possible prejudicial effects of such limitations.

The only commission or other compensation that will be paid to Company/Agent is a commission equal to _____ % of the gross sales/lease price that will be paid by _____ .

This is a legally binding consensual Dual Agency agreement pursuant to Alaska Statute 08.88.396. By their signatures below, Seller/Landlord and Buyer/Tenant agree that Company/ Agent may act as their Dual Agents in this transaction on the terms of this Agreement notwithstanding any contrary or inconsistent principles of agency or other applicable law. This Agreement is incorporated by reference into any resulting sale-purchase/lease agreement between Seller/Landlord and Buyer/Tenant.

Signatures on next page.

**BOND, STEPHENS & JOHNSON, INC.
EXCLUSIVE LISTING AGREEMENT FOR SALE AND LEASE**

This listing agreement ("Agreement") is by and between: (a) ("Seller/Landlord"), a(n) _____, and (b) Bond, Stephens & Johnson, Inc. ("Broker"), an Alaska corporation.

1. Seller/Landlord hereby grants to Broker the exclusive right to sell or lease the real property ("Property") shown or described in the term sheet ("Term Sheet") attached as Exhibit A (incorporated by reference) on the terms and conditions stated in the Term Sheet (or as otherwise subsequently agreed to by Seller/Landlord) for the _____ (_____) -day period commencing on _____, 20____ ("Term"). In the event the Property is removed from the market due to the acceptance by Seller/Landlord of an offer to purchase or lease the Property during the Term, and the sale or lease is not consummated for any reason, then if and when the Property is put back on the market the Term shall be extended for a period of time equal to the number of days that the Property was removed from the market.

2. Seller/Landlord shall pay Broker a commission ("Commission") in accordance with Broker's Schedule of Sale and Lease Commissions ("Schedule") attached as Exhibit A (incorporated by reference) if, during the Term or the Tail Period (defined in Section 4): (a) the Property is sold or leased to a purchaser or tenant procured by Broker, Seller/Landlord or any other person or entity; (b) a purchaser or tenant is procured by Broker, Seller/Landlord, or any other person or entity who is ready, willing and able to purchase or lease the Property on the (i) terms and conditions stated in the Term Sheet or (ii) on any other terms and conditions acceptable to Seller/Landlord; (c) any contract for the sale or lease of the Property is entered into by Seller/Landlord; or (d) if Seller/Landlord is a corporation, partnership, limited liability company, trust or other business entity, a controlling interest in such entity is transferred in lieu of a sale or lease of the Property. If an earnest money or similar deposit made by a prospective purchaser or tenant is forfeited, in addition to any other Commission rights Broker has pursuant to this Agreement, Broker shall be entitled to a Commission of one-half (1/2) of such deposit.

3. In the event that an option or refusal right to purchase or lease the Property is granted during the Term or the Tail Period, Seller/Landlord shall pay Broker a Commission in accordance with the Schedule based upon the price paid for the option or refusal right or for any extensions thereof upon receipt by Seller/Landlord of any such payment(s). In the event that such option or refusal right is exercised during the Term, the Tail Period or at any time thereafter, Seller/Landlord shall also pay Broker a Commission on the gross sale or lease price of the Property in accordance with the Schedule. However, to the extent that

Seller/Landlord's Initials:

all or part of the price paid for the option, refusal right or any extension thereof is applied to the sale or lease price of the Property, then any Commission previously paid by Seller/Landlord to Broker on account of such option or refusal right or any extension thereof shall be credited against the Commission payable to Broker on account of the exercise of that option or refusal right.

4. Seller/Landlord shall pay Broker a Commission in accordance with the Schedule if, within one (1) year after the expiration of the Term ("Tail Period"), the Property is sold or leased to, or Seller/Landlord enters into a contract, option or refusal right for the sale or lease of the Property with, any person or entity (including his/her/its successors, assigns or affiliates) with whom Broker has negotiated or otherwise communicated with respect to the Property (either directly or indirectly through another broker or agent) or by or to whom the Property has been inspected or shown prior to the expiration of the Term.

5. Seller/Landlord shall (a) cooperate and deal fairly and in good faith with Broker in seeking a sale or lease of the Property on terms and conditions at least as favorable to Seller/Landlord in the aggregate as those listed in the Term Sheet and (b) refer immediately to Broker all persons or entities interested in purchasing or leasing the Property. All negotiations for the sale or lease of Property shall be handled by and through Broker. Broker is exclusively authorized to market and advertise the Property for sale or lease by such means as, in Broker's sole discretion, would facilitate a sale or lease of the Property. Seller/Landlord and its legal counsel shall be solely responsible for drafting and/or determining the legal sufficiency of all offer, acceptance, contract, conveyance and other documents and instruments relating to any sale/purchase or lease transaction contemplated by this Agreement.

6. Seller/Landlord shall disclose to Broker in writing and to all prospective purchasers or lessees of the Property any and all information which Seller/Landlord knows or has within its custody, control or possession regarding the following matters affecting the Property: (a) present and future zoning, building and land use restrictions; (b) environmental matters, including, without limitation, the presence and location of underground storage tanks, petroleum products, asbestos, PCBs and other toxic, hazardous or extremely hazardous or toxic substances located in, on, or about the Property; (c) physical defects and hazards in and soils conditions in, on or about the Property; (d) whether the Property is or may be situated in a flood zone; and (e) any other information which a prudent buyer/tenant would reasonably consider in making its decision to buy/lease the Property. Broker is authorized to disclose all such information to prospective purchasers or tenants.

Seller/Landlord's Initials:

7. Seller/Landlord represents and warrants to Broker that, except as may be set forth in the Term Sheet: (a) Seller/Landlord holds good, marketable and unencumbered fee simple title to the Property; and (b) that no person or entity who has an ownership interest in the Property is a foreign person as defined in the Foreign Investment in Real Property Tax Act (commonly known as "FIRPTA").

8. Broker is irrevocably authorized: (a) to deduct its Commission from any deposits, payments or other funds, including proceeds of sale or lease payments, paid by a purchaser or tenant in connection with any transaction contemplated by this Agreement. Seller/Landlord hereby irrevocably assigns such deposits, payments and funds to Broker to the extent necessary to pay such Commission; and (b) to order on behalf of Seller/Landlord and in its name a preliminary commitment from a local title insurer to issue title insurance on the Property or other form of title report, which Seller/Landlord shall pay for.

9. Each signator to this Agreement represents and warrants: (a) that he or she has full authority to execute and deliver this Agreement on behalf of the party which he/she purportedly represents; and (b) that this Agreement binds such party and is valid and fully enforceable against such party in accordance with its terms.

10. Seller/Landlord shall defend, indemnify and hold harmless Broker and its agents, shareholders, directors and employees from and against any obligations, liabilities, demands, claims, fees and costs suffered or incurred by any of them, that arise out of, result from, are based upon or are caused by, in whole or in part, directly or indirectly, any acts or omissions of Seller/Landlord or any person for whom Seller/Landlord is legally responsible, including, without limitation, all acts and omissions in any way relating to erroneous disclosures or partial or complete failures to disclose required information regarding physical conditions or defects in or environmental contamination affecting the Property or any adjacent or nearby properties.

11. As used in this Agreement and its Exhibits, (a) the term "lease" shall also include subleases and sub-subleases; (b) the term "tenant" shall also include subtenants and sub-subtenants and their respective successors and assigns; and (c) the term "purchaser" shall also include purchaser's successors and assigns.

12. This Agreement (a) is fully integrated; (b) constitutes the entire agreement between Seller/Landlord and Broker with respect to its subject matter; and (c) supersedes all prior discussions, negotiations, promises, understandings and agreements with respect thereto, whether oral or written. No amendment, novation, supplementation, termination or rescission of this Agreement shall be valid or enforceable unless made in writing and executed and delivered by both Seller/Landlord and Broker. This Agreement shall not be

Seller/Landlord's Initials:

Term Sheet

- 1. Property Description:

- 2. Authority to Submit to MLS Listing? Yes No
- 3. Authorized to place sign on Property? Yes No
- 4. For Sales:
 - a. Price:

 - b. Payment Terms:

- 5. For Leases:
 - a. Rent:

 - b. Term:

- 6. Other Terms/Conditions:

(Supplement as necessary)

Seller/Landlord's Initials:

Exhibit A**Bond, Stephens & Johnson, Inc.
Schedule of Sale and Lease Commissions
For Listing Agreement for Sellers and Landlords****A. SALES:**

1. For sales of improved real properties, the Commission shall be six percent of the gross sales price. For sales of unimproved real property, the Commission shall be ten percent of the gross sales price. The gross sales price shall include any and all monetary consideration and the fair market value of all non-monetary consideration in whatever form paid or given by or on behalf of the purchaser to Seller or its designee(s) for or with respect to the Property, including but not limited to the assumption or release of existing liabilities. For purposes of this Schedule, the Property is deemed to be improved unimproved (deemed to be unimproved if unchecked).

2. The Commission shall be paid upon the earlier to occur of: (a) the closing of the transaction; (b) when the sales price is paid (for installment sales, the entire commission is due with the down payment); (c) Seller's failure or refusal to close the transaction; or (d) when provided in the Term Sheet or otherwise.

B. LEASES:

For leases the Commission shall be six percent of the aggregate gross rent for the original term, without reductions, deductions, credits or offsets, payable in its entirety upon the execution of the lease, subject to the following:

1. *Month to Month Tenancy.* The minimum Commission for a month to month tenancy, tenancy at will, or any tenancy which is not reduced to a written lease between a tenant and Landlord shall be equal to 50 % of the first month's base rent or \$1,000, whichever is greater. The Commission shall be payable upon occupancy. In the event such a tenant subsequently executes a written lease with Landlord, either directly or with the assistance of Broker or any other person or entity, within 24 months from the date of initial occupancy, then Broker shall receive a Commission with respect to such lease in accordance with the provisions of paragraph B above.

Seller/Landlord's Initials:

2. *Extension, Renewal or New Lease.* If the lease term is effectively renewed or extended, in accordance with the terms of an option, refusal right, new lease, substitute lease or otherwise, then Landlord shall pay Broker a Commission at one-half of the commission rate provided in Section B of this Schedule based on the aggregate gross rent payable during the extended or renewed lease term for the existing space, without deduction, credit, reduction or set-off. If additional space is leased during the initial, renewed or extended term, Landlord shall pay Broker a Commission at the commission rate provided in Section B of this Schedule based on the aggregate gross rent for the additional space payable during the extended or renewed lease term, without deduction, credit, reduction or set-off. Such Commission shall be earned and payable at the time the extended or renewed term commences for the existing space and at the time of agreement for any additional space.
3. *Purchase of Property by Tenant.* If a tenant, its successors or assignees, or any agent, officer, employee, principal, partner, member, director, manager or shareholder of such tenant or its successors or assigns purchases the Property during (a) the term of the lease, (b) any extension or renewal thereof, or (c) within 180 days after the expiration thereof, then a Commission shall be paid to Broker in accordance with the provisions of Section A above; provided however, that there shall be a credit against such Commission in the amount of the Commission previously paid to Broker for the portion of the purchaser's lease term which is cancelled by reason of such sale. In no event shall such credit exceed the amount of such sales Commission.
4. *Percentage Rent.* If a lease for which a Commission is payable hereunder contains a percentage rent or similar clause, Seller/Landlord shall pay a Commission on the percentage rent or similar payment payable by the tenant at the Commission rate in Section B above applicable to the period of the lease term for which the percentage rent or similar payment is payable. This Commission shall be payable to Broker within 15 days after the tenant's payment of the percentage rent or similar payment for such period. Notwithstanding the foregoing, at the end of the third full lease year Landlord shall pay Broker a Commission on the percentage rent or similar payment for the remainder of the original term of the lease. For the purpose of calculating this Commission, the percentage rent or similar payment for each remaining year of the term of the lease shall be deemed to be the same amount as the percentage rent or similar payment payable for the third full lease year.

Seller/Landlord's Initials:

5. *Ground Lease.* If a lease is a ground lease, the Commission shall not exceed what the Commission would be for a sale of the Property at a price equal to the value of the Property used to compute the Property rental rate or, if no such value was used, the then fair market value of the Property.

The provisions hereof are subject to the terms and provisions of any Term Sheet or other agreement to which this Schedule may be attached and which is executed by the parties hereto.

In the event Seller/Landlord fails to make Commission payments to Broker within the time limits set forth herein, then from the date due until paid the delinquent amount shall bear interest at the legal rate set forth in AS 45.45.010 or the maximum legal interest rate chargeable on such amount in Alaska, whichever is less. If Broker is required to pursue legal action against Seller/Landlord to collect any Commission due it, Broker shall be entitled to also recover from Seller/Landlord the reasonable actual attorneys' fees and costs it incurs in such pursuit.

Seller/Landlord's Initials:

Exclusive Listing Agreement for Sale & Lease
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Page 8 of 8
BSJ Form No. 4, 12/02 cd.

Bond, Stephens & Johnson, Inc., Commercial Real Estate Services
3000 "A" Street, Suite 200, Anchorage, AK 99503
Ph 907-563-7733 Fax 907-561-8929
Email bsi@bsjalaska.com www.bsjalaska.com

Bond, Stephens & Johnson, Inc.**Fax**

To: c/o Heather Nobrega
Attn: Rep. Norm Rokeberg

From: Chris Stephens, CCIM

Fax: 907-465-~~6848~~

Fax: 907-786-7326

2040

Phone: 907-243-1454

Phone: 907-786-7305

Date: 4/11/2003

Pages:

★

Subject: Agency Forms Samples

Notes:

Dear Representative Rokeberg:

Attached are the agency disclosure forms that our attorney drafted for us after the court ruling on agency. As you can see, they are very comprehensive because they are our attorney's effort to meet all of the requirements of the judge's ruling. They are also very awkward to work with.

I will be sending you a statement on the proposed House Bill No. 257.

Sincerely,

Chris Stephens, CCIM

★ 1st set 17 pages
2nd set 16 pages
3rd set 17 pages

**BOND, STEPHENS & JOHNSON, INC. SINGLE-PARTY
LISTING AGREEMENT FOR SALE AND LEASE**

This listing agreement ("Agreement") is by and between: (a) _____ ("Seller/Landlord"), a(n) _____, and (b) Bond, Stephens & Johnson, Inc. ("Broker"), an Alaska corporation.

1. Seller/Landlord hereby grants to Broker the exclusive right to sell or lease the real property ("Property") shown or described in the term sheet ("Term Sheet") attached as Exhibit A (incorporated by reference) on the terms and conditions stated in the Term Sheet (or as otherwise subsequently agreed to by Seller/Landlord) only to the prospective buyer/tenant identified in the attached Exhibit B. Broker's right to sell or lease the Property shall be for the _____ () day period commencing on _____, 20 _____ ("Term"). In the event the Property is removed from the market due to the acceptance by Seller/Landlord of an offer to purchase or lease the Property during the Term, and the sale or lease is not consummated for any reason, then if and when the Property is put back on the market the Term shall be extended for a period of time equal to the number of days that the Property was removed from the market.

2. Seller/Landlord shall pay Broker a commission ("Commission") in accordance with Broker's Schedule of Sale and Lease Commissions ("Schedule") attached as Exhibit A (incorporated by reference) if, during the Term or the Tail Period (defined in Section 4): (a) the Property is sold or leased to a purchaser or tenant procured by Broker, Seller/Landlord or any other person or entity; (b) a purchaser or tenant is procured by Broker, Seller/Landlord, or any other person or entity who is ready, willing and able to purchase or lease the Property on the (i) terms and conditions stated in the Term Sheet or (ii) on any other terms and conditions acceptable to Seller/Landlord; (c) any contract for the sale or lease of the Property is entered into by Seller/Landlord; or (d) if Seller/Landlord is a corporation, partnership, limited liability company, trust or other business entity, a controlling interest in such entity is transferred in lieu of a sale or lease of the Property. If an earnest money or similar deposit made by a prospective purchaser or tenant is forfeited, in addition to any other Commission rights Broker has pursuant to this Agreement, Broker shall be entitled to a Commission of one-half (1/2) of such deposit.

3. In the event that an option or refusal right to purchase or lease the Property is granted during the Term or the Tail Period, Seller/Landlord shall pay Broker a Commission in accordance with the Schedule based upon the price paid for the option or refusal right or for any extensions thereof upon receipt by Seller/Landlord of any such payment(s). In the event that such option or refusal right is exercised during the Term, the Tail Period or at any time thereafter, Seller/Landlord shall also pay Broker a Commission on the gross sale or lease price of the Property in accordance with the Schedule. However, to the extent that all or part of the price paid for the option, refusal right or any extension thereof is applied

Seller/Landlord's Initials:

to the sale or lease price of the Property, then any Commission previously paid by Seller/Landlord to Broker on account of such option or refusal right or any extension thereof shall be credited against the Commission payable to Broker on account of the exercise of that option or refusal right.

4. Seller/Landlord shall pay Broker a Commission in accordance with the Schedule if, within one (1) year after the expiration of the Term ("Tail Period"), the Property is sold or leased to, or Seller/Landlord enters into a contract, option or refusal right for the sale or lease of the Property with, any person or entity (including his/her/its successors, assigns or affiliates) with whom Broker has negotiated or otherwise communicated with respect to the Property (either directly or indirectly through another broker or agent) or by or to whom the Property has been inspected or shown prior to the expiration of the Term.

5. Seller/Landlord shall (a) cooperate and deal fairly and in good faith with Broker in seeking a sale or lease of the Property on terms and conditions at least as favorable to Seller/Landlord in the aggregate as those listed in the Term Sheet and (b) refer immediately to Broker all persons or entities interested in purchasing or leasing the Property. All negotiations for the sale or lease of Property shall be handled by and through Broker. Broker is exclusively authorized to market and advertise the Property for sale or lease by such means as, in Broker's sole discretion, would facilitate a sale or lease of the Property. Seller/Landlord and its legal counsel shall be solely responsible for drafting and/or determining the legal sufficiency of all offer, acceptance, contract, conveyance and other documents and instruments relating to any sale/purchase or lease transaction contemplated by this Agreement.

6. Seller/Landlord shall disclose to Broker in writing and to all prospective purchasers or lessees of the Property any and all information which Seller/Landlord knows or has within its custody, control or possession regarding the following matters affecting the Property: (a) present and future zoning, building and land use restrictions; (b) environmental matters, including, without limitation, the presence and location of underground storage tanks, petroleum products, asbestos, PCBs and other toxic, hazardous or extremely hazardous or toxic substances located in, on, or about the Property; (c) physical defects and hazards in and soils conditions in, on or about the Property; (d) whether the Property is or may be situated in a flood zone; and (e) any other information which a prudent buyer/tenant would reasonably consider in making its decision to buy/lease the Property. Broker is authorized to disclose all such information to the prospective buyer/tenant identified in the attached Exhibit B.

7. Seller/Landlord represents and warrants to Broker that, except as may be set forth in the Term Sheet: (a) Seller/Landlord holds good, marketable and unencumbered fee simple title to the Property; and (b) that no person or entity who has an ownership interest

Seller/Landlord's Initials:

In the Property is a foreign person as defined in the Foreign Investment in Real Property Tax Act (commonly known as "FIRPTA").

8. Broker is irrevocably authorized: (a) to deduct its Commission from any deposits, payments or other funds, including proceeds of sale or lease payments, paid by a purchaser or tenant in connection with any transaction contemplated by this Agreement. Seller/Landlord hereby irrevocably assigns such deposits, payments and funds to Broker to the extent necessary to pay such Commission; and (b) to order on behalf of Seller/Landlord and in its name a preliminary commitment from a local title insurer to issue title insurance on the Property or other form of title report, which Seller/Landlord shall pay for.

9. Each signator to this Agreement represents and warrants: (a) that he or she has full authority to execute and deliver this Agreement on behalf of the party which he/she purportedly represents; and (b) that this Agreement binds such party and is valid and fully enforceable against such party in accordance with its terms.

10. Seller/Landlord shall defend, indemnify and hold harmless Broker and its agents, shareholders, directors and employees from and against any obligations, liabilities, demands, claims, fees and costs suffered or incurred by any of them, that arise out of, result from, are based upon or are caused by, in whole or in part, directly or indirectly, any acts or omissions of Seller/Landlord or any person for whom Seller/Landlord is legally responsible, including, without limitation, all acts and omissions in any way relating to erroneous disclosures or partial or complete failures to disclose required information regarding physical conditions or defects in or environmental contamination affecting the Property or any adjacent or nearby properties.

11. As used in this Agreement and its Exhibits, (a) the term "lease" shall also include subleases and sub-subleases; (b) the term "tenant" shall also include subtenants and sub-subtenants and their respective successors and assigns; and (c) the term "purchaser" shall also include purchaser's successors and assigns.

12. This Agreement (a) is fully integrated; (b) constitutes the entire agreement between Seller/Landlord and Broker with respect to its subject matter; and (c) supersedes all prior discussions, negotiations, promises, understandings and agreements with respect thereto, whether oral or written. No amendment, novation, supplementation, termination or rescission of this Agreement shall be valid or enforceable unless made in writing and executed and delivered by both Seller/Landlord and Broker. This Agreement shall not be construed against its drafter. This Agreement shall be binding upon, and shall benefit, the heirs, successors and assignees of the parties. This Agreement and the respective rights and obligations of the parties hereunder shall be construed and interpreted as a contract under the laws of the State of Alaska, without regard to its conflicts of law principles. If a question, dispute or requirement for interpretation or construction should arise with respect

Seller/Landlord's Initials:

Term Sheet

1. Property Description:

2. For Sales:

a. Price:

b. Payment Terms:

3. For Leases:

a. Rent:

b. Term:

4. Other Terms/Conditions:

(Supplement as necessary)

Seller/Landlord's Initials:

Exhibit A

Bond, Stephens & Johnson, Inc.
Schedule of Sale and Lease Commissions
For Single Party Listing Agreement for Sellers and Landlords

A. SALES:

1. For sales of improved real properties, the Commission shall be six percent of the gross sales price. For sales of unimproved real property, the Commission shall be ten percent of the gross sales price. The gross sales price shall include any and all monetary consideration and the fair market value of all non-monetary consideration in whatever form paid or given by or on behalf of the purchaser to Seller or its designee(s) for or with respect to the Property, including but not limited to the assumption or release of existing liabilities. For purposes of this Schedule, the Property is deemed to be improved unimproved (deemed to be unimproved if unchecked).

2. The Commission shall be paid upon the earlier to occur of: (a) the closing of the transaction; (b) when the sales price is paid (for installment sales, the entire commission is due with the down payment); (c) Seller's failure or refusal to close the transaction; or (d) when provided in the Term Sheet or otherwise.

B. LEASES:

For leases the Commission shall be six percent of the aggregate gross rent for the original term, without reductions, deductions, credits or offsets, payable in its entirety upon the execution of the lease, subject to the following:

1. *Month to Month Tenancy.* The minimum Commission for a month to month tenancy, tenancy at will, or any tenancy which is not reduced to a written lease between a tenant and Landlord shall be equal to 50 % of the first month's base rent or \$1,000, whichever is greater. The Commission shall be payable upon occupancy. In the event such a tenant subsequently executes a written lease with Landlord, either directly or with the assistance of Broker or any other person or entity, within 24 months from the date of initial occupancy, then Broker shall receive a Commission with respect to such lease in accordance with the provisions of paragraph B above.

2. *Extension, Renewal or New Lease.* If the lease term is effectively renewed or extended, in accordance with the terms of an option, refusal right, new lease, substitute lease or otherwise, then Landlord shall pay Broker a Commission at one-half of the

Seller/Landlord's Initials:

commission rate provided in Section B of this Schedule based on the aggregate gross rent payable during the extended or renewed lease term for the existing space, without deduction, credit, reduction or set-off. If additional space is leased during the initial, renewed or extended term, Landlord shall pay Broker a Commission at the commission rate provided in Section B of this Schedule based on the aggregate gross rent for the additional space payable during the extended or renewed lease term, without deduction, credit, reduction or set-off. Such Commission shall be earned and payable at the time the extended or renewed term commences for the existing space and at the time of agreement for any additional space.

3. *Purchase of Property by Tenant.* If a tenant, its successors or assignees, or any agent, officer, employee, principal, partner, member, director, manager or shareholder of such tenant or its successors or assigns purchases the Property during (a) the term of the lease, (b) any extension or renewal thereof, or (c) within 180 days after the expiration thereof, then a Commission shall be paid to Broker in accordance with the provisions of Section A above; provided however, that there shall be a credit against such Commission in the amount of the Commission previously paid to Broker for the portion of the purchaser's lease term which is cancelled by reason of such sale. In no event shall such credit exceed the amount of such sales Commission.

4. *Percentage Rent.* If a lease for which a Commission is payable hereunder contains a percentage rent or similar clause, Seller/Landlord shall pay a Commission on the percentage rent or similar payment payable by the tenant at the Commission rate in Section B above applicable to the period of the lease term for which the percentage rent or similar payment is payable. This Commission shall be payable to Broker within 15 days after the tenant's payment of the percentage rent or similar payment for such period. Notwithstanding the foregoing, at the end of the third full lease year Landlord shall pay Broker a Commission on the percentage rent or similar payment for the remainder of the original term of the lease. For the purpose of calculating this Commission, the percentage rent or similar payment for each remaining year of the term of the lease shall be deemed to be the same amount as the percentage rent or similar payment payable for the third full lease year.

5. *Ground Lease.* If a lease is a ground lease, the Commission shall not exceed what the Commission would be for a sale of the Property at a price equal to the value of the Property used to compute the Property rental rate or, if no such value was used, the then fair market value of the Property.

The provisions hereof are subject to the terms and provisions of any Term Sheet or other

Seller/Landlord's Initials:

agreement to which this Schedule may be attached and which is executed by the parties hereto.

In the event Seller/Landlord fails to make Commission payments to Broker within the time limits set forth herein, then from the date due until paid the delinquent amount shall bear interest at the legal rate set forth in AS 45.45.010 or the maximum legal interest rate chargeable on such amount in Alaska, whichever is less. If Broker is required to pursue legal action against Seller/Landlord to collect any Commission due it, Broker shall be entitled to also recover from Seller/Landlord the reasonable actual attorneys' fees and costs it incurs in such pursuit.

Seller/Landlord's Initials:

Single Party Listing Agreement for Sale & Lease
© Bond, Stephens & Johnson, Inc. 2002

Page 8 of 9
BSJ Form No. 5, 12/02 ed.

Bond, Stephens & Johnson, Inc., Commercial Real Estate Services
3000 "A" Street, Suite 200, Anchorage, AK 99503
Ph. 907-563-7733 Fax 907-561-8929
Email bsj@bsjalaska.com www.bsjalaska.com

Exhibit B

Identity of Buyer/Tenant for Single-Party Listing Agreement

Name: _____

Seller/Landlord:

, Seller/Landlord

Dated: _____, 20

Company:

BOND, STEPHENS & JOHNSON, INC.,
an Alaska corporation

By: _____
, Agent

Dated: _____, 20

Seller/Landlord's Initials:

BOND, STEPHENS & JOHNSON, INC.
AGENCY AGREEMENT FOR BUYERS AND TENANTS

This agency agreement ("Agreement") is by and between: (a) Bond, Stephens & Johnson, Inc. ("Broker"), an Alaska corporation, the address of which is 3000 "A" Street, Suite 200, Anchorage, Alaska 99503; and (b) ("Buyer/Tenant"), a(n) _____, the address of whom/which is _____.

1. Appointment of Agent. Buyer/Tenant hereby appoints Broker as its exclusive agent for the Term (defined in paragraph 2 below) to procure a purchase or lease of suitable real property on its behalf on the terms and conditions stated in the term sheet ("Term Sheet") incorporated by reference in this Agreement.

2. Term of Agency. The term of this agency ("Term") shall commence on the effective date hereof and, subject to the Tail Period (defined in paragraph 6 below), terminate _____ (_____) days thereafter.

3. Broker's Obligations. Broker shall make diligent and good faith effort to (a) locate, evaluate and advise Buyer/Tenant on a suitable property for Buyer/Tenant, (b) negotiate with a prospective seller or lessor on behalf of Buyer/Tenant to purchase or lease such property, and (c) assist Buyer/Tenant in closing the transaction.

4. Buyer/Tenant's Obligations. Buyer/Tenant shall (a) make a diligent and good faith effort to cooperate with Broker in evaluating, inspecting and making a prompt determination on whether to purchase or lease any property procured by Broker which meets the requirements set forth in the Term Sheet and (b) at its expense, obtain legal counsel to draft, review and advise it on all legal documentation required for the transaction.

5. Commission.

Payable by Buyer/Tenant. Buyer/Tenant shall pay Broker a commission ("Commission") in accordance with Broker's Schedule of Sale and Lease Commissions ("Schedule") attached as Exhibit A (incorporated by reference) if, during the Term or the Tail Period (defined in Section 6): (a) a seller/landlord is procured by Broker, Buyer/Tenant or any affiliate, or any other person or entity who is ready, willing and able to sell or lease any property to Buyer/Tenant or any affiliate on the terms and conditions stated in the Term Sheet or on any other terms and conditions acceptable to Buyer/Tenant or any affiliate; (b) any contract for the purchase or lease of any property is entered into by Buyer/Tenant or any affiliate thereof on the terms and conditions stated in the Term Sheet or on any other terms and conditions acceptable to Buyer/Tenant or any affiliate; or (c) Buyer/Tenant or any affiliate purchases or leases any property on the terms and conditions

stated in the Term Sheet or any other terms and conditions acceptable to Buyer/Tenant or any affiliate.

Pavable by Seller/Landlord. Broker shall make a reasonable effort to persuade each prospective seller/landlord to agree to pay Broker a Commission for procuring Buyer/Tenant for such seller/landlord. If Broker cannot persuade a seller/landlord who is willing to sell/lease property to Buyer/Tenant on terms acceptable to Buyer/Tenant to agree to pay Broker a Commission, Buyer/Tenant shall either: (a) pay Broker the Commission; or (b) neither purchase/lease, nor allow any affiliate to purchase/lease, any property from such seller/landlord. The Commission shall be computed and become due and owing as if it were originally to be paid by Buyer/Tenant, regardless of whether the foregoing box is checked.

6. Tail Period. If within one (1) year after the expiration of the Term ("Tail Period"), Buyer/Tenant purchases or leases, or enters into any contract, option or refusal right to purchase or lease, any property (a) from any person, entity (including his/her/its successors, assigns or affiliates) with whom Broker has negotiated or otherwise communicated on behalf of Buyer/Tenant or (b) which has been inspected or shown to Buyer/Tenant prior to the expiration of the Term, then Buyer/Tenant shall pay Broker the Commission provided for in Paragraph 5(b).

7. Authority. Each signator to this Agreement represents and warrants: (a) that he or she has full authority to execute and deliver this Agreement on behalf of the party which he/she purportedly represents; and (b) that this Agreement (i) binds such party and (ii) is valid and fully enforceable against such party in accordance with its terms.

8. Indemnity/Release. Buyer/Tenant hereby: (a) discharges and releases Broker and its agents, shareholders, directors and employees (with prejudice) from all obligations, liabilities, claims, fees and costs they may hereafter owe or have to Buyer/Tenant which in any way arise out of, result from, are based upon or are caused by, in whole or in part, directly or indirectly, their failure to discover, or obtain required disclosures from any seller/landlord of any physical defects or conditions or any environmental contamination affecting any real property the Buyer/Tenant may purchase/lease as a result of Broker's efforts under this Agreement or any adjacent or nearby properties; and (b) agrees to defend, indemnify and hold them harmless from and against any and all obligations, liabilities, demands, claims, fees and costs, which they may owe to any third person that in any way arise out of, result from, are based upon or are caused by, in whole or in part, directly or indirectly, (i) any such defects, conditions or contamination or (ii) acts or omissions by Buyer/Tenant or any person for whom Buyer/Tenant is legally responsible with respect to any property of any seller/landlord or any adjacent or nearby property.

9. General. This Agreement is fully integrated; constitutes the entire agreement between Buyer/Tenant and Broker with respect to its subject matter; and supersedes all prior discussions, negotiations, promises, understandings and agreements with respect thereto, whether oral or written. This Agreement shall not be construed against the

drafter. Each party has read, understands and agreed to be bound by this Agreement after consultation with competent independent legal counsel or after having voluntarily and knowingly waived the right to consult with such counsel. No amendment, novation, supplementation, termination or rescission of this Agreement shall be valid or enforceable unless made in writing and executed and delivered by both Buyer/Tenant and Broker. This Agreement shall be binding upon, and shall benefit, the heirs, successors and assignees of the parties. This Agreement and the respective rights and obligations of the parties hereunder shall be construed and interpreted as a contract under the laws of the State of Alaska, without regard to its conflicts of law principles. If a question, dispute or requirement for interpretation or construction should arise with respect to this Agreement, the jurisdiction and venue therefore shall lie exclusively with the courts for the Third Judicial District for the State of Alaska, at Anchorage, Alaska, or, alternatively, with the United States District Court for the District of Alaska, at Anchorage, Alaska, unless a nonwaivable federal or Alaska state law should require to the contrary. In the event any provision of this Agreement shall be deemed to be void or unenforceable based on any controlling state or federal law, the remaining provisions shall be unaffected thereby, such provision shall be deemed modified to the minimum extent necessary to make it valid and enforceable, and such provision shall be enforced as so modified.

10. Definitions. As used in this Agreement and its Exhibits, (a) the term "lease" shall also include subleases and sub-subleases; (b) the term "lessor" shall also include sublessors, sub-sublessors and their respective successors and assigns and entities which they respectively control; and (c) the terms "seller," and "Other Clients" shall also include their respective successors and assigns and entities which they respectively control.

Company:
 BOND, STEPHENS & JOHNSON, INC.,
 an Alaska corporation

Buyer/Tenant:

By: _____
 , Agent

 , Buyer

Dated: _____, 20

Dated: _____, 20

 , Buyer

Dated: _____, 20

Term Sheet

1. Property Requirements:

2. For Purchases:

a. Price:

b. Payment Terms:

3. For Leases:

a. Rent:

b. Term:

4. Other Terms/Conditions:

(Supplement as necessary)

Exhibit A

Bond, Stephens & Johnson, Inc.
Schedule of Sale and Lease Commissions
For Agency Agreement for Buyers and Tenants

A. SALES:

1. For purchases of improved real properties, the Commission shall be six percent of the gross sales price. For purchases of unimproved real property, the Commission shall be ten percent of the gross sales price. The gross sales price shall include any and all monetary consideration and the fair market value of all non-monetary consideration in whatever form paid or given by or on behalf of the Buyer to the seller or its designee(s) for or with respect to the property, including but not limited to the assumption or release of existing liabilities. For purposes of this Schedule, the Property is deemed to be Improved unimproved (deemed to be unimproved if unchecked).

2. The Commission shall be paid upon the earlier to occur of: (a) the closing of the transaction; (b) when the sales price is paid (for installment sales, the entire commission is due with the down payment); (c) Buyer's failure or refusal to close the transaction; or (d) when provided in the Term Sheet or otherwise.

B. LEASES:

For leases the Commission shall be six percent of the aggregate gross rent for the original term, without reductions, deductions, credits or offsets, payable in its entirety upon the execution of the lease, subject to the following:

1. *Month to Month Tenancy.* The minimum Commission for a month to month tenancy, tenancy at will, or any tenancy which is not reduced to a written lease between Tenant and a landlord shall be equal to 50% of the first month's base rent or \$1,000, whichever is greater. The Commission shall be payable upon occupancy. In the event Tenant subsequently executes a written lease with a landlord, either directly or with the assistance of Broker or any other person or entity, within 24 months from the date of initial occupancy, then Broker shall receive a Commission with respect to such lease in accordance with the provisions of paragraph B above.

2. *Extension, Renewal or New Lease.* If the lease term is effectively renewed or extended, in accordance with the terms of an option, refusal right, new lease, substitute lease or otherwise, then Tenant shall pay Broker a Commission at one-half of the commission rate provided in Section B of this Schedule based upon the aggregate gross rent payable during the extended or renewed lease term for the existing space, without deduction, credit, reduction or set-off. If additional space is leased during the initial, renewed or extended term, Landlord shall pay Broker a Commission at the commission

rate provided in Section B of this Schedule based on the aggregate gross rent for the additional space, without deduction, credit, reduction or set-off. Such Commission shall be earned and payable at the time the extended or renewed term commences for the existing space.

3. *Purchase of Property by Tenant.* If Tenant, its successors or assignees, or any agent, officer, employee, principal, partner, member, director, manager or shareholder of Tenant or its successors or assigns purchases the Property during (a) the term of the lease or any substitute or new lease, (b) any extension or renewal thereof, or (c) within 180 days after the expiration thereof, then a Commission shall be paid to Broker in accordance with the provisions of Section A above; provided however, that there shall be a credit against such Commission in the amount of the Commission previously paid to Broker for the portion of the purchaser's lease term which is cancelled by reason of such sale. In no event shall such credit exceed the amount of such sales Commission.

4. *Percentage Rent.* If a lease for which a Commission is payable hereunder contains a percentage rent or similar clause, Tenant shall pay a Commission on the percentage rent or similar payment payable by Tenant at the Commission rate in Section B above applicable to the period of the lease term for which the percentage rent or similar payment is payable. This Commission shall be payable to Broker within 15 days after Tenant's payment of the percentage rent or similar payment for such period. Notwithstanding the foregoing, at the end of the third full lease year, Tenant shall pay Broker a Commission on the percentage rent or similar payment for the remainder of the lease term. For the purpose of calculating this Commission, the percentage rent or similar payment for each remaining year of the term of the lease shall be deemed to be the same amount as the percentage rent or similar payment payable for the third full lease year.

5. *Ground Lease.* If a lease is a ground lease, the Commission shall not exceed what the Commission would be for a sale of the property at a price equal to the value of the property used to compute the property rental rate or, if no such value was used, the then fair market value of the property.

The provisions hereof are subject to the terms and provisions of any Term Sheet or other agreement to which this Schedule may be attached and which is executed by the parties hereto.

In the event Buyer/Tenant fails to make Commission payments to Broker within the time limits set forth herein, then from the date due until paid the delinquent amount shall bear interest at the legal rate set forth in AS 45.45.010 or the maximum legal interest rate chargeable on such amount in Alaska, whichever is less. If Broker is required to pursue legal action against Buyer/Tenant to collect any Commission due it, Broker shall be entitled to also recover from Buyer/Tenant the reasonable actual attorneys' fees and costs it incurs in such pursuit.

Bond, Stephens & Johnson, Inc.

Fax

JS 3

To: c/o Heather Nobrega From: Chris Stephens, CCIM
Attn: Rep. Norm Rokeberg

Fax: 907-465-~~6848~~ 2040 Fax: 907-786-7326

Phone: 907-243-1454 Phone: 907-786-7305

Date: 4/11/2003 Pages: ***

Subject: Agency Forms Samples

Notes:

Dear Representative Rokeberg:

Attached are the agency disclosure forms that our attorney drafted for us after the court ruling on agency. As you can see, they are very comprehensive because they are our attorney's effort to meet all of the requirements of the judge's ruling. They are also very awkward to work with.

I will be sending you a statement on the proposed House Bill No. 257.

Sincerely,

Chris Stephens, CCIM

** 1st set 17 pages
2nd set 16 pages
3rd set 17 pages*

BOND, STEPHENS & JOHNSON, INC.
COMPENSATION AGREEMENT

This compensation agreement ("Agreement") is by and between: (a) ("Seller/Landlord"), a(n) _____, and (b) Bond, Stephens & Johnson, Inc. ("Broker"), an Alaska corporation.

1. The Buyer/Tenant identified below has granted Broker the exclusive right to procure Buyer's/Tenant's purchase/lease of the Seller's/Landlord's real property ("Property") described below with the understanding that Seller/Landlord will pay Broker's commission ("Commission") on the transaction. Seller/Landlord has agreed to pay Broker a Commission at the rate provided in the attached Exhibit A ("Schedule") if, during the Term or within one (1) year after the expiration of the Term ("Tail Period"), the Property is sold or leased to Buyer/Tenant or any affiliate thereof or a contract for such sale or lease is entered into that Seller/Landlord is legally obligated to perform but does not perform. If an earnest money or similar deposit made by Buyer/Tenant is forfeited to Seller/Landlord by Buyer/Tenant or any affiliate thereof, in addition to any other Commission rights Broker has pursuant to this Agreement, Seller/Landlord shall pay Broker a Commission equal to one-half (1/2) of such deposit. In the event that an option or refusal right to purchase or lease the Property is granted by Seller/Landlord to Buyer/Tenant or any affiliate thereof during the Term or the Tail Period, Seller/Landlord shall pay Broker a Commission in accordance with the Schedule based upon the purchase price in the option or refusal right, regardless of whether or when the option or refusal right is exercised.

Property Description: _____

Buyer/Tenant is an undisclosed principal.

OR

Buyer/Tenant's name is:

2. Notwithstanding that Seller/Landlord has committed to pay Broker's Commission, Broker is:

The agent for Buyer/Tenant only and not the agent for Seller/Landlord or the dual agent for Seller/Landlord and Buyer/Tenant. As such, Broker owes Seller/Landlord no fiduciary or other special duties and may recommend and procure a purchase/lease of other properties by Buyer/Tenant.

OR

Dual agent for Seller/Landlord and Buyer/Tenant. As such, Brokers duties are as described in the attached Dual Agency Agreement.

3. Seller/Landlord shall defend, indemnify and hold harmless Broker and its brokers, agents, shareholders, directors and employees from and against any obligations, liabilities, demands, claims, fees and costs suffered or incurred by any of them, that arise out of, result from, are based upon or are caused by, in whole or in part, directly or indirectly, any acts or omissions of Seller/Landlord or any person for whom Seller/Landlord is legally responsible, including, without limitation, all acts and omissions in any way relating to erroneous disclosures or partial or complete failures to disclose required information regarding physical conditions or defects in or environmental contamination affecting the Property or any adjacent or nearby properties.

4. This Agreement (a) is fully integrated; (b) constitutes the entire agreement between Seller/Landlord and Broker with respect to its subject matter; and (c) supersedes all prior discussions, negotiations, promises, understandings and agreements with respect thereto, whether oral or written. No amendment, novation, supplementation, termination or rescission of this Agreement shall be valid or enforceable unless made in writing and executed and delivered by both Seller/Landlord and Broker. This Agreement shall not be construed against its drafter. This Agreement shall be binding upon, and shall benefit, the heirs, successors and assignees of the parties. This Agreement and the respective rights and obligations of the parties hereunder shall be construed and interpreted as a contract under the laws of the State of Alaska, without regard to its conflicts of law principles. If a question, dispute or requirement for interpretation or construction should arise with respect to this Agreement, the jurisdiction and venue therefore shall lie exclusively with the courts for the Third Judicial District for the State of Alaska, at Anchorage, Alaska, or, alternatively, with the United States District Court for the District of Alaska, at Anchorage, Alaska, unless a nonwaivable federal or Alaska state law should require to the contrary.

Company:

Seller/Landlord:

BOND, STEPHENS & JOHNSON, INC.,
An Alaska corporation

, Seller/Landlord

By: _____
, Agent

Dated: _____, 20

By: _____
, Agent

, Seller/Landlord

Dated: _____, 20

Dated: _____, 20

Exhibit A**Bond, Stephens & Johnson, Inc.
Commission Schedule
For Compensation Agreement****A. SALES:**

1. For sales of improved real properties, the Commission shall be six percent of the gross sales price. For sales of unimproved real property, the Commission shall be ten percent of the gross sales price. The gross sales price shall include any and all monetary consideration and the fair market value of all non-monetary consideration in whatever form paid or given by or on behalf of the purchaser to Seller or its designee(s) for or with respect to the Property, including but not limited to the assumption or release of existing liabilities. For purposes of this Schedule, the Property is deemed to be improved unimproved (deemed to be unimproved if unchecked).
2. The Commission shall be paid upon the earlier to occur of: (a) the closing of the transaction; (b) when the sales price is paid (for installment sales, the entire commission is due with the down payment); (c) Seller's failure or refusal to close the transaction; or (d) when provided in the Term Sheet or otherwise.

B. LEASES:

For leases the Commission shall be six percent of the aggregate gross rent for the original term, without reductions, deductions, credits or offsets, payable in its entirety upon the execution of the lease, subject to the following:

1. *Month to Month Tenancy.* The minimum Commission for a month to month tenancy, tenancy at will, or any tenancy which is not reduced to a written lease between a tenant and Landlord shall be equal to 50% of the first month's base rent or \$1,000, whichever is greater. The Commission shall be payable upon occupancy. In the event such a tenant subsequently executes a written lease with Landlord, either directly or with the assistance of Broker or any other person or entity, within 24 months from the date of initial occupancy, then Broker shall receive a Commission with respect to such lease in accordance with the provisions of paragraph B above.
2. *Extension, Renewal or New Lease.* If the lease term is effectively renewed or extended, in accordance with the terms of an option, refusal right, new lease,

Seller/Landlord's Initials:

substitute lease or otherwise, then Landlord shall pay Broker a Commission at one-half of the commission rate provided in Section B of this Schedule based on the aggregate gross rent payable during the extended or renewed lease term for the existing space, without deduction, credit, reduction or set-off. If additional space is leased during the initial, renewed or extended term, Landlord shall pay Broker a Commission at the commission rate provided in Section B of this Schedule based on the aggregate gross rent for the additional space payable during the extended or renewed lease term, without deduction, credit, reduction or set-off. Such Commission shall be earned and payable at the time the extended or renewed term commences for the existing space and at the time of agreement for any additional space.

3. *Purchase of Property by Tenant.* If a tenant, its successors or assignees, or any agent, officer, employee, principal, partner, member, director, manager or shareholder of such tenant or its successors or assigns purchases the Property during (a) the term of the lease, (b) any extension or renewal thereof, or (c) within 180 days after the expiration thereof, then a Commission shall be paid to Broker in accordance with the provisions of Section A above; provided however, that there shall be a credit against such Commission in the amount of the Commission previously paid to Broker for the portion of the purchaser's lease term which is cancelled by reason of such sale. In no event shall such credit exceed the amount of such sales Commission.
4. *Percentage Rent.* If a lease for which a Commission is payable hereunder contains a percentage rent or similar clause, Seller/Landlord shall pay a Commission on the percentage rent or similar payment payable by the tenant at the Commission rate in Section B above applicable to the period of the lease term for which the percentage rent or similar payment is payable. This Commission shall be payable to Broker within 15 days after the tenant's payment of the percentage rent or similar payment for such period. Notwithstanding the foregoing, at the end of the third full lease year Landlord shall pay Broker a Commission on the percentage rent or similar payment for the remainder of the original term of the lease. For the purpose of calculating this Commission, the percentage rent or similar payment for each remaining year of the term of the lease shall be deemed to be the same amount as the percentage rent or similar payment payable for the third full lease year.
5. *Ground Lease.* If a lease is a ground lease, the Commission shall not exceed what the Commission would be for a sale of the Property at a price equal to the

Seller/Landlord's Initials:

value of the Property used to compute the Property rental rate or, if no such value was used, the then fair market value of the Property.

The provisions hereof are subject to the terms and provisions of any Term Sheet or other agreement to which this Schedule may be attached and which is executed by the parties hereto.

In the event Seller/Landlord fails to make Commission payments to Broker within the time limits set forth herein, then from the date due until paid the delinquent amount shall bear interest at the legal rate set forth in AS 45.45.010 or the maximum legal interest rate chargeable on such amount in Alaska, whichever is less. If Broker is required to pursue legal action against Seller/Landlord to collect any Commission due it, Broker shall be entitled to also recover from Seller/Landlord the reasonable actual attorneys' fees and costs it incurs in such pursuit.

Seller/Landlord's Initials:

**BOND, STEPHENS & JOHNSON, INC.
UNDISCLOSED PRINCIPAL ADDENDUM TO
AGENCY AGREEMENT BY BUYERS AND SELLERS**

This addendum ("Addendum") is by and between: (a) Bond, Stephens & Johnson, Inc. ("Broker"), an Alaska corporation, the address of which is 3000 "A" Street, Suite 200, Anchorage, Alaska 99503; and (b) _____ ("Buyer/Tenant"), a(n) _____, the address of whom/which is _____.

1. *Amendment to Agency Agreement.* This Addendum is an amendment to the Bond, Stephens & Johnson, Inc. Agency Agreement for Buyers and Tenants ("Agency Agreement") between Broker and Buyer/ Tenant of on or about even date herewith.

2. *Undisclosed Principal.* Buyer/Tenant wishes to remain an undisclosed principal for purposes of Broker's efforts to procure a purchase or lease suitable real property on its behalf on the terms and conditions stated in the Agency Agreement. As a result, Broker shall not disclose the identity of Buyer/Tenant to any prospective seller/landlord of real estate without Buyer's/Tenant's prior consent.

3. *Formation of Sale/Purchase Agreement or Lease.* If and when Broker negotiates a purchase or lease of suitable real property on behalf of Buyer/Tenant on the terms and conditions stated in the Agency Agreement, Broker shall enter into a sale/purchase agreement or lease on such terms and conditions as the agent for an undisclosed principal, which Buyer/Tenant hereby authorizes and grants Broker a special power of attorney to do on its behalf. Such agreement or lease shall (i) identify Broker as the agent for an undisclosed principal to whom (which) the agreement or lease will be assigned and (ii) provide that Broker shall be unconditionally released from all obligations and liabilities thereunder upon such undisclosed principal assuming the agreement or lease.

4. *Assignment of Sale/Purchase Agreement or Lease.* Promptly following Broker's execution of such sale/purchase agreement or lease on behalf of Buyer/Tenant and, in any event before the closing of any purchase by Buyer or occupancy of the premises by Tenant: (a) Broker shall assign all of its right, title and interest in and to such agreement or lease to Buyer/Tenant without warranty, representation or recourse; and (b) Buyer/Tenant shall (i) unconditionally and irrevocably accept such assignment and assume all of Broker's obligations and liabilities under such agreement or lease and (ii) notify the seller/landlord that it is the undisclosed principal and the real party in interest with respect to such agreement or lease.

5. *Earnest Money/Security Deposits.* Buyer/Tenant shall timely provide Broker with sufficient unrestricted funds to make all earnest money and security deposits required to be _____
Buyer/Tenant's Initials:

**BOND, STEPHENS & JOHNSON, INC.
ASSIGNMENT OF PURCHASE AND SALE AGREEMENT AND LEASES BY BROKER
TO ITS UNDISCLOSED PRINCIPAL**

For good, valuable and sufficient consideration received, Bond, Stephens & Johnson, Inc. ("Broker"), an Alaska corporation, hereby assigns, without representation, warranty, covenant or recourse, to ("Undisclosed Principal"), a(n) , all of Broker's right, title and interest in, to and under that certain written Purchase and Sale Agreement, dated , 20 , between Broker and , which Broker entered into at the direction, with the approval and for the benefit of Undisclosed Principal, as its agent, to purchase the following described real estate:

Recording District, Judicial District, State of Alaska, and all improvements, buildings and structures located thereon and appurtenances thereto.

Undisclosed Principal, rather than Broker, was at all times the real party in interest in, to and under such Purchase and Sale Agreement, and the purpose of this Agreement is to confirm its status as such.

Undisclosed Principal hereby (a) accepts such assignment, (b) assumes and agrees to fully, faithfully and timely perform and satisfy all of Broker's obligations and liabilities under and with respect to such Purchase and Sale Agreement, and (c) agrees to defend, indemnify and hold harmless Broker with respect to all such obligations and liabilities.

Effective Date: , 20 .

Broker:
BOND, STEPHENS & JOHNSON, INC., an
Alaska Corporation

By: _____
, Its Agent

**BOND, STEPHENS & JOHNSON, INC.
REVISED DISCLOSURE**

Pursuant to AS 08.88.396(d), the Company, Bond, Stephens & Johnson, Inc., through its Agent, _____, hereby make the following revised disclosure(s) to Seller/Landlord, _____, and Buyer/Tenant, _____, in response to a change that has made a prior disclosure by it required by AS 08.88.396 incomplete, misleading or inaccurate:

Company:

BOND, STEPHENS & JOHNSON, INC.,
an Alaska corporation

By:

, Agent

Dated: _____, 20

BOND, STEPHENS & JOHNSON, INC.
DISCLAIMER OF REPRESENTATIONS BY COMPANY/AGENT
(Without Acknowledgment)

, the Seller/Landlord, and , Buyer/Tenant, are negotiating for the sale and purchase of the following-described real property ("Property"): _____.
, the Company, , and , the Agent, have provided professional real estate services in connection with such negotiations.

To avoid any future dispute as to what statements, representations, warranties, inducements, promises or assurances, oral or written, express or implied, (collectively "Representations") have been made by Company or Agent on which Seller/Landlord and Buyer/Tenant have reasonably relied in negotiating such sale and purchase of the Property, Company and Agent hereby deny and disclaim any and all Representations with regard to the Property, including any Representations made by Seller/Landlord pursuant to AS 34.70.090 or any other applicable law, except for those expressly set forth in the attached Exhibit A (if any). Seller/Landlord and Buyer/Tenant have no right to rely on any other Representations by Company or Agent in entering into any agreement for the sale and purchase of the Property.

Dated this _____ day of _____, 20 _____

Company:
BOND, STEPHENS & JOHNSON, INC.,
an Alaska corporation

Agent:

By: _____

_____, Agent

Its:

Dated: _____, 20 _____

Dated: _____, 20 _____

EXHIBIT A
To
DISCLAIMER OF REPRESENTATIONS BY COMPANY/AGENT
(Without Acknowledgment)

[Company's Representations re Property]

**BOND, STEPHENS & JOHNSON, INC.
DISCLAIMER OF REPRESENTATIONS BY COMPANY/AGENT
(With Acknowledgment)**

Disclaimer

("Seller/Landlord") and ("Buyer/Tenant") hereby acknowledge, represent and warrant to and for the benefit of , the Company, and , the Agent, that Company and Agent have made no statements, representations, warranties, inducements, promises or assurances, express or implied, oral or written, (collectively "Representations") with respect to the following-described real property ("Property") on which Seller/Landlord or Buyer/Tenant have relied in selling or buying the Property, except for those expressly set forth in the attached Exhibit A (if any):

Acknowledgment

Seller/Landlord and Buyer/Tenant acknowledge and agree: (a) that the Representations made in any disclosure statement pertaining to the Property delivered by Seller/Landlord or Company or Agent to Buyer/Tenant pursuant to AS 34.70.010 or any other applicable law were made solely by Seller/Landlord and not by Company or Agent, except for those expressly set forth in the attached Exhibit A (if any); (b) that Company and Agent are not legally obligated or liable to Seller/Landlord or Buyer/Tenant for any such Representations or the accuracy or completeness of them; and (c) accept and acknowledge this disclaimer.

Dated this day of , 20 .

SELLER/LANDLORD:

, Seller/Landlord

Dated: , 20

, Seller/Landlord

Dated: , 20

BUYER/TENANT:

, Buyer/Tenant

Dated: , 20

, Buyer/Tenant

Dated: , 20

**EXHIBIT A
To
DISCLAIMER OF REPRESENTATIONS BY COMPANY/AGENT**

[Company's Representations re Property]



BOND, STEPHENS & JOHNSON

COMMERCIAL REAL ESTATE SERVICES

April 14, 2003

Representative Norman Rokeberg
Alaska Legislature
State Capitol, Room 214
Juneau, AK 99801-1182

Re: House Bill No. 257 regarding agency for real estate licensees.

Dear Representative Rokeberg,

I am writing to urge passage of House Bill 257. As President of Bond, Stephens & Johnson, Inc., the state's largest commercial real estate brokerage company, and as a seasoned commercial real estate broker in Alaska, I can attest to serious flaws in the current agency law. I strongly believe House Bill 257 will correct the situation. Let me elaborate.

Agency law, as recently defined by a residential real estate court ruling, is totally unworkable for commercial real estate brokerage. In instances of dual agency the current agency law makes it impossible for commercial real estate brokers to do our job. The required disclosure forms are outside the norm for commercial real estate, are cumbersome, unworkable and cause additional costs. Furthermore, the law's application to commercial real estate is unnecessary.

The current law's serious hindrance to commercial real estate transactions is harmful to the business sector of our economy and consumers. House Bill 257 corrects these problems with only minor changes to the existing law.

More specifically, regarding dual agency:

- When there is dual agency, the current law prohibits an agent from providing advice to the parties in the transaction.
- Dual agency occurs when there is one agent in a transaction that has an established relationship with the both parties, or when there are two agents from the same brokerage company in a transaction, one with the listing and the other with the buyer/tenant. This creates the absurd restriction where if an agent in my company brings the buyer/tenant to one of my listing we have to declare dual agency, but if an agent from another company brings the buyer/tenant there is not dual agency.
- Commercial transactions tend to have a high proportion of transactions that are dual agency. In 2002, 45 percent of my company's transactions were dual agency; I believe this is about average for commercial real estate in Alaska. The industry-wide high proportion of dual agency transaction is due to several factors:

- Alaska's small economy and business sector, in terms of people and companies, means that commercial brokers conduct many transactions with established clients on both sides of a transaction.
- Because of the complexity of commercial properties commercial brokers tend to sell/lease their own listings or find buyers/tenants through agents in their own company.
- Businesses and investors engage commercial brokerage services for our expertise, which is essential to completing commercial transactions. But under the current law, in about half the transactions because there is dual agency, it is illegal to provide our clients that expertise relative to price and terms- the heart of the transaction. We have to be silent observers. In other words, the law will not allow commercial brokers to do the job they were hired to do. That is ridiculous. It is almost impossible to believe that such an Alice-in-Wonderland situation exists, but it does.
- An example. I was recently in a transaction where I listed a large property for sale for an estate. The heirs have no commercial real estate experience and relied heavily on my expertise. Several offers were received, two from agents outside my company and one from an agent in my company. When I met with the sellers to determine which offer to move forward with, I provided an analysis of the advantages and disadvantages of each offer. But, with the offer from an agent in my company, the law requires that I remain silent and provide no assistance.
- Without brokers' expertise it is more difficult to complete transactions. This is not only harmful to brokers and their clients, but is also harmful to our economy and consumers.
- We simply cannot conduct business under these circumstances.

Regarding disclosure forms

- They are voluminous. I have provided you copies of the agency forms our attorney drafted so that we could meet the requirements of the current court ruling on agency. You can see the amount of paperwork we are dealing with in meeting just this one requirement of the current law. When we provide these forms to our clients to sign their eyes glaze over.
- The parties to commercial transactions are businesses and investors doing business transactions; they are not consumers buying a home. They know they are doing business transactions, and if they want to have their own broker, will do so. They don't need to be reminded of this by a form we have to ask them to sign.
- These disclosure forms can significantly slow down a transaction.
 - Many national companies' representatives refuse to accept the forms because they can not sign them without approval from their corporate law department in some far-away city.
 - Many individual business owners and investors have the same reaction and want their attorney to review them, because that is business practice.
- Attorney review of the forms only adds time and additional cost to completing a transaction.
- The law requires that when there is dual agency we must obtain each party's written agreement before we even show the property. Many of our clients are out-of-state corporate real estate officers with busy travel schedules who are difficult to contact. To

have to contact both parties for permission in advance to show their property in instances of dual agency unnecessarily delays and complicates the marketing process.

- The parties in a commercial real estate transaction don't care who the other parties are, they just want them to be financially qualified. If there are parties they will not sell to, (such as fast food competitors), they tell us up front and we won't show those competitors the property. Plus the competitor knows they can not buy from another competitor and don't even ask to see their properties.
- Managing and tracking the required paper work is becoming a monumental task.

Testimony that these requirements of the law are unnecessary is on the record. During the 22 years I have been a broker, I am not aware of a single instance when agency related issues have been part of a commercial real estate dispute anywhere in Alaska. If there have been any, they have been few. I am confident that was also the case prior to my entering the profession.

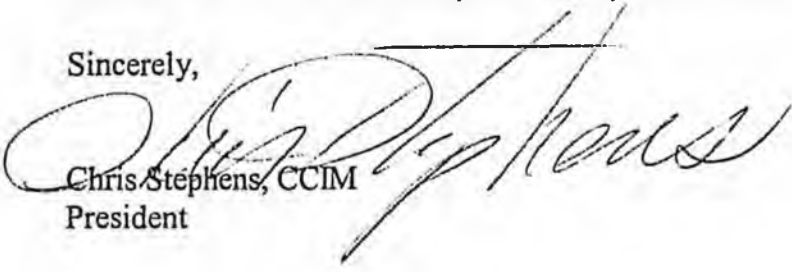
I am concerned that legislators understand the significant difference between commercial and residential real estate. I hope this letter helps you and your colleagues understand that commercial real estate is a unique business with its own special needs that are totally unlike residential real estate.

This difference is highlighted by the following true story. We once had a secretary who had worked for many years in a residential real estate office before coming to work for my company. After a few months with us, I asked how she found commercial real estate compared to residential real estate. The only similarity, she answered, was they both had real estate in their name.

We have a state law that is seriously flawed as it applies to commercial real estate. It serves no purpose to the public good. The law is a major hindrance to the conduct of necessary business and must be changed. House Bill 257 does this in a simple, straight-forward manner.

Again I urge in the strongest possible manner for the legislature to pass House Bill 257. It is in the best interest of consumers, businesses, and our economy.

Sincerely,



Chris Stephens, CCIM
President

Subject: HB 257

Date: Mon, 21 Apr 2003 15:10:18 -0800

From: kevin taylor <kevint@alaska.net>

To: Representative_Norman_Rokeberg@legis.state.ak.us

Norm,

I am a voter in your district, a Realtor and I am in favor of HB 257. I appreciate your efforts in helping those of us in the real estate industry. The state Board of Realtors has come out against this bill, but I don't think they speak for the majority of agents. I think if you took a poll of agents most of them would be in favor of what you are trying to accomplish with this bill.

If you wait for the Board of Realtors to contribute to the language in a bill, you will be waiting a long time...they can't agree on anything.

Thank you again for your efforts.

Kevin Taylor

7221 Setter Dr.

Anchorage, 99502

D27
P. 7W

Subject: HB 257

Date: Mon, 21 Apr 2003 21:22:20 -0700

From: Robert Stanton <rstanton@gci.net>

To: Representative_Norman_Rokeberg@legis.state.ak.us

Dear Representative Rokeberg:

I have been a licensed realtor here in Anchorage since 1975 and I sincerely appreciate and support your efforts in attempting to introduce and pass HB 257. It is imperative that we take steps to resolve and correct this issue quickly and to reduce the exposure to all within our industry. If there is anything I can do to assist you, please feel free to contact me either by email or on my cel phone at (907) 240 2560. Thank you.

Sincerely,

Robert J. Stanton, Jr.
License Number 3803

PO Box 112587
Anch 99511

D31

Subject: hb 257

Date: Mon, 21 Apr 2003 16:56:14 -0700

From: "ronzm" <ronzm@mtaonline.net>

To: <Representative_Norman_Rokeberg@legis.state.ak.us>

Dear Representative Rokeberg,

As an active Associate Broker in the State of Alaska and also, I might add, a member of NAR I disagree with AAR's position. You can cast my vote in favor of your bill. I totally agree that lawsuits originating on the basis of non-disclosure of agency in and of itself is ludicrous and a potential windfall for hungry attorneys. One could tighten the requirements a bit for the commercial application requirements but in general I am in favor of that portion of your bill also.

Sincerely,

Ron Zmuda
RE/MAX of Wasilla

PO Box 876326

Wasilla

Subject: HB257

Date: Tue, 22 Apr 2003 15:56:27 EDT

From: PLumetta@aol.com

To: Representative_Norman_Rokeberg@legis.state.ak.us

DEAR REPRESENTATIVE ROKEBERG,

I WOULD LIKE TO TAKE THIS OPPORTUNITY TO THANK YOU FOR THE LEGISLATION YOU HAVE PROPOSED IN HB257 TO HELP IMPROVE THE REAL ESTATE INDUSTRY HERE IN ALASKA. I SUPPORT THIS LEGISLATION 100% AND HOPE IT GETS APPROVED. I HAVE BEEN IN REAL ESTATE HERE IN ALASKA FOR 20 YEARS AND AM A MEMBER OF THE BOARD OF REALTORS AND THE AK ASSO. OF REALTORS. MY LICENSE IS #14223.

THANKS
PETER LUMETTA

Kenai

4/20/03

**The Honorable Norman Rokeberg
House of Representatives
Alaska State Capitol
Juneau, AK 99801-1182**

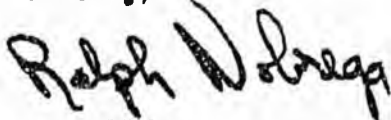
Dear Representative Rokeberg,

Just a personal note to say how much I appreciate you sponsoring HB 257. I have been a full time residential licensed Realtor in Anchorage for 23 years. I have never been involved in a lawsuit or even gone to arbitration. But, I resent the fact that under current statute, I can be sued on a technicality over "what minute I got the proper agency forms signed". I am pleased with HB 257, which does not relieve me of my responsibility to disclose agency, but limits my liability to any act, which results in actual damages to the public that I serve, as a result of fraud, misrepresentation, or deceit on my part.

HB 257 goes a long way in deterring fire-truck-chasing attorneys from pursuing "Technicality lawsuits" at the expense of everyone. When this important piece of legislation is passed, they can concentrate on serving the public when they are a victim of misconduct resulting in damages.

I strongly support HB 257. If there is anything I can do to assist in getting your bill passed, please contact me immediately.

Sincerely,



**Ralph Nobrega
AK licensee #6482
907-727-6903
Ralpho@iglide.net**

Subject: Real Estate Agency

Date: Sat, 19 Apr 2003 11:23:03 -0800

From: Scott Dennis <sddennis@InfoTechAlaska.com>

To: Representative_Norman_Rokeberg@legis.state.ak.us

To the Editor: Please do not edit my letter. It is difficult to be brief enough when discussing legal issues, but this is a response to the piece written by Richard Richtmyer on April 19. I would prefer either to cut it down myself if you declare it is too long, or perhaps to have it published as a voice from the community column or some other means. Thank you.

Dear Editor:

Rep Rokebergs bill limiting liability in dual-agency real estate transactions is a good first step towards tort reform but does not go far enough. This bill limits the liability in transactions in which there are no actual damages, thus removing the threat of punitive lawsuits based on mere technicalities. He obviously understands the fact that lawyers increasingly profit as conflict is prolonged, and that they might be persuaded to bring frivolous lawsuits merely on speculation of personal gain. I believe these lawsuits threaten the real estate industry in Alaska.

The biggest difficulty with Alaskas approach to agency relationships is the fact that representation in law rests with the employing real estate broker. Instead, it should rest with the actual agent who performs the service for the client. Right now, when two agents under the same broker represent the two parties to a transaction (even if one agent is in Anchorage and the other is with another office in Eagle River), it is declared by state law to be technical dual agency. Still, the agents have a duty to adequately represent their clients, and they do so. Yet state law specifies that they must limit the advocacy they give their clients. This is just plain wrong. There would be no true need to limit advocacy in these transactions were it not for the threat of these frivolous lawsuits. Another way to look at it is this: If an agent is taking a buyer on a driving tour, they would be free to show any and all homes on the market, on a moments notice, except for those listed by other agents at their employing brokerage; in those situations the state law implies that they must first obtain written consent from both buyer and the seller. Of course we have a duty to inform the buyer. But the law seemingly departs from the reality, at least in a lawyers eyes. This is obviously not a healthy situation for the industry as a whole as it limits the ability of the agent to adequately represent the buyer due to the fear of frivolous lawsuits.

Since the agents themselves are representing the client it does not make sense to declare that the employing broker is the representative, as the brokers often have no direct involvement in the actual transaction. It is time for the law to accurately reflect the reality. If this were changed, the only dual-agency transactions would be those where a

single agent represents both sides of a transaction, as it should be. Even in these transactions the agent would still be able to help facilitate the transaction. Often this is advantageous, actually, especially in new construction, where the buyer then has an agent with intimate access to the builder.

I strongly support Rep Rokebergs bill as in interim measure to protect the industry from the ambulance-chasers while the Real Estate Commission addresses the real problems in state law.

Scott Dennis
Anchorage Alaska

(Disclosure: I am a licensed real estate agent)

Scott Dennis, Owner and Consulting Engineer
InfoTech Alaska
POB 240706
Anchorage, AK 99524
(907) 441-7776

"The Impossible just takes a little longer"

<http://www.InfoTechAlaska.com/>

Code of Ethics and Standards of Practice of the NATIONAL ASSOCIATION OF REALTORS®

Effective January 1, 2003

Where the word REALTORS® is used in this Code and Preamble, it shall be deemed to include REALTOR-ASSOCIATE®s.

While the Code of Ethics establishes obligations that may be higher than those mandated by law, in any instance where the Code of Ethics and the law conflict, the obligations of the law must take precedence.

Preamble

Under all is the land. Upon its wise utilization and widely allocated ownership depend the survival and growth of free institutions and of our civilization. REALTORS® should recognize that the interests of the nation and its citizens require the highest and best use of the land and the widest distribution of land ownership. They require the creation of adequate housing, the building of functioning cities, the development of productive industries and farms, and the preservation of a healthful environment.

Such interests impose obligations beyond those of ordinary commerce. They impose grave social responsibility and a patriotic duty to which REALTORS® should dedicate themselves, and for which they should be diligent in preparing themselves. REALTORS®, therefore, are zealous to maintain and improve the standards of their calling and share with their fellow REALTORS® a common responsibility for its integrity and honor.

In recognition and appreciation of their obligations to clients, customers, the public, and each other, REALTORS® continuously strive to become and remain informed on issues affecting real estate and, as knowledgeable professionals, they willingly share the fruit of their experience and study with others. They identify and take steps, through enforcement of this Code of Ethics and by assisting appropriate regulatory bodies, to eliminate practices which may damage the public or which might discredit or bring dishonor to the real estate profession. REALTORS® having direct personal knowledge of conduct that may violate the Code of Ethics involving misappropriation of client or customer funds or property, willful discrimination, or fraud resulting in substantial economic harm, bring such matters to the attention of the appropriate Board or Association of REALTORS®. (Amended 1/00)

Realizing that cooperation with other real estate professionals promotes the best interests of those who utilize their services, REALTORS® urge exclusive representation of clients; do not attempt to gain any unfair advantage over their competitors; and they refrain from making unsolicited comments about other practitioners. In instances where their opinion is sought, or where

REALTORS® believe that comment is necessary, their opinion is offered in an objective, professional manner, uninfluenced by any personal motivation or potential advantage or gain.

The term REALTOR® has come to connote competency, fairness, and high integrity resulting from adherence to a lofty ideal of moral conduct in business relations. No inducement of profit and no instruction from clients ever can justify departure from this ideal.

In the interpretation of this obligation, REALTORS® can take no safer guide than that which has been handed down through the centuries, embodied in the Golden Rule, "Whatsoever ye would that others should do to you, do ye even so to them."

Accepting this standard as their own, REALTORS® pledge to observe its spirit in all of their activities and to conduct their business in accordance with the tenets set forth below.

Duties to Clients and Customers

Article 1

When representing a buyer, seller, landlord, tenant, or other client as an agent, REALTORS® pledge themselves to protect and promote the interests of their client. This obligation to the client is primary, but it does not relieve REALTORS® of their obligation to treat all parties honestly. When serving a buyer, seller, landlord, tenant or other party in a non-agency capacity, REALTORS® remain obligated to treat all parties honestly. (Amended 1/01)

• Standard of Practice 1-1

REALTORS®, when acting as principals in a real estate transaction, remain obligated by the duties imposed by the Code of Ethics. (Amended 1/93)

• Standard of Practice 1-2

The duties the Code of Ethics imposes are applicable whether REALTORS® are acting as agents or in legally recognized non-agency capacities except that any duty imposed exclusively on agents by law or regulation shall not be imposed by this Code of Ethics on REALTORS® acting in non-agency capacities.

As used in this Code of Ethics, "client" means the person(s) or entity(ies) with whom a REALTOR® or a REALTOR®'s firm has an agency or legally recognized non-agency relationship; "customer" means a party to a real estate transaction who receives information, services, or benefits but has no contractual



NATIONAL ASSOCIATION
OF REALTORS®

The Voice for Real Estate®

Real Strength.
Real Advantages.

relationship with the REALTOR® or the REALTOR®'s firm; "agent" means a real estate licensee (including brokers and sales associates) acting in an agency relationship as defined by state law or regulation; and "broker" means a real estate licensee (including brokers and sales associates) acting as an agent or in a legally recognized non-agency capacity. *(Adopted 1/95, Amended 1/99)*

• **Standard of Practice 1-3**

REALTORS®, in attempting to secure a listing, shall not deliberately mislead the owner as to market value.

• **Standard of Practice 1-4**

REALTORS®, when seeking to become a buyer/tenant representative, shall not mislead buyers or tenants as to savings or other benefits that might be realized through use of the REALTOR®'s services. *(Amended 1/93)*

• **Standard of Practice 1-5**

REALTORS® may represent the seller/landlord and buyer/tenant in the same transaction only after full disclosure to and with informed consent of both parties. *(Adopted 1/93)*

• **Standard of Practice 1-6**

REALTORS® shall submit offers and counter-offers objectively and as quickly as possible. *(Adopted 1/93, Amended 1/95)*

• **Standard of Practice 1-7**

When acting as listing brokers, REALTORS® shall continue to submit to the seller/landlord all offers and counter-offers until closing or execution of a lease unless the seller/landlord has waived this obligation in writing. REALTORS® shall not be obligated to continue to market the property after an offer has been accepted by the seller/landlord. REALTORS® shall recommend that sellers/landlords obtain the advice of legal counsel prior to acceptance of a subsequent offer except where the acceptance is contingent on the termination of the pre-existing purchase contract or lease. *(Amended 1/93)*

• **Standard of Practice 1-8**

REALTORS® acting as agents or brokers of buyers/tenants shall submit to buyers/tenants all offers and counter-offers until acceptance but have no obligation to continue to show properties to their clients after an offer has been accepted unless otherwise agreed in writing. REALTORS® acting as agents or brokers of buyers/tenants shall recommend that buyers/tenants obtain the advice of legal counsel if there is a question as to whether a pre-existing contract has been terminated. *(Adopted 1/93, Amended 1/99)*

• **Standard of Practice 1-9**

The obligation of REALTORS® to preserve confidential information (as defined by state law) provided by their clients in the course of any agency relationship or non-agency relationship recognized by law continues after termination of agency relationships or any non-agency relationships recognized by law. REALTORS® shall not knowingly, during or following the termination of professional relationships with their clients:

- 1) reveal confidential information of clients; or
- 2) use confidential information of clients to the disadvantage of clients; or
- 3) use confidential information of clients for the REALTOR®'s advantage or the advantage of third parties unless:
 - a) clients consent after full disclosure; or
 - b) REALTORS® are required by court order; or
 - c) it is the intention of a client to commit a crime and the information is necessary to prevent the crime; or
 - d) it is necessary to defend a REALTOR® or the REALTOR®'s employees or associates against an accusation of wrongful conduct.

Information concerning latent material defects is not considered confidential information under this Code of Ethics. *(Adopted 1/93, Amended 1/01)*

• **Standard of Practice 1-10**

REALTORS® shall, consistent with the terms and conditions of their real estate licensure and their property management agreement, competently manage the property of clients with due regard for the rights, safety and health of tenants and others lawfully on the premises. *(Adopted 1/95, Amended 1/00)*

• **Standard of Practice 1-11**

REALTORS® who are employed to maintain or manage a client's property shall exercise due diligence and make reasonable efforts to protect it against reasonably foreseeable contingencies and losses. *(Adopted 1/95)*

• **Standard of Practice 1-12**

When entering into listing contracts, REALTORS® must advise sellers/landlords of:

- 1) the REALTOR®'s company policies regarding cooperation and the amount(s) of any compensation that will be offered to subagents, buyer/tenant agents, and/or brokers acting in legally recognized non-agency capacities;
- 2) the fact that buyer/tenant agents or brokers, even if compensated by listing brokers, or by sellers/landlords may represent the interests of buyers/tenants; and
- 3) any potential for listing brokers to act as disclosed dual agents, e.g. buyer/tenant agents. *(Adopted 1/93, Renumbered 1/98, Amended 1/03)*

• **Standard of Practice 1-13**

When entering into buyer/tenant agreements, REALTORS® must advise potential clients of:

- 1) the REALTOR®'s general company policies regarding cooperation and compensation; and
- 2) any potential for the buyer/tenant representative to act as a disclosed dual agent, e.g. listing broker, subagent, landlord's agent, etc. *(Adopted 1/93, Renumbered 1/98, Amended 1/99)*

• **Standard of Practice 1-14**

Fees for preparing appraisals or other valuations shall not be contingent upon the amount of the appraisal or valuation. *(Adopted 1/02)*

- **Standard of Practice 1-15**

REALTORS[®], in response to inquiries from buyers or cooperating brokers shall, with the sellers' approval, divulge the existence of offers on the property. *(Adopted 1/03)*

Article 2

REALTORS[®] shall avoid exaggeration, misrepresentation, or concealment of pertinent facts relating to the property or the transaction. REALTORS[®] shall not, however, be obligated to discover latent defects in the property, to advise on matters outside the scope of their real estate license, or to disclose facts which are confidential under the scope of agency or non-agency relationships as defined by state law. *(Amended 1/00)*

- **Standard of Practice 2-1**

REALTORS[®] shall only be obligated to discover and disclose adverse factors reasonably apparent to someone with expertise in those areas required by their real estate licensing authority. Article 2 does not impose upon the REALTOR[®] the obligation of expertise in other professional or technical disciplines. *(Amended 1/96)*

- **Standard of Practice 2-2**

(Renumbered as Standard of Practice 1-12 1/98)

- **Standard of Practice 2-3**

(Renumbered as Standard of Practice 1-13 1/98)

- **Standard of Practice 2-4**

REALTORS[®] shall not be parties to the naming of a false consideration in any document, unless it be the naming of an obviously nominal consideration.

- **Standard of Practice 2-5**

Factors defined as "non-material" by law or regulation or which are expressly referenced in law or regulation as not being subject to disclosure are considered not "pertinent" for purposes of Article 2. *(Adopted 1/93)*

Article 3

REALTORS[®] shall cooperate with other brokers except when cooperation is not in the client's best interest. The obligation to cooperate does not include the obligation to share commissions, fees, or to otherwise compensate another broker. *(Amended 1/95)*

- **Standard of Practice 3-1**

REALTORS[®], acting as exclusive agents or brokers of sellers/landlords, establish the terms and conditions of offers to cooperate. Unless expressly indicated in offers to cooperate, cooperating brokers may not assume that the offer of cooperation includes an offer of compensation. Terms of compensation, if any, shall be ascertained by cooperating brokers before beginning efforts to accept the offer of cooperation. *(Amended 1/99)*

- **Standard of Practice 3-2**

REALTORS[®] shall, with respect to offers of compensation to another REALTOR[®], timely communicate any change of

compensation for cooperative services to the other REALTOR[®] prior to the time such REALTOR[®] produces an offer to purchase/lease the property. *(Amended 1/94)*

- **Standard of Practice 3-3**

Standard of Practice 3-2 does not preclude the listing broker and cooperating broker from entering into an agreement to change cooperative compensation. *(Adopted 1/94)*

- **Standard of Practice 3-4**

REALTORS[®], acting as listing brokers, have an affirmative obligation to disclose the existence of dual or variable rate commission arrangements (i.e., listings where one amount of commission is payable if the listing broker's firm is the procuring cause of sale/lease and a different amount of commission is payable if the sale/lease results through the efforts of the seller/landlord or a cooperating broker). The listing broker shall, as soon as practical, disclose the existence of such arrangements to potential cooperating brokers and shall, in response to inquiries from cooperating brokers, disclose the differential that would result in a cooperative transaction or in a sale/lease that results through the efforts of the seller/landlord. If the cooperating broker is a buyer/tenant representative, the buyer/tenant representative must disclose such information to their client before the client makes an offer to purchase or lease. *(Amended 1/02)*

- **Standard of Practice 3-5**

It is the obligation of subagents to promptly disclose all pertinent facts to the principal's agent prior to as well as after a purchase or lease agreement is executed. *(Amended 1/93)*

- **Standard of Practice 3-6**

REALTORS[®] shall disclose the existence of an accepted offer to any broker seeking cooperation. *(Adopted 5/86)*

- **Standard of Practice 3-7**

When seeking information from another REALTOR[®] concerning property under a management or listing agreement, REALTORS[®] shall disclose their REALTOR[®] status and whether their interest is personal or on behalf of a client and, if on behalf of a client, their representational status. *(Amended 1/95)*

- **Standard of Practice 3-8**

REALTORS[®] shall not misrepresent the availability of access to show or inspect a listed property. *(Amended 11/87)*

Article 4

REALTORS[®] shall not acquire an interest in or buy or present offers from themselves, any member of their immediate families, their firms or any member thereof, or any entities in which they have any ownership interest, any real property without making their true position known to the owner or the owner's agent or broker. In selling property they own, or in which they have any interest, REALTORS[®] shall reveal their ownership or interest in writing to the purchaser or the purchaser's representative. *(Amended 1/00)*

• **Standard of Practice 4-1**

For the protection of all parties, the disclosures required by Article 4 shall be in writing and provided by REALTORS® prior to the signing of any contract. *(Adopted 2/86)*

Article 5

REALTORS® shall not undertake to provide professional services concerning a property or its value where they have a present or contemplated interest unless such interest is specifically disclosed to all affected parties.

Article 6

REALTORS® shall not accept any commission, rebate, or profit on expenditures made for their client, without the client's knowledge and consent.

When recommending real estate products or services (e.g., homeowner's insurance, warranty programs, mortgage financing, title insurance, etc.), REALTORS® shall disclose to the client or customer to whom the recommendation is made any financial benefits or fees, other than real estate referral fees, the REALTOR® or REALTOR's firm may receive as a direct result of such recommendation. *(Amended 1/99)*

• **Standard of Practice 6-1**

REALTORS® shall not recommend or suggest to a client or a customer the use of services of another organization or business entity in which they have a direct interest without disclosing such interest at the time of the recommendation or suggestion. *(Amended 5/88)*

Article 7

In a transaction, REALTORS® shall not accept compensation from more than one party, even if permitted by law, without disclosure to all parties and the informed consent of the REALTOR's client or clients. *(Amended 1/93)*

Article 8

REALTORS® shall keep in a special account in an appropriate financial institution, separated from their own funds, monies coming into their possession in trust for other persons, such as escrows, trust funds, clients' monies, and other like items.

Article 9

REALTORS®, for the protection of all parties, shall assure whenever possible that agreements shall be in writing, and shall be in clear and understandable language expressing the specific terms, conditions, obligations and commitments of the parties. A copy of each agreement shall be furnished to each party upon their signing or initialing. *(Amended 1/95)*

• **Standard of Practice 9-1**

For the protection of all parties, REALTORS® shall use reasonable care to ensure that documents pertaining to the purchase, sale, or lease of real estate are kept current through the use of written extensions or amendments. *(Amended 1/93)*

Duties to the Public

Article 10

REALTORS® shall not deny equal professional services to any person for reasons of race, color, religion, sex, handicap, familial status, or national origin. REALTORS® shall not be parties to any plan or agreement to discriminate against a person or persons on the basis of race, color, religion, sex, handicap, familial status, or national origin. *(Amended 1/90)*

REALTORS®, in their real estate employment practices, shall not discriminate against any person or persons on the basis of race, color, religion, sex, handicap, familial status, or national origin. *(Amended 1/00)*

• **Standard of Practice 10-1**

REALTORS® shall not volunteer information regarding the racial, religious or ethnic composition of any neighborhood and shall not engage in any activity which may result in panic selling. REALTORS® shall not print, display or circulate any statement or advertisement with respect to the selling or renting of a property that indicates any preference, limitations or discrimination based on race, color, religion, sex, handicap, familial status, or national origin. *(Adopted 1/94)*

• **Standard of Practice 10-2**

As used in Article 10 "real estate employment practices" relates to employees and independent contractors providing real-estate related services and the administrative and clerical staff directly supporting those individuals. *(Adopted 1/00)*

Article 11

The services which REALTORS® provide to their clients and customers shall conform to the standards of practice and competence which are reasonably expected in the specific real estate disciplines in which they engage; specifically, residential real estate brokerage, real property management, commercial and industrial real estate brokerage, real estate appraisal, real estate counseling, real estate syndication, real estate auction, and international real estate.

REALTORS® shall not undertake to provide specialized professional services concerning a type of property or service that is outside their field of competence unless they engage the assistance of one who is competent on such types of property or service, or unless the facts are fully disclosed to the client. Any persons engaged to provide such assistance shall be so identified to the client and their contribution to the assignment should be set forth. *(Amended 1/95)*

• **Standard of Practice 11-1**

When REALTORS® prepare opinions of real property value or price, other than in pursuit of a listing or to assist a potential purchaser in formulating a purchase offer, such opinions shall include the following:

- 1) Identification of the subject property
- 2) date prepared

- 3) defined value or price
- 4) limiting conditions, including statements of purpose(s) and intended user(s)
- 5) any present or contemplated interest, including the possibility of representing the seller/landlord or buyers/tenants
- 6) basis for the opinion, including applicable market data
- 7) if the opinion is not an appraisal, a statement to that effect
(Amended 1/01)

• **Standard of Practice 11-2**

The obligations of the Code of Ethics in respect of real estate disciplines other than appraisal shall be interpreted and applied in accordance with the standards of competence and practice which clients and the public reasonably require to protect their rights and interests considering the complexity of the transaction, the availability of expert assistance, and, where the REALTOR® is an agent or subagent, the obligations of a fiduciary. (Adopted 1/95)

• **Standard of Practice 11-3**

When REALTORS® provide consultive services to clients which involve advice or counsel for a fee (not a commission), such advice shall be rendered in an objective manner and the fee shall not be contingent on the substance of the advice or counsel given. If brokerage or transaction services are to be provided in addition to consultive services, a separate compensation may be paid with prior agreement between the client and REALTOR®. (Adopted 1/96)

• **Standard of Practice 11-4**

The competency required by Article 11 relates to services contracted for between REALTORS® and their clients or customers; the duties expressly imposed by the Code of Ethics; and the duties imposed by law or regulation. (Adopted 1/02)

Article 12

REALTORS® shall be careful at all times to present a true picture in their advertising and representations to the public. REALTORS® shall also ensure that their professional status (e.g., broker, appraiser, property manager, etc.) or status as REALTORS® is clearly identifiable in any such advertising. (Amended 1/93)

• **Standard of Practice 12-1**

REALTORS® may use the term "free" and similar terms in their advertising and in other representations provided that all terms governing availability of the offered product or service are clearly disclosed at the same time. (Amended 1/97)

• **Standard of Practice 12-2**

REALTORS® may represent their services as "free" or without cost even if they expect to receive compensation from a source other than their client provided that the potential for the REALTOR® to obtain a benefit from a third party is clearly disclosed at the same time. (Amended 1/97)

• **Standard of Practice 12-3**

The offering of premiums, prizes, merchandise discounts or other inducements to list, sell, purchase, or lease is not, in

itself, unethical even if receipt of the benefit is contingent on listing, selling, purchasing, or leasing through the REALTOR® making the offer. However, REALTORS® must exercise care and candor in any such advertising or other public or private representations so that any party interested in receiving or otherwise benefiting from the REALTOR®'s offer will have clear, thorough, advance understanding of all the terms and conditions of the offer. The offering of any inducements to do business is subject to the limitations and restrictions of state law and the ethical obligations established by any applicable Standard of Practice. (Amended 1/95)

• **Standard of Practice 12-4**

REALTORS® shall not offer for sale/lease or advertise property without authority. When acting as listing brokers or as subagents, REALTORS® shall not quote a price different from that agreed upon with the seller/landlord. (Amended 1/93)

• **Standard of Practice 12-5**

REALTORS® shall not advertise nor permit any person employed by or affiliated with them to advertise listed property without disclosing the name of the firm. (Adopted 1/86)

• **Standard of Practice 12-6**

REALTORS®, when advertising unlisted real property for sale/lease in which they have an ownership interest, shall disclose their status as both owners/landlords and as REALTORS® or real estate licensees. (Amended 1/93)

• **Standard of Practice 12-7**

Only REALTORS® who participated in the transaction as the listing broker or cooperating broker (selling broker) may claim to have "sold" the property. Prior to closing, a cooperating broker may post a "sold" sign only with the consent of the listing broker. (Amended 1/96)

Article 13

REALTORS® shall not engage in activities that constitute the unauthorized practice of law and shall recommend that legal counsel be obtained when the interest of any party to the transaction requires it.

Article 14

If charged with unethical practice or asked to present evidence or to cooperate in any other way, in any professional standards proceeding or investigation, REALTORS® shall place all pertinent facts before the proper tribunals of the Member Board or affiliated institute, society, or council in which membership is held and shall take no action to disrupt or obstruct such processes. (Amended 1/99)

• **Standard of Practice 14-1**

REALTORS® shall not be subject to disciplinary proceedings in more than one Board of REALTORS® or affiliated institute, society or council in which they hold membership with respect to alleged violations of the Code of Ethics relating to the same transaction or event. (Amended 1/95)

- **Standard of Practice 14-2**

REALTORS® shall not make any unauthorized disclosure or dissemination of the allegations, findings, or decision developed in connection with an ethics hearing or appeal or in connection with an arbitration hearing or procedural review. (Amended 1/92)

- **Standard of Practice 14-3**

REALTORS® shall not obstruct the Board's investigative or professional standards proceedings by instituting or threatening to institute actions for libel, slander or defamation against any party to a professional standards proceeding or their witnesses based on the filing of an arbitration request, an ethics complaint, or testimony given before any tribunal. (Adopted 11/87, Amended 1/99)

- **Standard of Practice 14-4**

REALTORS® shall not intentionally impede the Board's investigative or disciplinary proceedings by filing multiple ethics complaints based on the same event or transaction. (Adopted 11/88)

Duties to REALTORS®

Article 15

REALTORS® shall not knowingly or recklessly make false or misleading statements about competitors, their businesses, or their business practices. (Amended 1/92)

- **Standard of Practice 15-1**

REALTORS® shall not knowingly or recklessly file false or unfounded ethics complaints. (Adopted 1/00)

Article 16

REALTORS® shall not engage in any practice or take any action inconsistent with the agency or other exclusive relationship recognized by law that other REALTORS® have with clients. (Amended 1/98)

- **Standard of Practice 16-1**

Article 16 is not intended to prohibit aggressive or innovative business practices which are otherwise ethical and does not prohibit disagreements with other REALTORS® involving commission, fees, compensation or other forms of payment or expenses. (Adopted 1/93, Amended 1/95)

- **Standard of Practice 16-2**

Article 16 does not preclude REALTORS® from making general announcements to prospective clients describing their services and the terms of their availability even though some recipients may have entered into agency agreements or other exclusive relationships with another REALTOR®. A general telephone canvass, general mailing or distribution addressed to all prospective clients in a given geographical area or in a given profession, business, club, or organization, or other classification or group is deemed "general" for purposes of this standard. (Amended 1/98)

Article 16 is intended to recognize as unethical two basic types of solicitations:

First, telephone or personal solicitations of property owners who have been identified by a real estate sign, multiple listing compilation, or other information service as having exclusively listed their property with another REALTOR®; and

Second, mail or other forms of written solicitations of prospective clients whose properties are exclusively listed with another REALTOR® when such solicitations are not part of a general mailing but are directed specifically to property owners identified through compilations of current listings, "for sale" or "for rent" signs, or other sources of information required by Article 3 and Multiple Listing Service rules to be made available to other REALTORS® under offers of subagency or cooperation. (Amended 1/93)

- **Standard of Practice 16-3**

Article 16 does not preclude REALTORS® from contacting the client of another broker for the purpose of offering to provide, or entering into a contract to provide, a different type of real estate service unrelated to the type of service currently being provided (e.g., property management as opposed to brokerage). However, information received through a Multiple Listing Service or any other offer of cooperation may not be used to target clients of other REALTORS® to whom such offers to provide services may be made. (Amended 1/93)

- **Standard of Practice 16-4**

REALTORS® shall not solicit a listing which is currently listed exclusively with another broker. However, if the listing broker, when asked by the REALTOR®, refuses to disclose the expiration date and nature of such listing; i.e., an exclusive right to sell, an exclusive agency, open listing, or other form of contractual agreement between the listing broker and the client, the REALTOR® may contact the owner to secure such information and may discuss the terms upon which the REALTOR® might take a future listing or, alternatively, may take a listing to become effective upon expiration of any existing exclusive listing. (Amended 1/94)

- **Standard of Practice 16-5**

REALTORS® shall not solicit buyer/tenant agreements from buyers/tenants who are subject to exclusive buyer/tenant agreements. However, if asked by a REALTOR®, the broker refuses to disclose the expiration date of the exclusive buyer/tenant agreement, the REALTOR® may contact the buyer/tenant to secure such information and may discuss the terms upon which the REALTOR® might enter into a future buyer/tenant agreement or, alternatively, may enter into a buyer/tenant agreement to become effective upon the expiration of any existing exclusive buyer/tenant agreement. (Adopted 1/94, Amended 1/98)

- **Standard of Practice 16-6**

When REALTORS® are contacted by the client of another REALTOR® regarding the creation of an exclusive relationship to provide the same type of service, and REALTORS® have not

directly or indirectly initiated such discussions, they may discuss the terms upon which they might enter into a future agreement or, alternatively, may enter into an agreement which becomes effective upon expiration of any existing exclusive agreement. *(Amended 1/98)*

• **Standard of Practice 16-7**

The fact that a client has retained a REALTOR® as an agent or in another exclusive relationship in one or more past transactions does not preclude other REALTORS® from seeking such former client's future business. *(Amended 1/98)*

• **Standard of Practice 16-8**

The fact that an exclusive agreement has been entered into with a REALTOR® shall not preclude or inhibit any other REALTOR® from entering into a similar agreement after the expiration of the prior agreement. *(Amended 1/98)*

• **Standard of Practice 16-9**

REALTORS®, prior to entering into an agency agreement or other exclusive relationship, have an affirmative obligation to make reasonable efforts to determine whether the client is subject to a current, valid exclusive agreement to provide the same type of real estate service. *(Amended 1/98)*

• **Standard of Practice 16-10**

REALTORS®, acting as agents of, or in another relationship with, buyers or tenants, shall disclose that relationship to the seller/landlord's agent or broker at first contact and shall provide written confirmation of that disclosure to the seller/landlord's agent or broker not later than execution of a purchase agreement or lease. *(Amended 1/98)*

• **Standard of Practice 16-11**

On unlisted property, REALTORS® acting as buyer/tenant agents or brokers shall disclose that relationship to the seller/landlord at first contact for that client and shall provide written confirmation of such disclosure to the seller/landlord not later than execution of any purchase or lease agreement.

REALTORS® shall make any request for anticipated compensation from the seller/landlord at first contact. *(Amended 1/98)*

• **Standard of Practice 16-12**

REALTORS®, acting as agents or brokers of sellers/landlords or as subagents of listing brokers, shall disclose that relationship to buyers/tenants as soon as practicable and shall provide written confirmation of such disclosure to buyers/tenants not later than execution of any purchase or lease agreement. *(Amended 1/98)*

• **Standard of Practice 16-13**

All dealings concerning property exclusively listed, or with buyer/tenants who are subject to an exclusive agreement shall be carried on with the client's agent or broker, and not with the client, except with the consent of the client's agent or broker or except where such dealings are initiated by the client.

Before providing substantive services (such as writing a purchase offer or presenting a CMA) to prospective purchasers, sellers, tenants or landlords ("prospects"), REALTORS® shall ask prospects whether they are a party to any

exclusive representation agreement. REALTORS® shall not knowingly provide substantive services concerning a prospective transaction to prospects who are parties to exclusive representation agreements, except with the consent of the prospects' exclusive representatives or at the direction of prospects. *(Adopted 1/93, Amended 1/03)*

• **Standard of Practice 16-14**

REALTORS® are free to enter into contractual relationships or to negotiate with sellers/landlords, buyers/tenants or others who are not subject to an exclusive agreement but shall not knowingly obligate them to pay more than one commission except with their informed consent. *(Amended 1/98)*

• **Standard of Practice 16-15**

In cooperative transactions REALTORS® shall compensate cooperating REALTORS® (principal brokers) and shall not compensate nor offer to compensate, directly or indirectly, any of the sales licensees employed by or affiliated with other REALTORS® without the prior express knowledge and consent of the cooperating broker.

• **Standard of Practice 16-16**

REALTORS®, acting as subagents or buyer/tenant agents or brokers, shall not use the terms of an offer to purchase/lease to attempt to modify the listing broker's offer of compensation to subagents or buyer's agents or brokers nor make the submission of an executed offer to purchase/lease contingent on the listing broker's agreement to modify the offer of compensation. *(Amended 1/98)*

• **Standard of Practice 16-17**

REALTORS®, acting as subagents or as buyer/tenant agents or brokers, shall not attempt to extend a listing broker's offer of cooperation and/or compensation to other brokers without the consent of the listing broker. *(Amended 1/98)*

• **Standard of Practice 16-18**

REALTORS® shall not use information obtained from listing brokers through offers to cooperate made through multiple listing services or through other offers of cooperation to refer listing brokers' clients to other brokers or to create buyer/tenant relationships with listing brokers' clients, unless such use is authorized by listing brokers. *(Amended 1/02)*

• **Standard of Practice 16-19**

Signs giving notice of property for sale, rent, lease, or exchange shall not be placed on property without consent of the seller/landlord. *(Amended 1/93)*

• **Standard of Practice 16-20**

REALTORS®, prior to or after terminating their relationship with their current firm, shall not induce clients of their current firm to cancel exclusive contractual agreements between the client and that firm. This does not preclude REALTORS® (principals) from establishing agreements with their associated licensees governing assignability of exclusive agreements. *(Adopted 1/98)*

Article 17

In the event of contractual disputes or specific non-contractual disputes as defined in Standard of Practice 17-4 between REALTORS® (principals) associated with different firms, arising

out of their relationship as REALTORS®, the REALTORS® shall submit the dispute to arbitration in accordance with the regulations of their Board or Boards rather than litigate the matter.

In the event clients of REALTORS® wish to arbitrate contractual disputes arising out of real estate transactions, REALTORS® shall arbitrate those disputes in accordance with the regulations of their Board, provided the clients agree to be bound by the decision.

The obligation to participate in arbitration contemplated by this Article includes the obligation of REALTORS® (principals) to cause their firms to arbitrate and be bound by any award. (Amended 1/01)

• **Standard of Practice 17-1**

The filing of litigation and refusal to withdraw from it by REALTORS® in an arbitrable matter constitutes a refusal to arbitrate. (Adopted 2/86)

• **Standard of Practice 17-2**

Article 17 does not require REALTORS® to arbitrate in those circumstances when all parties to the dispute advise the Board in writing that they choose not to arbitrate before the Board. (Amended 1/93)

• **Standard of Practice 17-3**

REALTORS®, when acting solely as principals in a real estate transaction, are not obligated to arbitrate disputes with other REALTORS® absent a specific written agreement to the contrary. (Adopted 1/96)

• **Standard of Practice 17-4**

Specific non-contractual disputes that are subject to arbitration pursuant to Article 17 are:

- 1) Where a listing broker has compensated a cooperating broker and another cooperating broker subsequently claims to be the procuring cause of the sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. (Adopted 1/97)
- 2) Where a buyer or tenant representative is compensated by the seller or landlord, and not by the listing broker, and the listing broker, as a result, reduces the commission owed by the seller or landlord and, subsequent to such actions, another cooperating broker claims to be the procuring cause of sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being

named as a respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. (Adopted 1/97)

- 3) Where a buyer or tenant representative is compensated by the buyer or tenant and, as a result, the listing broker reduces the commission owed by the seller or landlord and, subsequent to such actions, another cooperating broker claims to be the procuring cause of sale or lease. In such cases the complainant may name the first cooperating broker as respondent and arbitration may proceed without the listing broker being named as a respondent. Alternatively, if the complaint is brought against the listing broker, the listing broker may name the first cooperating broker as a third-party respondent. In either instance the decision of the hearing panel as to procuring cause shall be conclusive with respect to all current or subsequent claims of the parties for compensation arising out of the underlying cooperative transaction. (Adopted 1/97)
- 4) Where two or more listing brokers claim entitlement to compensation pursuant to open listings with a seller or landlord who agrees to participate in arbitration (or who requests arbitration) and who agrees to be bound by the decision. In cases where one of the listing brokers has been compensated by the seller or landlord, the other listing broker, as complainant, may name the first listing broker as respondent and arbitration may proceed between the brokers. (Adopted 1/97)

The Code of Ethics was adopted in 1913. Amended at the Annual Convention in 1924, 1928, 1950, 1951, 1952, 1955, 1956, 1961, 1962, 1974, 1982, 1986, 1987, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001 and 2002.

Explanatory Notes

The reader should be aware of the following policies which have been approved by the Board of Directors of the National Association:

In filing a charge of an alleged violation of the Code of Ethics by a REALTOR®, the charge must read as an alleged violation of one or more Articles of the Code. Standards of Practice may be cited in support of the charge.

The Standards of Practice serve to clarify the ethical obligations imposed by the various Articles and supplement, and do not substitute for, the Case Interpretations in *Interpretations of the Code of Ethics*.

Modifications to existing Standards of Practice and additional new Standards of Practice are approved from time to time. Readers are cautioned to ensure that the most recent publications are utilized.

April 21, 2003

Representative Lesil McGuire
VIA FACSIMILE: (907) 465-6592

Dear Representative Lesil McGuire,

I am writing to you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise other of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see any way of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

My professional association, the Alaska Association of REALTORS cannot support the following issues of HB 257:

REQUIRED DISCLOSURE OF CONFLICT OF INTEREST - Regarding dual agency, on in-house transactions, whether commercial or residential. If it can be shown that the actions of the sales agent encourages a belief that the sales agent represented the buyer/lessee/tenant, then an undisclosed, and therefore illegal, dual agency probably has been created.

Removing the requirement of disclosure is an act of fraud. How can misleading the public in issues as important as fiduciary duty be anything but fraud?

COMMON LAW OF AGENCY - If these principles do not apply, then what does? The reality of abrogating common law is that the states that have attempted it have attempted to find the duty of the agent and penalties for non-compliance. No state has been successful in this endeavor, and the National Association of REALTORS does not recommend abrogation of common law. Simply, it works as a balance of consumer protection and defining acceptable professional conduct.

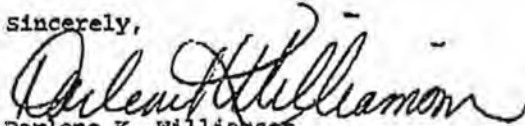
FIDUCIARY DUTY - This provision is simply embarrassing to professionals that endorse the National Association of REALTORS Code of Ethics. You can interpret this as; Citizen of Alaska, I will be honest, fair and act in good faith, but you can't trust me.

In regard to page 5, section (g) of the bill attempting to trivialize the requirement of AS 08.88.396 as technical violation is simply absurd. Most would not consider disclosing whom you work for and how you're paid a trivial technical violation. All states classify undisclosed dual agency as fraud, deceit, and misrepresentation.

APPLICABILITY AND RETROSPECTIVITY - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you for considering my opinion.

Sincerely,



Darlene K. Williamson
Sales Associate and
President Kodiak Board of Realtors

Fax Cover Sheet

*Vanessa
FYI*

To.....The Honorable Lesil McGuire
Fax #.....907-465-6592
Date04-29-03
Pages1

RE: HB 257

The Honorable Lesil McGuire
House of Representatives
Alaska State Capitol
Juneau, AK 99801-1182

Dear Representative McGuire:

I would like to ask for your support, as a member of the House Judiciary Committee, for the passage of Representative Rokeberg's HB 257 relating to the real estate industry. I understand that HB257 has passed out of the House Labor & Commerce Committee and there has been a hearing by the House Judiciary Committee. I am a licensed Realtor and a member of the Anchorage Board of Realtors and the Alaska Association of Realtors. My license number is 15298.

Thank you for your support. If you have any questions, please feel free to contact me at (907) 689-6464.

Sincerely,



Donna Alderman
Realtor

Fax Cover Sheet

To **The Honorable Lesil McGuire**
Fax # **907-465-6592**
Date **04-22-03**
Pages **1**

RE: HB 257

*Vanessa
FYI*

The Honorable Lesil McGuire
House of Representatives
Alaska State Capitol
Juneau, AK 99801-1182

Dear Representative McGuire:

I would like to ask for your support, as a member of the House Judiciary Committee, for the passage of Representative Rokeberg's HB 257 relating to the real estate industry. I understand that HB257 has passed out of the House Labor & Commerce Committee and is scheduled for hearing by the House Judiciary Committee on approximately April 28th. I am a licensed Realtor and a member of the Anchorage Board of Realtors and the Alaska Association of Realtors. My license number is 157618.

Thank you for your support. If you have any questions, please feel free to contact me at (907) 689-6464.

Sincerely,

Jill Davis, Realtor



Prudential

Prudential Jack White Real Estate
3201 C Street, Suite 200
Anchorage, AK 99503
Bus 907 563-5500 Fax 907 762-3189
www.jackwhite.com

April 21, 2003

The Honorable Lisel McGuire
House of Representatives
Alaska State Capital
Juneau, AK 99801-1182

Dear Representative McGuire:

I am a registered voter and I would like to ask for your support for the passage of Representative Rokeberg's HB 257 relating to the real estate industry. I am a licensed Realtor and a member of the Anchorage Board of Realtors and the Alaska Association of Realtors. My license number is 15608.

As a licensed and informed Realtor I would like you to know that I strongly support this bill and hope you will as well.

Thank you for your support. If you have any questions, please feel free to contact me at 762-5874.

Sincerely,

A handwritten signature in cursive script that reads "Michelle Croswite".

Michelle Croswite
Realtor

April 23, 2003

The Honorable Lesil McGuire
House of Representatives
Alaska State Capitol
Juneau, AK 99801-1182

Dear Representative McGuire:

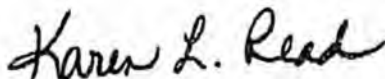
I would like to ask for your support for the passage of Representative Rokeberg's HB 257 relating to the real estate industry. I am a licensed Agent in Anchorage and have been since 1982. My license number is 7708.

Agency disclosure is vital in all residential sale transactions but complicated legislation in its present form. The timing of Agency disclosure should not be the sole grounds for litigation.

I am not arguing that a Real Estate Licensee should not be held responsible for following Agency Disclosure Law. Agency disclosure violations should be handled at the level of the Alaska Real Estate Commission whose purpose it is to determine whether a violation and/or damages have occurred. This commission was formed by the legislature and is funded by our industry to perform exactly this kind of duty.

Thank you for your support. If you have any questions, please feel free to contact me at 273-7270 or 222-7914.

Sincerely,



Karen L. Read
Associate Broker

4/24/03

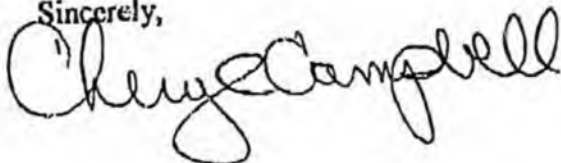
Dear Representative McGuire :

I would like to ask for your support for HP 257 relating to my profession, the real estate industry. I am especially supportive of the provision to treat an untimely agency disclosure as a conflict of interest.

I am a licensed real estate agent in the Mat-Su Valley, a member of the Valley Board of Realtors and the Alaska Association of Realtors.

Thank you for your support. If you have any questions, please feel free to contact me at 907 376-2414.

Sincerely,



4/27/03
~~4/26/03~~

Dear Representative McGuire:

I would like to ask for your support for HP 257 relating to my profession, the real estate industry. I am especially supportive of the provision to treat an untimely agency disclosure as a conflict of interest.

I am a licensed real estate agent in the Mat-Su Valley, a member of the Valley Board of Realtors and the Alaska Association of Realtors.

Thank you for your support. If you have any questions, please feel free to contact me at 907 352-1809.

Sincerely,



Debbie Harrison

AAR #1 Buyer's Agency®

RESIDENTIAL • INVESTMENT PROPERTIES

PO BOX 190727

ANCHORAGE AK 99519-0727

FAX (907) 277-3443

(907) 27 BUYER

(907) 272-8937

FAX MEMORANDUM

DATE

4/26/03

TO

The Honorable Replesil McGuire

COMPANY

Chair Judiciary

FAX

907-465-6592

FROM

LINDA S. GARRISON, Broker

RE

HB257

OF PAGES TO FOLLOW:

3

*This Bill reduces
consumer protection and also
blocks the public's right to legal
remedies.*

I am very concerned that HB257 does nothing positive towards
consumer protection; HB257 actually is negative towards the
consumer because it limits legal remedies as a proper alternative
in the case of violation of the statute. Consequently, the
balances of legislative and judicial checks would not exist
with this NB257. Note that Representative Rokeberg was the only
person who voted Yea to pass the bill out of HL&C; others were
NO RECOMMENDATION. I WOULD URGE THAT HB257 NOT BE PASSED OUT
OF THE HOUSE JUDICIARY COMMITTEE. Thank you.

*PS. REALTOR & Alaska property owners
association do NOT support HB257.*

David A Garrison

From: Alaska Property Owners Association, Inc. [akpropertyownersassoc@alaska.com]

Sent: Monday, April 21, 2003 11:18 AM

To: APOA - Lizz Barr

Subject: Fw: House Bill 257 - another letter draft

THIS LETTER SHOULD BE SENT VIA E-MAIL TO ALL LEGISLATORS...SENATE AND HOUSE.

I am a real estate licensee in your area. I am deeply disturbed about a bill that has been introduced into the legislature - HB 257. For these reasons:

1. The bill does not protect the consumer.
2. It has a provision that could endanger the surety fund since it is the only method of relief if a licensee does not follow the law
3. It allows licensees that did not follow the current law, to go to a new law rather than following the law as written. This is not good public policy.

I am requesting that if you have this bill in one of your committees or it comes to the house of senate floor that you vote NO. The current bill, as written it is bad public policy.

Thank you for considering my opinion.

4/26 Please note that
 The Alaska Property
 Owners Association
 Cannot support HB257

David A. Garrison
 (907) 272-8937

(1) The Honorable Representatives
 of the House Judiciary Committee

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

My professional association, the Alaska Association of REALTORS cannot support the following issues of HB 257:

(1) Required Disclosure of Conflict of Interest - Regarding dual agency, on in-house transactions, whether commercial or residential. If it can be shown that the actions of the sales agent encourages a belief that the sales agent represented the buyer/lessee/tenant, then an undisclosed, and therefore illegal, dual agency probably has been created.

Removing the requirement of disclosure is an act of fraud. How can misleading the public in issues as important as fiduciary duty be anything but fraud?

(2) Common Law of Agency - If these principles do not apply, then what does? The reality of abrogating common law is that the states that have attempted it, have attempted to define the duty of the agent and penalties for non compliance. No state has been successful in this endeavor, and the National Association of REALTORS does not recommend abrogation of common law. Simply, it works as a balance of consumer protection and defining acceptable professional conduct.

Fiduciary Duty - This provision is simply embarrassing to professionals that endorse the National Association of REALTORS Code of Ethics. You can interpret this as; Citizen of Alaska, I will be honest, fair, and act in good faith, but you can't trust me.

In regard to page 5, section (g) of the bill; attempting to trivialize the requirement of AS 08.88.396 as technical violation is simply absurd. Most would not consider disclosing, who you work for and how you're paid a trivial technical violation. All states classify undisclosed dual agency as fraud, deceit, and misrepresentation.

Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion.

Sincerely,

(3) *citizens do not have a right to legal protection*

Common Law should not be abrogated.

Michael A. Garrison
 (907) 272-8937

Please Note
 that HB 257 is
 not supported by
 REALTORS AND
 Alaska Property Owners
 Association

MEMORANDUM

Date : 4/25/03

To : The Honorable Representative Lesil McGuire
Alaska House of Representatives/Chair Judiciary

The Honorable Representative Tom Anderson
Alaska House of Representatives - Vice-Chair Judiciary

The Honorable Representative Jim Holm
The Honorable Representative Dan Ogg
The Honorable Representative Ralph Samuels
The Honorable Representative Les Gara
The Honorable Representative Max Gruenberg

From : Linda Garrison-Owner/Broker-AAR #1 Buyers Agency

RE : HB 257 - SCHEDULED FOR JUDICIARY COMMITTEE

When I originally read HB257, I will be honest and tell you that I thought someone was playing a trick. Certainly, no one could be serious about the proposals regarding commercial transactions and property management that are touted in the bill.

*According to Representative Rokeberg, ... The Legislature finds that ...the parties to commercial transactions do not need the protection that the required disclosures provide...The disclosure requirements do not reflect the standard of practice in the commercial real estate field.

... it is the intent of the legislature that commercial real estate licensees be exempt from agency and disclosure requirements in large commercial real estate transactions because of the level of sophistication and knowledge that is typical of the parties to large commercial real estate transactions

The exceptions are so broad in defining commercial properties that nearly all real estate will apply:

This section does not apply to a commercial real estate transaction that involves -

- (1) the sale or lease of real estate that contains a building having four or more separate living units;
- (2) the sale of real estate that has a purchase price of \$100,000 or more in value for nonresidential use; or
- (3) the sale or lease of real estate having a gross lease revenue that exceeds \$12,000 a year.

Page 2

RE : HB257 - JUDICIARY COMMITTEE

....WHEN THE LICENSEE IS REPRESENTING BOTH BUYER AND SELLER OR BOTH THE LESSOR AND THE LESSEE,

(1) common law principles of agency do not apply to the licensee's representation and

(2) the licensee does NOT have a fiduciary duty to either the buyer or seller if representing both the buyer and seller, or to either the lessor and lessee if representing both the lessor and lessee, but shall act with honesty, fairness, and good faith when representing these persons.

.... The failure of a licensee to make a disclosure required by this section does not give a person a cause of action against the licensee for the failure.

APPLICABILITY AND RETROSPECTIVITY (A) THE PROVISIONS OF THIS ACT APPLY TO A REAL ESTATE TRANSACTION THAT OCCURS BEFORE, ON, OR AFTER THE EFFECTIVE DATE OF THIS ACT, AND TO THAT EXTENT, ARE RETROSPECTIVE UNDER AS 01.10.090. IN THIS SUBSECTION, "REAL ESTATE TRANSACTION" HAS THE MEANING GIVEN IN AS 08.88.990.

(B) IN ADDITION TO THE APPLICATION OF AS 08.88.396(g), ENACTED BY SEC. 6 OF THIS ACT, UNDER (a) OF THIS SECTION, AS 08.88.396(G) APPLIES TO AN ACTION PENDING IN A COURT IN THE STATE IN WHICH A FINAL JUDGMENT HAS NOT BEEN RENDERED BEFORE THE EFFECTIVE DATE OF THIS ACT AND, TO THAT EXTENT, IS RETROSPECTIVE UNDER AS 01.10.090.

*Sec.8. This act takes effect immediately under AS 01.10.070(c).

To summarize my concerns -

1. I have talked with many agents and brokers that do a large number of commercial transactions, and have had many state that they view agency disclosure as an important part of the transaction.

Commercial transaction participants often demand their own representation and negotiating skills of their representative. As before, I strongly believe that dual agency under any circumstances does NOT benefit the buyer or the seller - only the agent who is a dual agent, the broker, and the company.

Page 3

RE : HB257 - JUDICIARY COMMITTEE

2. Representative Rokeberg's definition of a commercial transaction is not logical -

..... ie - Commercial would be defined as a sales price of \$100,000 or gross revenues of over \$12,000 a year.

These numbers might be meaningful 25 years ago. Currently, nearly all real estate is priced at \$100,000++++ (excluding perhaps beginning condos small parcels of raw land, and a few others). Gross revenues of \$12,000 per annum can be gotten from a duplex! These are not commercial properties.

3. **APPLICABILITY AND RETROSPECTIVITY** - This section is an insult to the consumer...and is a blatant attempt to protect the real estate companies from inadequate agency disclosure and undisclosed dual agency. Of course, some firms are concerned about the class action lawsuits that are forming regarding undisclosed dual agency. THIS TYPE OF RETROSPECTIVITY "FORGIVING" AN ACTION PENDING IN A COURT IN THE STATE IN WHICH A FINAL JUDGMENT HAS NOT BEEN RENDERED" is a industry protection strategy and flies in the face of the legislative and judicial checks and balance guards.

I believe that the correct manner to deal with this concern, is not to cover up undisclosed dual agency situations that already have occurred, but to enforce the laws that currently exist and clarify agency disclosure possibilities immediately upon contact with the consumer - be they buyer or seller.

Abrogation of common law is simply another industry method of avoiding/camouflaging dual agency.

Thank-you for your consideration. I would urge that HB 257 NOT be sent out of the House Labor and Commerce Committee. It is a real estate industry retroactive protection bill and does nothing to protect the consumer, and in fact, reduces remedies that the public currently has at its' disposal.

cc : Members of the House of Representatives

4/24/03

Dear Representative McGuire :

I would like to ask for your support for HP 257 relating to my profession, the real estate industry. I am especially supportive of the provision to treat an untimely agency disclosure as a conflict of interest.

I am a licensed real estate agent in the Mat-Su Valley, a member of the Valley Board of Realtors and the Alaska Association of Realtors.

Thank you for your support. If you have any questions, please feel free to contact me at 907 376-2414.

Sincerely,

Shana Ackles

4/24/03

Dear Representative McGuire:

I would like to ask for your support for HP 257 relating to my profession, the real estate industry. I am especially supportive of the provision to treat an untimely agency disclosure as a conflict of interest.

I am a licensed real estate agent in the Mat-Su Valley, a member of the Valley Board of Realtors and the Alaska Association of Realtors.

Thank you for your support. If you have any questions, please feel free to contact me at 907 376-2414.

Sincerely,

Sandra McMullin

4/24/03

Dear Representative McGuire :

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I am a licensed real estate agent in the Mat-Su Valley, a member of the Valley Board of Realtors and the Alaska Association of Realtors.

Thank you for your support. If you have any questions, please feel free to contact me at 907 376-2414.

Sincerely,

Esther Buckner

4/24/03

Dear Representative McGuire:

I would like to ask for your support for HP 257 relating to my profession, the real estate industry. I am especially supportive of the provision to treat an untimely agency disclosure as a conflict of interest.

I am a licensed real estate agent in the Mat-Su Valley, a member of the Valley Board of Realtors and the Alaska Association of Realtors.

Thank you for your support. If you have any questions, please feel free to contact me at 907 376-2414.

Sincerely,

Miss B. K. [Signature]

4/24/03

Dear Representative McBurne:

I would like to ask for your support for HP 257 relating to my profession, the real estate industry. I am especially supportive of the provision to treat an untimely agency disclosure as a conflict of interest.

I am a licensed real estate agent in the Mat-Su Valley, a member of the Valley Board of Realtors and the Alaska Association of Realtors.

Thank you for your support. If you have any questions, please feel free to contact me at 907 376-2414.

Sincerely,

Leahy Barnhart

4/24/03

Dear Representative McGuire:

I would like to ask for your support for HP 257 relating to my profession, the real estate industry. I am especially supportive of the provision to treat an untimely agency disclosure as a conflict of interest.

I am a licensed real estate agent in the Mat-Su Valley, a member of the Valley Board of Realtors and the Alaska Association of Realtors.

Thank you for your support. If you have any questions, please feel free to contact me at 907 376-2414.

Sincerely,


Kicki Westphal

Subject: HB257

Date: Mon, 21 Apr 2003 18:36:11 -0800

From: Ben Lally <benlally@gci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

 <u>HB257.doc</u>	<p>Name: HB257.doc Type: WINWORD File (application/msword) Encoding: base64 Download Status: Not downloaded with message</p>
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THIS LETTER SHOULD BE SENT VIA E-MAIL TO ALL
LEGISLATORS...SENATE AND HOUSE.

I am a real estate licensee in your area. I am deeply disturbed about a bill that has been introduced into the legislature - HB 257. For these reasons:

1. The bill does not protect the consumer.
2. It has a provision that could endanger the surety fund since it is the only method of relief if a licensee does not follow the law
3. It allows licensees that did not follow the current law, to go to a new law rather than following the law as written. This is not good public policy.

I am requesting that if you have this bill in one of your committees or it comes to the house of senate floor that you vote NO. The current bill, as written is bad public policy.

Thank you for considering my opinion.

Fax Cover Sheet

To The Honorable Lesli McGuire
Fax #..... 907-465-6592
Date..... 04-22-03
Pages 1

RE: HB 257

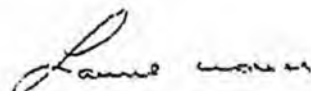
The Honorable Lesli McGuire
House of Representatives
Alaska State Capitol
Juneau, AK 99801-1182

Dear Representative McGuire:

I would like to ask for your support, as a member of the House Judiciary Committee, for the passage of Representative Rokeberg's HB 257 relating to the real estate industry. I understand that HB257 has passed out of the House Labor & Commerce Committee and is scheduled for hearing by the House Judiciary Committee on approximately April 28th. I am a licensed Realtor and a member of the Anchorage Board of Realtors and the Alaska Association of Realtors. My license number is 10665.

Thank you for your support. If you have any questions, please feel free to contact me at (907) 689-6464.

Sincerely,


Laurel Crouse
Realtor

4241 "B" Street
Anchorage, AK 99503
Office (907) 662-6464
Fax (907) 502-5485

16635 Centerfield Dr.
Eagle River, AK 99577
Office (907) 889-6464
Fax (907) 689-6499

1365 E. Parks Hwy.
Wasilla, AK 99654
Office (907) 376-2414
Fax (907) 376-5471



Prudential Vista Real Estate

4241 B Street
Anchorage, AK 99503
Bus 907 562-6464
Fax 907 562-5485
www.prudentialvista.com

4/23/2003

Dear Representative McGuire:

I would like to ask for your support for the passage of Representative Rokeberg's HB 257 relating to the real estate industry. I am a licensed Realtor and a member of the National Association of Realtors. My license number is 15593. I would like you to support this passage in order to help stop people from having a free reign to make money off loopholes in poorly written law. Just as they have families, we have families too! Sometimes people choose to think with their pocketbooks instead of what's just and right.

Thank you for your support. If you have any questions, please feel free to contact me at 244-1876.

Sincerely,

A handwritten signature in cursive script that reads "Matthew T. Kane".

Matthew T. Kane



Fax Cover Sheet

To **The Honorable Lesli McGuire**
Fax #..... **907-465-6592**
Date..... **04-22-03**
Pages **1**

RE: HB 257

The Honorable Lesli McGuire
House of Representatives
Alaska State Capitol
Juneau, AK 99801-1182

Dear Representative McGuire:

I would like to ask for your support, as a member of the House Judiciary Committee, for the passage of Representative Rokeberg's HB 257 relating to the real estate industry. I understand that HB257 has passed out of the House Labor & Commerce Committee and is scheduled for hearing by the House Judiciary Committee on approximately April 28th. I am a licensed Realtor and a member of the Anchorage Board of Realtors and the Alaska Association of Realtors. My license number is 2987.

Thank you for your support. If you have any questions, please feel free to contact me at (907) 689-6464.

Sincerely,

Lola Pederson
Realtor

4241 "B" Street
Anchorage, AK 99503
Office (907) 562-6464
Fax (907) 562-5485

10035 Centerfield Dr.
Eagle River, AK 99577
Office (907) 689-6464
Fax (907) 689-6499

1305 E. Parks Hwy.
Wasilla, AK 99654
Office (907) 376-2414
Fax (907) 376-5477

To The Honorable Lesil McGuire

Fax # 907-465-6592

Date 04-22-03

Pages 1

RE: HB 257

The Honorable Lesil McGuire

House of Representatives

Alaska State Capitol

Juneau, AK 99801-1182

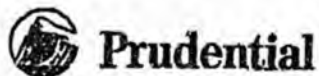
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Thank you for your support. If you have any questions, please feel free to contact me at (907) 689-6464.

Sincerely,


Margaret Billinger, Realtor



Prudential Vista Real Estate
4241 B St
Anchorage, AK 98513
Bus 907 562-6464 Fax 907 562-6485
www.prudentialvista.com

April 22, 2003

The Honorable Lesil McGuire
House of Representatives
Alaska State Capitol
Juneau, Alaska 99801-1182

Dear Representative McGuire:

I am a member of your legislative district. I would like to ask for your support for the passage of Representative Rokeberg's HB 257 relating to the real estate industry. I am a licensed Realtor and a board member of the Anchorage Board of Realtors as well as a member of the Alaska Association of Realtors. My license number is 14503.

Thank you for your support. If you have any questions, please feel free to contact me at 727-9497.

Sincerely,

A handwritten signature in cursive script that reads "Patricia Baker".

Patricia Baker

Subject:

Date: Fri, 18 Apr 2003 15:32:08 -0800

From: "Ellen Hedges" <ellen@greatlandrealty.com>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

Dear Representative McGuire,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

My professional association, the Alaska Association of REALTORS cannot support the following issues of HB 257:

Required Disclosure of Conflict of Interest – Regarding dual agency, on in-house transactions, whether commercial or residential. If it can be shown that the actions of the sales agent encourages a belief that the sales agent represented the buyer/lessee/tenant, then an undisclosed, and therefore illegal, dual agency probably has been created.

Removing the requirement of disclosure is an act of fraud. How can misleading the public in issues as important as fiduciary duty be anything but fraud?

Common Law of Agency - If these principles do not apply, then what does? The reality of abrogating common law is that the states that have attempted it, have attempted to define the duty of the agent and penalties for non compliance. No state has been successful in this endeavor, and the National Association of REALTORS does not recommend abrogation of common law. Simply, it works as a balance of consumer protection and defining acceptable professional conduct.

Fiduciary Duty - This provision is simply embarrassing to professionals that endorse the National Association of REALTORS Code of Ethics. You can interpret this as; Citizen of Alaska, I will be honest, fair, and act in good faith, but you can't trust me.

In regard to page 5, section (g) of the bill; attempting to trivialize the requirement of AS 08.88.396 as technical violation is simply absurd. Most would not consider disclosing, who you work for and how you're paid a trivial technical violation. All states classify undisclosed dual agency as fraud, deceit, and misrepresentation.

Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion.

Sincerely,

Ellen Hedges

Great Land Realty

907-694-9125

Fax: 907-694-9125

ellen@greatlandrealty.com

Subject: HB 257

Date: Fri, 18 Apr 2003 15:50:39 -0800

From: Trevor Roehl <trevorroehl@gci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

Dear Representative McGuire,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see any way of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

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Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska.

Thank you so much for considering my opinion.

Sincerely,

Trevor Roehl
Marketing Associate/Property Manager

Powell Realty, Inc., GMAC Real Estate
PH (907)789-3888 Fax (907)789-7038

Subject: Hb 257

Date: Fri, 18 Apr 2003 15:57:53 -0800

From: Ruth Blackwell <ruth@aukelake.com>

Reply-To: ruthlb@aukelake.com

Organization: Ruth Blackwell

To: Representative_Lesil_McGuire@legis.state.ak.us

CC: Representative_Norman_Rokeberg@legis.state.ak.us

Dear Representative McGuire;

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

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Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion.

Sincerely,

Ruth Blackwell
Powell Realty/GMAC
9040 Glacier Highway
Juneau, Alaska 99801
907-789-3888 work
907-789-7038 work fax
907-789-0582 home
907-789-2835 home fax
907-321-0615 cell

 2003 COE.pdf	Name: 2003 COE.pdf Type: Acrobat (application/pdf) Encoding: base64 Download Status: Not downloaded with message
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Subject: House Bill 287

Date: Fri, 18 Apr 2003 16:13:17 -0800

From: Hal Jackson <haljackson@alaska.com>

To: Representative_Lesil_McGuire@legis.state.ak.us

I oppose House Bill 287.

I have been a Realtor for 15 years and oppose this course of action.

Hal Jackson
Eagle River, Ak.

Dear Representative,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

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Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion.

Sincerely,

Clair E. Dalton
Anita Dalton

Dear Representative _____,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

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Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion.

Sincerely,

Debbie A. White
Associate Broker
RE/MAX of Juneau

Subject: Representative Rokeberg's Proposed HB 257

Date: Sat, 19 Apr 2003 19:06:15 -0800

From: "anniew" <anniew@xyz.net>

To: <Representative_Lesil_McGuire@legis.state.ak.us>,
<Representative_Tom_Anderson@legis.state.ak.us>,
<Representative_Jim_Holm@legis.state.ak.us>, <Representative_Dan_Ogg@legis.state.ak.us>,
<Representative_Ralph_Samuels@legis.state.ak.us>,
<Representative_Les_Gara@legis.state.ak.us>,
<Representative_Max_Gruenberg@legis.state.ak.us>,
<Representative_Norman_Rokeberg@legis.state.ak.us>

Dear Representative Rokeberg and House Judiciary Members:

I am writing this letter to you all in opposition of HB 257, which I find to be ill-conceived and disingenuous.

First let me say that I appreciate Representative Rokeberg's attempt at clarifying agency relationships between sellers, buyers and real estate agents. He has worked with us for a long time and has shown admirable patience as our work on Agency issues has dragged on. Many of us from the outlying boards have spent hours participating in Agency Task Force meetings, and he would not be alone in feeling some impatience at the length of this process. However, that impatience is part of the process of a large group struggling with a very important issue.

HB 257, as written, denies consumers protection when they are participating in the purchase/sale of a property very loosely defined as "commercial" by this bill. Removing the requirement to disclose to clients exactly whom is being represented opens Pandora's box and can mislead the public. Although I understand that in large commercial transactions it is felt by some that both buyers and sellers are knowledgeable and sophisticated and don't need agency disclosures, some of the definitions of "commercial" are very loose and could apply to very modest properties and would be owned and/or purchased by less than sophisticated buyers.

Other parts of this bill appears to trivialize the requirement of AS08.88.396, which is just plain wrong. Since when is disclosing to a client who you work for and how you're paid trivial? Right now every state classify undisclosed dual agency as fraudulent misrepresentation I believe.

The most abhorrent part of this proposed legislation has to do with the Retrospectivity elements. As an associate broker who works very hard to obey both the law and the Realtor Code of Ethics, I find it reprehensible that legislation would retroactively prohibit consumers who feel themselves wronged to have their day in court. How convenient for those huge companies who can't (or don't want to) keep track of what their agents are doing. It's a huge slap in the face to the rest of us, and the real estate consumer, to remove the ability for redress if a wrong has been/is being committed.

It seems to me a better approach would be to define "agency" as it actually applies to the real estate profession, rather than by it's broad Common Law present definition and make practical the applications of **when** and **how** the agency relationship must be disclosed to a buyer and a seller. **THEN**, if you want to eliminate **some** commercial transactions (say for properties over \$500,000 or some other fairly high sales amount, then that might be appropriate.

The way this bill is presently written, there's not much to my mind that IS appropriate about it. I don't want to be painted with the "used car salesman" brush. The general public is going to see this as a bunch of slimy salesmen trying to weasel out of something. I work too hard to let this happen.

Thank you for your time and attention.

Sincerely,

Anne C. Whitney, Associate Broker
AAR Board of Directors Member

Subject: HB 257

Date: Mon, 21 Apr 2003 10:26:11 -0800

From: Shel Hensley <realestate@gci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

Dear Representative Lesil McGuire,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation.

HB 257 is a real slap in the face to the law abiding majority of real estate practioners in Alaska. Norm Rokeberg's association with Prudential Jack White Co., and Prudential Vista Real Estate is well known within the real estate industry. To think that HB 257 arrives at such a time as one of Prudential Jack White Co.,'s star agents is facing licensing issues due to lack of disclosure in a previous real estate transaction is insulting to our trade, to say the least. The fact that a potential class action suit against Prudential Vista Real Estate would also be halted adds insult to injury. These two incidents are *exactly* why the State of Alaska must stand firm with regulations that will protect the public and force disclosure of agency in all real estate transactions.

I find a comment in the Sunday Anchorage Daily News by Chris Stephens, a commercial real estate agent, to be most alarming. Obviously he has missed the point entirely when he says that Commercial real estate agents should not be required to disclose agency since about half of their transactions are "dual agency" situations. Representing the Seller and the Buyer within the same firm eliminates the ability to give "full" or fiduciary service to either party. Helping the Seller receive the highest dollar for the property and assisting the Buyer to receive the lowest price for the property. The same being true when a real estate agent lists a property for sale and then writes the offer on that property for the Buyer.

Every homeowner and potential home buyer deserves the opportunity to decide what type of representation is appropriate for them. In order to make this decision they have to first be given notice, or disclosure, as to what level of representation is available to them. It is highly unlikely

that the vast majority would accept anything other than a fiduciary relationship if made fully aware of the implications.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

My professional association, the Alaska Association of REALTORS cannot support the following issues of HB 257:

Required Disclosure of Conflict of Interest – Regarding dual agency, on in-house transactions, whether commercial or residential. If it can be shown that the actions of the sales agent encourages a belief that the sales agent represented the buyer/lessee/tenant, then an undisclosed, and therefore illegal, dual agency probably has been created.

Removing the requirement of disclosure is an act of fraud. How can misleading the public in issues as important as fiduciary duty be anything but fraud?

Common Law of Agency - If these principles do not apply, then what does? The reality of abrogating common law is that the states that have attempted it, have attempted to define the duty of the agent and penalties for non compliance. No state has been successful in this endeavor, and the National Association of REALTORS does not recommend abrogation of common law. Simply, it works as a balance of consumer protection and defining acceptable professional conduct.

Fiduciary Duty - This provision is simply embarrassing to professionals that endorse the National Association of REALTORS Code of Ethics. You can interpret this as; Citizen of Alaska, I will be honest, fair, and act in good faith, but you can't trust me.

In regard to page 5, section (g) of the bill; attempting to trivialize the requirement of AS 08.88.396 as technical violation is simply absurd. Most would not consider disclosing, who you work for and how you're paid a trivial technical violation. All states classify undisclosed dual agency as fraud, deceit, and misrepresentation.

Thank you so much for considering my opinion.

Sincerely,

Shel Hensley
realestate@shelhensley.com

Subject: HB 257

Date: Mon, 21 Apr 2003 11:03:21 -0800

From: "Barb Nord" <barbnord@acsalaska.net>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

Dear Representative McGuire,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

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Dear Representative,

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Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion.

Sincerely,

Tracey Ricker
Owner/Broker
Ricker & Associates Real Estate, Inc.

Subject: HB 257

Date: Mon, 21 Apr 2003 16:20:29 -0800

From: Carole Winton <taku@ptialaska.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

Dear Representative McGuire,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

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Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion.

Sincerely,

Carole J. Winton
President, Alaska Association of Realtors

Subject: HB 257

Date: Mon, 21 Apr 2003 16:23:47 -0800

From: Janice Lobaugh <jlobaugh@gci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us,
 Representative_Tom_Anderson@legis.state.ak.us,
 Representative_Jim_Holm@legis.state.ak.us, Representative_Dan_Ogg@legis.state.ak.us,
 Representative_Ralph_Samuels@legis.state.ak.us,
 Representative_Les_Gara@legis.state.ak.us,
 Representative_Max_Gruenberg@legis.state.ak.us,
 Representative_Norman_Rokeberg@legis.state.ak.us

Dear Representative:

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

My professional association, the Alaska Association of REALTORS cannot support the following issues of HB 257:

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Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in <?xml:namespace prefix = st1 ns = "urn:schemas-microsoft-com:office:smarts" />Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion.

Sincerely,

Janice Lobaugh

Realtor

Subject: HB257

Date: Mon, 21 Apr 2003 16:27:37 -0800

From: "Evelyn P. Rohr" <erohr@matnet.com>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

Dear Representative McGuire,<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues. There are enough Real Estate agents who take liberties with the code of ethics as it is, without making it easier for those who are inclined to be dishonest and in essence, give them a license to do it.

My professional association, the Alaska Association of REALTORS cannot support the following issues of HB 257:

Required Disclosure of Conflict of Interest – Regarding dual agency, on in-house transactions, whether commercial or residential. If it can be shown that the actions of the sales agent encourages a belief that the sales agent represented the buyer/lessee/tenant, then an undisclosed, and therefore illegal, dual agency probably has been created.

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Applicability & Retrospectively - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion. We in the Real Estate industry do strive for the highest form of ethics and if bill were to pass, it would seriously undermine our efforts. To make allowances and laws for a select few is setting a dangerous precedence.

Sincerely,

Evelyn P. Rohr GRI

Next Home Real Estate

Subject: HB 257

Date: Mon, 21 Apr 2003 20:50:16 -0700

From: Robert Stanton <rstanton@gci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

Dear Representative McGuire:

I have been a licensed realtor in Anchorage since 1975 and I urge you to support Representative Rokeberg's efforts with with the passage of HB 275. It is imperative that immediate steps be taken to resolve this issue and reduce the exposure to all within the real estate industry. If you have any questions, please feel free to contact me at (907) 240 2560. Thank you.

Sincerely,

Robert J. Stanton, Jr.
License Number 3803

Subject: HB257

Date: Mon, 21 Apr 2003 20:54:37 -0800

From: Grayce Oakley <goakley@gci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us,
Representative_Tom_Anderson@legis.state.ak.us,
Representative_Jim_Holm@legis.state.ak.us, Representative_Dan_Ogg@legis.state.ak.us,
Representative_Ralph_Samuels@legis.state.ak.us, Representative_Les_Gara@legis.state.ak.us,
Representative_Max_Gruenberg@legis.state.ak.us

I urge you to take no action and thus let this bill die in the Judiciary Committee.

I consider it a serious abuse of legislative power and privilege to shape a bill with the primary intent of affecting the outcome of litigation already underway.

I also do not believe there should be any exemption for commercial transactions. Please note that until last year, the precedent setting dual agency cases in Alaska were Black vs. Dahl and Foster vs. Cross, both of which were based on commercial transactions.

I offer this opinion based on 27 years in the real estate business, with 12 of those years as the Executive Administrator for the Alaska Real Estate Commission. I was involved with numerous bills and regulation projects in the state, and also with "agency forums and task forces" with the National Association of Realtors while a broker and with the Association of Real Estate License Law Officials while I was with the Commission.

For the good of the professionals who truly wish to provide a service to the consumers they serve, please do not pass HB 257.

Grayce Oakley

2458 Sprucewood St

Anchorage, AK 99508

Subject: HB 257

Date: Mon, 21 Apr 2003 23:00:48 -0800

From: Viki Kaas <viki@gci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

This bill is poor legislation. Please do not support it. Professionals in the real estate industry do not.

Viki Kaas, CRS, GRI, Broker

Homes Unlimited, Inc

517 West 12th Ave

Anchorage, AK 99501

727-5555

346-4111

viki@gci.net

Subject: HB 257

Date: Tue, 22 Apr 2003 11:13:40 -0800

From: Carole Winton <taku@ptialaska.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

Dear Representative McGuire,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

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Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion.

Sincerely,

Carole Winton
President, Alaska Association of Realtors

Subject: HB257

Date: Tue, 22 Apr 2003 16:05:46 EDT

From: PLumetta@aol.com

To: Representative_Lesil_McGuire@legis.state.ak.us

DEAR REPRESENTATIVE McGUIRE,

I WOULD LIKE TO ASK FOR YOUR SUPPORT OF HB257, REP. ROKEBERG'S RELATING TO THE REAL ESTATE INDUSTRY. I AM A MEMBER OF THE ANCHORAGE BOARD OF REALTORS AS WELL AS THE ALASKA ASSOC. OF REALTORS (LIC. #14223). THANKS FOR YOUR SUPPORT.

SINCERELY

PETER LUMETTA

Subject: HB257**Date:** Tue, 22 Apr 2003 12:37:16 -0800**From:** "Debbie Barnhardt" <debbie@nexthomealaska.com>

To: <Representative_Lesil_McGuire@legis.state.ak.us>,
 <Representative_Tom_Anderson@legis.state.ak.us>,
 <Representative_Jim_Holm@legis.state.ak.us>, <Representative_Dan_Ogg@legis.state.ak.us>,
 <Representative_Ralph_Samuels@legis.state.ak.us>,
 <Representative_Les_Gara@legis.state.ak.us>,
 <Representative_Max_Gruenberg@legis.state.ak.us>,
 <Representative_Norman_Rokeberg@legis.state.ak.us>

Dear Representative,

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Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion.

Sincerely,

Debbie Barnhardt

Yes on H257

Subject: Yes on H257

Date: Tue, 22 Apr 2003 17:06:12 EDT

From: Susanpcock@aol.com

To: Representative_Lesil_McGuire@legis.state.ak.us

As a Realtor and active agent I have been hoping for some changes to the current statues. I believe H257 is a start. Please vote for it. Susan Peacock

Subject: HB 257

Date: Tue, 22 Apr 2003 17:41:30 -0800

From: Patrick Tufts <ptufts@alaska.com>

To: Lesil McGuire <representative_lesil_mcguire@legis.state.ak.us>

<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

Dear Representative _____ Lesil McGuire _____,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

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Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in <?xml:namespace prefix = st1 ns = "urn:schemas-microsoft-com:office:smarts" />Alaska. **I have attached a copy of the Code of Ethics for your review to understand this position.**

Thank you so much for considering my opinion.

Sincerely,

Patrick Tufts

| | |
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|  2003%20COE.pdf | <p>Name: 2003%20COE.pdf
Type: Acrobat (application/pdf)
Encoding: base64
Download Status: Not downloaded with message</p> |
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I would like to ask for your support for...57 relating to the real estate industry.

Subject: I would like to ask for your support for HB 257 relating to the real estate industry.

Date: Wed, 23 Apr 2003 10:05:04 -0800

From: "Rita Stuckart" <RStuckart@jackwhite.com>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

I would like to ask for your support for HB 257 relating to the real estate industry.

Rita Stuckart
Residential Manager
Prudential Jack White Real Estate
1-800-770-2001

Subject: HB 257

Date: Wed, 23 Apr 2003 14:15:33 -0800

From: "Beckie Brocies" <bbrocies@alaska.net>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

CC: <Representative_Tom_Anderson@legis.state.ak.us>, <Representative_Jim_Holm@legis.state.ak.us>, <Representative_Dan_Ogg@legis.state.ak.us>, <Representative_Ralph_Samuels@legis.state.ak.us>, <Representative_Les_Gara@legis.state.ak.us>, <Representative_Max_Gruenberg@legis.state.ak.us>

Representative McGuire:

I am writing to you as the Chair of the House Judiciary Committee, to urge that you do NOT support HB 257. As an Anchorage Realtor who fights the daily battle to improve the reputation of members of my industry, this legislation is clearly special interest, and will not in any way protect the public.

The Attorney General's office is currently reviewing new regulations which should clear up some of the issues associated with dual agency in the real estate industry and under which we can operate until the entire statute can be re-written, a project that I understand is currently underway.

HB 257 is, at best, nothing - and at the worst, appears to have been designed to protect someone other than the general public.

Thank you for your consideration,

Beckie Brocies
Realtor
Dynamic Properties
3111 C Street
Anchorage, AK 99503
(907) 440-6939

Subject: HB 257

Date: Wed, 23 Apr 2003 14:16:50 -0800

From: "Bill Mehner" <Bill@BonnieMehner.com>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

Lesil,

I SUPPORT HB 257. . . AND HOPE YOU WILL TOO!

This House Bill is very important to the health of the real estate industry State-wide. Your support is needed to **insure passage this session**. There are many important issues confronting real estate agents and brokers especially where agency disclosure is concerned. I have gained some expertise recently in this area and was hoping to have a Bill submitted that would help resolve some of the problems for **all** real estate agents.

The Anchorage and Alaska Board of REALTORS has started that effort with a task force to address a total rewrite of the current statutes. This is a lengthy process and consensus has been frustrating at this point.

Rep. Rokebergs' HB 257 sends a message and points the direction for later legislation. But we need this interim step now to safeguard consumers and to keep our industry strong. We are concerned about agents' ability for timely compliance to the current statutes and the exposure the industry has for loss of E & O insurance coverage. It is in the best interest of consumers to have realistic disclosure procedures and limit exposure to class actions that could cripple the real estate industry.

I would like to ask for your help to pass this House Bill and would make myself available if you have questions or reservations.

I also have a draft that you may want to consider for additional statute changes and would appreciate your involment to direct this important process.

Thank you for your help!

Bill Mehner

(907)317-0710 cell

(907)248-0254 home

(907)762-3108 work

Subject: HB 257

Date: Wed, 23 Apr 2003 14:35:49 -0800

From: island@alaska.net

To: Representative_Lesil_McGuire@legis.state.ak.us

Please do not pass this bill - it does NOT serve the public as Realtors are pledged to do. Whether it is Commercial or Residential, disclosure of who I'm working for is mandatory and if I have deceived a former client I should be held accountable. This "get out of jail" free card can only protect an agent who has not previously followed the rules.

Susan Nix, ABR, GRI
Ricker & Associates Real Estate

Subject: HB257: PLEASE VOTE YES!

Date: Wed, 23 Apr 2003 18:29:11 -0800

From: Sallie Nickerson <callme@gci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

Dear Representative McGuire:

The Alaska Association of Realtors is all wet! There are a few people on a committee trying to build a camel -- they've been working on their "proposed legislation" for almost a year and have yet to come to internal agreement. I am a licensed real estate agent #3886, since 1976, and urge you to support this legislation. If this bill doesn't pass, I'm told our E&O insurance is in danger of disappearing from the State of Alaska. We must protect our consumers by being able to obtain E&O and an easier way of disclosing agency in who we represent. This can do it until the "camel builders" get their act together!. Thank you for your help. Sallie Nickerson, Anchorage.

Subject: House Bill 257

Date: Fri, 25 Apr 2003 16:58:38 -0800

From: "Dan Wolf" <danwolf@alaska.net>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

April 25, 2003

The Honorable Lesil McGuire

House of Representatives

Alaska State Capitol

Juneau, AK 99801-1182

Dear Representative McGuire,

I'm writing you to request your support of HB 257. The purpose of this legislation is to be a "stop gap" measure to prevent lawsuits against real estate agencies and individual agents until a new regulation can be agreed upon and enacted into law. The current law surrounding the disclosure of dual agency is unclear and is very unpractical for the way real estate really functions in today's real estate environment.

Recently lawyers have learned how to exploit dual agency transactions on 'technical violations' where no person has been wronged or harmed, but formal agency notice was not given in strict accordance to the existing statutes.

The real estate industry is under threat from particular lawyers who hope to muster enough buyers and sellers who bought or sold in transactions where the same real estate company represented both parties to the transaction. There is no way to show any harm was done to parties. The only issue is the timing of the 'dual agency' disclosure. Dual agency is very common in small communities where there are few real estate companies and occurs in about 40% of the transactions in the Anchorage area.

If attorneys can gain enough support for a class action suit against real estate agents and offices, the Errors and Omission (E & O) insurance carriers will undoubtedly drop Alaska from further coverage and this will be very harmful to the real estate industry as well as to the public at large.

The Alaska Association of Realtors has been working on proposed legislation for nearly a year but is still not quite in agreement. This bill, although maybe not perfect or fully comprehensive will provide temporary relief from suits on a technical violation.

Thank you,

Dan Wolf

Re/Max Properties, Inc

Anchor age, AK

(907) 257-0114

Subject: HB 257

Date: Sat, 26 Apr 2003 19:12:52 -0800


From: Pauline Hofseth <pauline@gci.net>

To: 'House Judiciary' <Committee@legis.state.ak.us>

I am a licensed Realtor in Anchorage with 17 years of real estate practice and my license number is 11220. I am also a member of the Anchorage Board of Realtors and the Alaska Association of Realtors. The subject matter of the HB 257 is an important one to Realtors and to the general public. The changes proposed in HB 257 are important, because no matter how well we work to do our jobs by the letter of the law, there are people who feel it is okay to profit from ambiguities. And that's not fair, nor do I believe that was the purpose of creating any law. Thanks for your consideration in support of HB 257. If I can answer any questions, please feel free to contact me.

Sincerely,

Pauline Hofseth, CRS, ABR, RECS "Daring to Care
 Associate Broker www.PaulineHofseth.com
[Mailto:pauline@PaulineHofseth.com](mailto:pauline@PaulineHofseth.com)
 Prudential Vista Real Estate (907) 562-5485 (fax)
 4241 B Street Anchorage AK 99503
 (907) 273-7274/ (907) 229-4007/ (800) 909-6464

| | | |
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|  | winmail.dat | <p>Name: winmail.dat
 Type: Netscape File (application/ms-tnef)
 Encoding: base64</p> |
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Prudential

Prudential Jack White Real Estate
3201 C Street, Suite 200
Anchorage, AK 99503
Bus 907 563-5500 Fax 907 762-3189
www.jackwhite.com

April 21, 2003

The Honorable Lisel McGuire
House of Representatives
Alaska State Capital
Juneau, AK 99801-1182

Dear Representative McGuire:

I am a registered voter and I would like to ask for your support for the passage of Representative Rokeberg's HB 257 relating to the real estate industry. I am a licensed Realtor and a member of the Anchorage Board of Realtors and the Alaska Association of Realtors. My license number is 15608.

As a licensed and informed Realtor I would like you to know that I strongly support this bill and hope you will as well.

Thank you for your support. If you have any questions, please feel free to contact me at 762-5874.

Sincerely,

A handwritten signature in cursive script that reads "Michelle Croswhite".

Michelle Croswhite
Realtor

4/24/03

Dear Representative MCGUIRE:

I would like to ask for your support for HF 257 relating to my profession, the real estate industry. I am especially supportive of the provision to treat an untimely agency disclosure as a conflict of interest.

I am a licensed real estate agent in the Mat-Su Valley, a member of the Valley Board of Realtors and the Alaska Association of Realtors.

Thank you for your support. If you have any questions, please feel free to contact me at 907 376-2414.

Sincerely,

Betsy Kay

Too late,

but oh well.

Just for your

records. :)



Fax Cover Sheet

To..... The Honorable Lesil McGuire
Fax #..... 907-465-6592
Date 04-18-03
Pages 1

RE: HB 257

The Honorable Lesil McGuire
House of Representatives
Alaska State Capitol
Juneau, AK 99801-1182

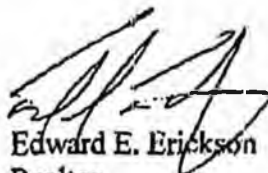
not a constituent

Dear Representative McGuire:

I am a member of your legislative district and I would like to ask for your support for the passage of Representative Rokeberg's HB 257 relating to the real estate industry. I am a licensed Realtor and a member of the Anchorage Board of Realtors and the Alaska Association of Realtors. My license number is 15937.

Thank you for your support. If you have any questions, please feel free to contact me at (907) 689-6464.

Sincerely,


Edward E. Erickson
Realtor

4241 "B" Street
Anchorage, AK 99503
Office (907) 582-6464
Fax (907) 562-5485

16635 Centerfield Dr.
Eagle River, AK 99577
Office (907) 889-6464
Fax (907) 889-6499

1365 E. Parks Hwy.
Wasilla, AK 99554
Office (907) 376-2414
Fax (907) 376-5471

Fax Cover Sheet

To.....**The Honorable Lesil McGuire**
Fax #.....**907-465-6592**
Date**04-18-03**
Pages.....**1**

RE: HB 257

The Honorable Lesil McGuire
House of Representatives
Alaska State Capitol
Juneau, AK 99801-1182

not registered

Dear Representative McGuire:

I am a member of your legislative district and I would like to ask for your support for the passage of Representative Rokeberg's HB 257 relating to the real estate industry. I am a licensed Realtor and a member of the Anchorage Board of Realtors and the Alaska Association of Realtors. My license number is 13143.

Thank you for your support. If you have any questions, please feel free to contact me at (907) 689-6464.

Sincerely,



Les Bailey
Realtor



Fax Cover Sheet

To.....The Honorable Lesil McGuire
Fax #907-465-6592
Date.....04-21-03
Pages.....1

RE: HB 257

The Honorable Lesil McGuire
House of Representatives
Alaska State Capitol
Juneau, AK 99801-1182

not const.

Dear Representative McGuire:

~~I am a member of your legislative district~~ and I would like to ask for your support for the passage of Representative Flokeberg's HB 257 relating to the real estate industry. I am a licensed Realtor and a member of the Anchorage Board of Realtors and the Alaska Association of Realtors. My license number is 15165.

Thank you for your support. If you have any questions, please feel free to contact me at (907) 689-6464.

Sincerely,

Craig Bennett
Craig Bennett
Realtor

4241 "B" Street
Anchorage, AK 99503
Office (907) 562-6434
Fax (907) 562-5488

16635 Canterbury Dr.
Eagle River, AK 99577
Office (907) 689-6464
Fax (907) 689-6499

1365 E. Parks Hwy.
Wasilla, AK 99853
Office (907) 376-4414
Fax (907) 376-5471

4/24/03

Dear Representative McGuire :

I would like to ask for your support for HP 257 relating to my profession, the real estate industry. I am especially supportive of the provision to treat an untimely agency disclosure as a conflict of interest.

I am a licensed real estate agent in the Mat-Su Valley, a member of the Valley Board of Realtors and the Alaska Association of Realtors.

Thank you for your support. If you have any questions, please feel free to contact me at 907 376-2414.

Sincerely,

Shana Ackles

4/24/03

Dear Representative McGuire:

I would like to ask for your support for HP 257 relating to my profession, the real estate industry. I am especially supportive of the provision to treat an untimely agency disclosure as a conflict of interest.

I am a licensed real estate agent in the Mat-Su Valley, a member of the Valley Board of Realtors and the Alaska Association of Realtors.

Thank you for your support. If you have any questions, please feel free to contact me at 907 376-2414.

Sincerely,

Sandra McMillin

4/24/03

Dear Representative McGuire:

I would like to ask for your support for HP 257 relating to my profession, the real estate industry. I am especially supportive of the provision to treat an untimely agency disclosure as a conflict of interest.

I am a licensed real estate agent in the Mat-Su Valley, a member of the Valley Board of Realtors and the Alaska Association of Realtors.

Thank you for your support. If you have any questions, please feel free to contact me at 907 376-2414.

Sincerely,

Esther Buckner

4/24/03

Dear Representative McGuire :

I would like to ask for your support for HP 257 relating to my profession, the real estate industry. I am especially supportive of the provision to treat an untimely agency disclosure as a conflict of interest.

I am a licensed real estate agent in the Mat-Su Valley, a member of the Valley Board of Realtors and the Alaska Association of Realtors.

Thank you for your support. If you have any questions, please feel free to contact me at 907 376-2414.

Sincerely,

Alison Zahaj

4/24/03

Dear Representative McBride:

I would like to ask for your support for HP 257 relating to my profession, the real estate industry. I am especially supportive of the provision to treat an untimely agency disclosure as a conflict of interest.

I am a licensed real estate agent in the Mat-Su Valley, a member of the Vailey Board of Realtors and the Alaska Association of Realtors.

Thank you for your support. If you have any questions, please feel free to contact me at 907 376-2414.

Sincerely,

Leahy Barnhart

4/24/03

Dear Representative McGuire:

I would like to ask for your support for HP 257 relating to my profession, the real estate industry. I am especially supportive of the provision to treat an untimely agency disclosure as a conflict of interest.

I am a licensed real estate agent in the Mat-Su Valley, a member of the Valley Board of Realtors and the Alaska Association of Realtors.

Thank you for your support. If you have any questions, please feel free to contact me at 907 376-2414.

Sincerely,


Licki Westphal

Subject: HB257

Date: Mon, 21 Apr 2003 18:36:11 -0800

From: Ben Lally <benlally@pci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

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|  <u>HB257.doc</u> | <p>Name: HB257.doc
Type: WINWORD File (application/msword)
Encoding: base64
Download Status: Not downloaded with message</p> |
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THIS LETTER SHOULD BE SENT VIA E-MAIL TO ALL
LEGISLATORS...SENATE AND HOUSE.

I am a real estate licensee in your area. I am deeply disturbed about a bill that has been introduced into the legislature - HB 257. For these reasons:

1. The bill does not protect the consumer.
2. It has a provision that could endanger the surety fund since it is the only method of relief if a licensee does not follow the law
3. It allows licensees that did not follow the current law, to go to a new law rather than following the law as written. This is not good public policy.

I am requesting that if you have this bill in one of your committees or it comes to the house of senate floor that you vote NO. The current bill, as written is bad public policy.

Thank you for considering my opinion.

Fax Cover Sheet

To **The Honorable Lesli McGuire**
Fax # **907-465-6592**
Date **04-22-03**
Pages **1**

RE: **HB 257**

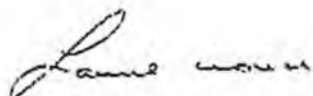
The Honorable Lesli McGuire
House of Representatives
Alaska State Capitol
Juneau, AK 99801-1182

Dear Representative McGuire:

I would like to ask for your support, as a member of the House Judiciary Committee, for the passage of Representative Rokeberg's HB 257 relating to the real estate industry. I understand that HB257 has passed out of the House Labor & Commerce Committee and is scheduled for hearing by the House Judiciary Committee on approximately April 28th. I am a licensed Realtor and a member of the Anchorage Board of Realtors and the Alaska Association of Realtors. My license number is 10665.

Thank you for your support. If you have any questions, please feel free to contact me at (907) 689-6464.

Sincerely,



Laurel Crouse
Realtor

4241 'B' Street
Anchorage, AK 99503
Office (907) 662-6464
Fax (907) 582-5485

16635 Centerfield Dr.
Eagle River, AK 99577
Office (907) 689-6464
Fax (907) 689-6499

1365 E. Parks Hwy.
Wasilla, AK 99554
Office (907) 376-2414
Fax (907) 376-6471

**Prudential****Prudential Vista Real Estate**

4241 B Street
Anchorage, AK 99503
Bus 907 562-6464
Fax 907 562-5485
www.prudentialvista.com

4/23/2003

Dear Representative McGuire:

I would like to ask for your support for the passage of Representative Rokeberg's HB 257 relating to the real estate industry. I am a licensed Realtor and a member of the National Association of Realtors. My license number is 15599. I would like you to support this passage in order to help stop people from having a free reign to make money off loopholes in poorly written law. Just as they have families, we have families too! Sometimes people choose to think with their pocketbooks instead of what's just and right.

Thank you for your support. If you have any questions, please feel free to contact me at 244-1876.

Sincerely,

A handwritten signature in cursive script that reads "Matthew T. Kane".

Matthew T. Kane



Fax Cover Sheet

To The Honorable Lesil McGuire
Fax #..... 907-465-6592
Date..... 04-22-03
Pages 1

RE: HB 257

The Honorable Lesil McGuire
House of Representatives
Alaska State Capitol
Juneau, AK 99801-1182

Dear Representative McGuire:

I would like to ask for your support, as a member of the House Judiciary Committee, for the passage of Representative Rokeberg's HB 257 relating to the real estate industry. I understand that HB257 has passed out of the House Labor & Commerce Committee and is scheduled for hearing by the House Judiciary Committee on approximately April 28th. I am a licensed Realtor and a member of the Anchorage Board of Realtors and the Alaska Association of Realtors. My license number is 2987.

Thank you for your support. If you have any questions, please feel free to contact me at (907) 689-6464.

Sincerely,

Lola Pederson
Realtor

4241 "B" Street
Anchorage, AK 99503
Office (907) 562-6464
Fax (907) 562-5485

10035 Centerfield Dr.
Eagle River, AK 99577
Office (907) 689-6464
Fax (907) 689-6499

1365 E. Parks Hwy.
Wasilla, AK 99654
Office (907) 376-2414
Fax (907) 376-5477

To The Honorable Lesil McGuire

Fax # 907-465-6592

Date 04-22-03

Pages 1

RE: HB 257

The Honorable Lesil McGuire

House of Representatives

Alaska State Capitol

Juneau, AK 99801-1182

Dear Representative McGuire:

I would like to ask for your support, as a member of the House Judiciary Committee, for the passage of Representative Rokeberg's HB 257 relating to the real estate industry. I understand that HB 257 has passed out of the House Labor & Commerce Committee and is scheduled for hearing by the House Judiciary Committee on approximately April 28th. I am a licensed Realtor and a member of the Anchorage Board of Realtors and the Alaska Association of Realtors. My license number is 15864.

Thank you for your support. If you have any questions, please feel free to contact me at (907) 689-6464.

Sincerely,


Margaret Billinger, Realtor

RUSH -
FOR CONSIDERATION
PRIOR TO 1pm JUDICIARY

MEMORANDUM

Date : 5/1/03

To : The Honorable Representative Lesil McGuire
The Honorable Representative Tom Anderson
The Honorable Representative Dan Ogg
The Honorable Representative James Holm
The Honorable Representative Ralph Samuels
The Honorable Representative Max Gruenberg
The Honorable Representative Les Gara

From : Linda Garrison-Broker/Owner AAR #1 Buyers Agency

RE : HB 257

A modified HB257 will be heard in House Judiciary 5/2/03 starting at 1pm. As of 11:30 pm on Thursday, 5/1/03, revisions are not yet available for PUBLIC review. Common behind the scenes negotiations are occurring; so be it. But, since these statutes are for consumer protection, I am very concerned that the public cannot gain access to review suggested changes and make comments.

As guardians of the consumer's protection, the public is depending upon you and your decisions. I respect you, and do not envy you, for the responsibility which you have accepted. The current real estate statute is not flawed. Many in the industry would propose it is; that position is based on dual agency. The current statute is written with consumer protection and representation in mind - not agent/agency protection. Dual agency is allowed with appropriate and reasonable disclosures. That is why the current statute should not be diluted with HB257 which is concerned with the real estate industry, not the public/consumer protection.

Here is a scenario that is well covered by the current statute. An agent of xxx company is with a buyer who wants to see a listing of xxx company. That agent would simply have to tell the buyer that he "represents the seller." Very logical - very consumer oriented - very accurate. There would be no dual agency-unless the agent chose to create it. If the agent wants to create a dual agency relationship, the current statute allows it. The current statute recognizes that the creation of this dual agency doesn't benefit the public - buyer or seller - simply the agent/agency. We should not make it easier for an agent/agency to weaken public protection.

***THE CURRENT STATUTE SERVES THE PUBLIC PROTECTION WELL; IT SHOULD BE KEPT IN TACT - NOT DILUTED. COMMON LAW SHOULD NOT BE ABROGATED.**

*** THIS STATUTE SHOULD BE KEPT AS A GUARD FOR CONSUMER PROTECTION. WHAT DOES HB257 DO FOR PUBLIC PROTECTION. NOTHING. IN FACT, HB 257 MAKES IT EASIER FOR AN AGENT/AGENCY TO PRACTICE DUAL AGENCY. DUAL AGENCY DOESN'T BENEFIT THE CONSUMER (SELLER OR BUYER)-IT ONLY BENEFITS THE AGENT/AGENCY.**

The current statute does the job-IT PROTECTS THE PUBLIC. Thank you.

AAR #1 Buyer's Agency®

RESIDENTIAL • INVESTMENT PROPERTIES

PO BOX 190727

ANCHORAGE AK 99519-0727

FAX (907) 277-3443

(907) 27 BUYER

(907) 272-8937

FAX MEMORANDUM

DATE:

04/30/03

TO:

THE Honorable Representative

COMPANY:

De S. L. McGuire

FAX:

907-465-6592

FROM:

LINDA S. GARRISON, Broker

RE:

House Bill no. 257

OF PAGES TO FOLLOW:

5

- ① We still have a retro clause
- ② This modification of this Bill has been hastily put together without comment from Realtors, Real Estate Commission or Alaska Property owners association.
- ③ We urge hearing this Bill next week.
- ④ This is not available on the web

April 28, 2003

To: All Legislators;

HB257 needs to be defeated!

Once again, a Legislator has introduced a "self serving", Special Interest bill that is not in the best interest of the public, whom it claims to protect. This bill is specifically written to protect a Special Interest Party from a "Class Action" lawsuit. Amendments are being offered, in order to gain support, but they don't do anything but further confuse the issues. **Kill this Bill!**

HB257 was written in an attempt to legislate away an Agent's fiduciary duties to their clients. If you think chaos reigns now, just pass this bill and watch the lawsuits begin.

IS THIS NOT A CONFLICT OF INTEREST? If you will notice, most of the Legislators supporting HB257 are **LICENSED REAL ESTATE AGENTS**; But for your information, a lot of Realtors do not support HB257. They see it for what it is: an "end run" around ethical, lawful conduct.

The public already perceives a Realtor to be of lower character than a car thief, a legislator, or an Attorney, and with just cause. Pass this bill and you legislators might just make it to the bottom of the list. Pass HB257 and you will do an enormous disservice to the public.

There are probably five thousand Realtors in Alaska, some will vote for you, (1-2% of voters), if you do vote for HB257, ninety eight percent of the voters may never vote for you again, once they realize what a disservice the legislature has done Alaskans.

See HB257 for what it is and vote it down. Do the public a real service.

Our existing Real Estate Laws are good; they just need enforcement. If you sincerely want to improve Real Estate transactions in our state-fund some license enforcement!

I myself am a Realtor, a Broker and owner of Advantage Realty, Inc.: I don't want HB257 to further erode what little respect and trust our industry now has.

Thank you for taking the time to read my letter.

Sincerely;

Les Reynolds
Advantage Realty, Inc.
P.O. Box 871710
Wasilla, Alaska 99687
(907) 357-1750

Subject:

Date: Fri, 18 Apr 2003 15:32:08 -0800

From: "Ellen Hedges" <ellen@greatlandrealty.com>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

Dear Representative McGuire,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

My professional association, the Alaska Association of REALTORS cannot support the following issues of HB 257:

Required Disclosure of Conflict of Interest – Regarding dual agency, on in-house transactions, whether commercial or residential. If it can be shown that the actions of the sales agent encourages a belief that the sales agent represented the buyer/lessee/tenant, then an undisclosed, and therefore illegal, dual agency probably has been created.

Removing the requirement of disclosure is an act of fraud. How can misleading the public in issues as important as fiduciary duty be anything but fraud?

Common Law of Agency - If these principles do not apply, then what does? The reality of abrogating common law is that the states that have attempted it, have attempted to define the duty of the agent and penalties for non compliance. No state has been successful in this endeavor, and the National Association of REALTORS does not recommend abrogation of common law. Simply, it works as a balance of consumer protection and defining acceptable professional conduct.

Fiduciary Duty - This provision is simply embarrassing to professionals that endorse the National Association of REALTORS Code of Ethics. You can interpret this as; Citizen of Alaska, I will be honest, fair, and act in good faith, but you can't trust me.

In regard to page 5, section (g) of the bill; attempting to trivialize the requirement of AS 08.88.396 as technical violation is simply absurd. Most would not consider disclosing, who you work for and how you're paid a trivial technical violation. All states classify undisclosed dual agency as fraud, deceit, and misrepresentation.

Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion.

Sincerely,

Ellen Hedges

Great Land Realty

907-694-9125

Fax: 907-694-9125

ellen@greatlandrealty.com

Subject: HB 257

Date: Fri, 18 Apr 2003 15:50:39 -0800

From: Trevor Roehl <trevorroehl@gci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

Dear Representative McGuire,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see any way of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

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Removing the requirement of disclosure is an act of fraud. How can misleading the public in issues as important as fiduciary duty be anything but fraud?

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Fiduciary Duty - This provision is simply embarrassing to professionals that endorse the National Association of REALTORS Code of Ethics. You can interpret this as; Citizen of Alaska, I will be honest, fair, and act in good faith, but you can't trust me.

In regard to page 5, section (g) of the bill; attempting to trivialize the requirement of AS 08.88.396 as technical violation is simply absurd. Most would not consider disclosing, who you work for and how you're paid a trivial technical violation. All states classify undisclosed dual agency as fraud, deceit, and misrepresentation.

Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska.

Thank you so much for considering my opinion.

-
Sincerely,

—
Trevor Roehl
Marketing Associate/Property Manager

Powell Realty, Inc., GMAC Real Estate
PH (907)789-3888 Fax (907)789-7038

Subject: Hb 257

Date: Fri, 18 Apr 2003 15:57:53 -0800

From: Ruth Blackwell <ruth@aukelake.com>

Reply-To: ruthlb@aukelake.com

Organization: Ruth Blackwell

To: Representative_Lesil_McGuire@legis.state.ak.us

CC: Representative_Norman_Rokeberg@legis.state.ak.us

Dear Representative McGuire;

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

My professional association, the Alaska Association of REALTORS cannot support the following issues of HB 257:

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Thank you so much for considering my opinion.

Sincerely,

Ruth Blackwell
Powell Realty/GMAC
9040 Glacier Highway
Juneau, Alaska 99801
907-789-3888 work
907-789-7038 work fax
907-789-0582 home
907-789-2835 home fax
907-321-0615 cell

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Type: Acrobat (application/pdf)
Encoding: base64
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Subject: House Bill 287

Date: Fri, 18 Apr 2003 16:13:17 -0800

From: Hal Jackson <haljackson@alaska.com>

To: Representative_Lesil_McGuire@legis.state.ak.us

I oppose House Bill 287.

I have been a Realtor for 15 years and oppose this course of action.

Hal Jackson
Eagle River, Ak.

Dear Representative,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

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Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion.

Sincerely,

Clair E. Dalton
Anita Dalton

Dear Representative _____,

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HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

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Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion.

Sincerely,

Debbie A. White
Associate Broker
RE/MAX of Juneau

Subject: Representative Rokeberg's Proposed HB 257

Date: Sat, 19 Apr 2003 19:06:15 -0800

From: "anniew" <anniew@xyz.net>

To: <Representative_Lesil_McGuire@legis.state.ak.us>,
<Representative_Tom_Anderson@legis.state.ak.us>,
<Representative_Jim_Holm@legis.state.ak.us>, <Representative_Dan_Ogg@legis.state.ak.us>,
<Representative_Ralph_Samuels@legis.state.ak.us>,
<Representative_Les_Gara@legis.state.ak.us>,
<Representative_Max_Gruenberg@legis.state.ak.us>,
<Representative_Norman_Rokeberg@legis.state.ak.us>

Dear Representative Rokeberg and House Judiciary Members:

I am writing this letter to you all in opposition of HB 257, which I find to be ill-conceived and disingenuous.

First let me say that I appreciate Representative Rokeberg's attempt at clarifying agency relationships between sellers, buyers and real estate agents. He has worked with us for a long time and has shown admirable patience as our work on Agency issues has dragged on. Many of us from the outlying boards have spent hours participating in Agency Task Force meetings, and he would not be alone in feeling some impatience at the length of this process. However, that impatience is part of the process of a large group struggling with a very important issue.

HB 257, as written, denies consumers protection when they are participating in the purchase/sale of a property very loosely defined as "commercial" by this bill. Removing the requirement to disclose to clients exactly whom is being represented opens Pandora's box and can mislead the public. Although I understand that in large commercial transactions it is felt by some that both buyers and sellers are knowledgeable and sophisticated and don't need agency disclosures, some of the definitions of "commercial" are very loose and could apply to very modest properties and would be owned and/or purchased by less than sophisticated buyers.

Other parts of this bill appears to trivialize the requirement of AS08.88.396, which is just plain wrong. Since when is disclosing to a client who you work for and how you're paid trivial? Right now every state classify undisclosed dual agency as fraudulent misrepresentation I believe.

The most abhorrent part of this proposed legislation has to do with the Retrospectivity elements. As an associate broker who works very hard to obey both the law and the Realtor Code of Ethics, I find it reprehensible that legislation would retroactively prohibit consumers who feel themselves wronged to have their day in court. How convenient for those huge companies who can't (or don't want to) keep track of what their agents are doing. It's a huge slap in the face to the rest of us, and the real estate consumer, to remove the ability for redress if a wrong has been/is being committed.

It seems to me a better approach would be to define "agency" as it actually applies to the real estate profession, rather than by it's broad Common Law present definition and make practical the applications of **when** and **how** the agency relationship must be disclosed to a buyer and a seller. THEN, if you want to eliminate **some** commercial transactions (say for properties over \$500,000 or some other fairly high sales amount, then that might be appropriate.

The way this bill is presently written, there's not much to my mind that IS appropriate about it. I don't want to be painted with the "used car salesman" brush. The general public is going to see this as a bunch of slimy salesmen trying to weasel out of something. I work too hard to let this happen.

Thank you for your time and attention.

Sincerely,

Anne C. Whitney, Associate Broker
AAR Board of Directors Member

Subject: HB 257**Date:** Mon, 21 Apr 2003 10:26:11 -0800**From:** Shel Hensley <realestate@gci.net>**To:** Representative_Lesil_McGuire@legis.state.ak.us

<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

Dear Representative Lesil McGuire,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation.

HB 257 is a real slap in the face to the law abiding majority of real estate practioners in Alaska. Norm Rokeberg's association with Prudential Jack White Co., and Prudential Vista Real Estate is well known within the real estate industry. To think that HB 257 arrives at such a time as one of Prudential Jack White Co.'s star agents is facing licensing issues due to lack of disclosure in a previous real estate transaction is insulting to our trade, to say the least. The fact that a potential class action suit against Prudential Vista Real Estate would also be halted adds insult to injury. These two incidents are *exactly* why the State of Alaska must stand firm with regulations that will protect the public and force disclosure of agency in all real estate transactions.

I find a comment in the Sunday Anchorage Daily News by Chris Stephens, a commercial real estate agent, to be most alarming. Obviously he has missed the point entirely when he says that Commercial real estate agents should not be required to disclose agency since about half of their transactions are "dual agency" situations. Representing the Seller and the Buyer within the same firm eliminates the ability to give "full" or fiduciary service to either party. Helping the Seller receive the highest dollar for the property and assisting the Buyer to receive the lowest price for the property. The same being true when a real estate agent lists a property for sale and then writes the offer on that property for the Buyer.

Every homeowner and potential home buyer deserves the opportunity to decide what type of representation is appropriate for them. In order to make this decision they have to first be given notice, or disclosure, as to what level of representation is available to them. It is highly unlikely

that the vast majority would accept anything other than a fiduciary relationship if made fully aware of the implications.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

My professional association, the Alaska Association of REALTORS cannot support the following issues of HB 257:

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Thank you so much for considering my opinion.

Sincerely,

Shel Hensley
realestate@shelhensley.com

Subject: HB 257

Date: Mon, 21 Apr 2003 11:03:21 -0800

From: "Barb Nord" <barbnord@acsalaska.net>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

Dear Representative McGuire,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

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Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska

Thank you so much for considering my opinion.

Sincerely,

Barbara A. Nord, Associate Broker

Five Star Realty

35388 Spur Hwy., Suite 8

Soldotna, AK 99669

(907) 262-2445 office

(907) 260-2624 fax

(907) 398-4123 cellular

(907) 283-9678 home

Barb Nord (barbnord@acsalaska.net) <barbnord@acsalaska.net>
Five Star Realty

Dear Representative,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

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Thank you so much for considering my opinion.

Sincerely,

Tracey Ricker
Owner/Broker
Ricker & Associates Real Estate, Inc.

Subject: House Bill 257

Date: Mon, 21 Apr 2003 16:24:09 EDT

From: KristenAbegg@cs.com

To: Representative_Lesil_McGuire@legis.state.ak.us

Dear Ms. McGuire,

I am a real estate licensee in your area. I am deeply disturbed about a bill that has been introduced into the legislature - HB 257. For these reasons:

1. The bill does not protect the consumer.
2. It has a provision that could endanger the surety fund since it is the only method of relief if a licensee does not follow the law
3. It allows licensees that did not follow the current law, to go to a new law rather than following the law as written. This is not good public policy.

I am requesting that if you have this bill in one of your committees or it comes to the house of senate floor that you vote NO. The current bill, as written it is bad public policy.

The Board of Realtors has an Agency Task Force which has been working very hard to resolve the agency issue. Please give them a fair opportunity to complete a difficult task.

House Bill 257, as written, completely disregards the professional conduct standards set forth by the Alaska Association of Realtors.

Please do not support special interest legislation which will help a few companies and run rough shod over the interests of the public and the industry as a whole.

Thank you for considering my opinion.

Sincerely,

Kris Abegg
Broker, Paragon Properties

Subject: HB 257

Date: Mon, 21 Apr 2003 16:20:29 -0800

From: Carole Winton <taku@ptialaska.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

Dear Representative McGuire,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

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Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion.

Sincerely,

Carole J. Winton
President, Alaska Association of Realtors

Subject: HB 257

Date: Mon, 21 Apr 2003 16:23:47 -0800

From: Janice Lobaugh <jlobaugh@gci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us,
 Representative_Tom_Anderson@legis.state.ak.us,
 Representative_Jim_Holm@legis.state.ak.us, Representative_Dan_Ogg@legis.state.ak.us,
 Representative_Ralph_Samuels@legis.state.ak.us,
 Representative_Les_Gara@legis.state.ak.us,
 Representative_Max_Gruenberg@legis.state.ak.us,
 Representative_Norman_Rokeberg@legis.state.ak.us

Dear Representative:

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Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in <?xml:namespace prefix = st1 ns = "urn:schemas-microsoft-com:office:smarts" />Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion.

Sincerely,

Janice Lobaugh

Realtor

Subject: HB257

Date: Mon, 21 Apr 2003 16:27:37 -0800

From: "Evelyn P. Rohr" <erohr@matnet.com>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

Dear Representative McGuire,<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues. There are enough Real Estate agents who take liberties with the code of ethics as it is, without making it easier for those who are inclined to be dishonest and in essence, give them a license to do it.

My professional association, the Alaska Association of REALTORS cannot support the following issues of HB 257:

Required Disclosure of Conflict of Interest – Regarding dual agency, on in-house transactions, whether commercial or residential. If it can be shown that the actions of the sales agent encourages a belief that the sales agent represented the buyer/lessee/tenant, then an undisclosed, and therefore illegal, dual agency probably has been created.

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Applicability & Retrospectively - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion. We in the Real Estate industry do strive for the highest form of ethics and if bill were to pass, it would seriously undermine our efforts. To make allowances and laws for a select few is setting a dangerous precedence.

Sincerely,

Evelyn P. Rohr GRI

Next Home Real Estate

Subject: HB 257

Date: Mon, 21 Apr 2003 20:50:16 -0700

From: Robert Stanton <rstanton@gci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

Dear Representative McGuire:

I have been a licensed realtor in Anchorage since 1975 and I urge you to support Representative Rokeberg's efforts with with the passage of HB 275. It is imperative that immediate steps be taken to resolve this issue and reduce the exposure to all within the real estate industry. If you have any questions, please feel free to contact me at (907) 240 2560. Thank you.

Sincerely,

Robert J. Stanton, Jr.
License Number 3803

Subject: HB257

Date: Mon, 21 Apr 2003 20:54:37 -0800

From: Grayce Oakley <goakley@gci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us,
Representative_Tom_Anderson@legis.state.ak.us,
Representative_Jim_Holm@legis.state.ak.us, Representative_Dan_Ogg@legis.state.ak.us,
Representative_Ralph_Samuels@legis.state.ak.us, Representative_Les_Gara@legis.state.ak.us,
Representative_Max_Gruenberg@legis.state.ak.us

I urge you to take no action and thus let this bill die in the Judiciary Committee.

I consider it a serious abuse of legislative power and privilege to shape a bill with the primary intent of affecting the outcome of litigation already underway.

I also do not believe there should be any exemption for commercial transactions. Please note that until last year, the precedent setting dual agency cases in Alaska were Black vs. Dahl and Foster vs. Cross, both of which were based on commercial transactions.

I offer this opinion based on 27 years in the real estate business, with 12 of those years as the Executive Administrator for the Alaska Real Estate Commission. I was involved with numerous bills and regulation projects in the state, and also with "agency forums and task forces" with the National Association of Realtors while a broker and with the Association of Real Estate License Law Officials while I was with the Commission.

For the good of the professionals who truly wish to provide a service to the consumers they serve, please do not pass HB 257.

Grayce Oakley

2458 Sprucewood St

Anchorage, AK 99508

Subject: HB 257

Date: Mon, 21 Apr 2003 23:00:48 -0800

From: Viki Kaas <viki@gci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

This bill is poor legislation. Please do not support it. Professionals in the real estate industry do not.

Viki Kaas. CRS. GRI. Broker

Homes Unlimited, Inc

517 West 12th Ave

Anchorage, AK 99501

727-5555

346-4111

viki@gci.net

Subject: HB 257

Date: Tue, 22 Apr 2003 11:13:40 -0800

From: Carole Winton <taku@ptialaska.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

Dear Representative McGuire,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

My professional association, the Alaska Association of REALTORS cannot support the following issues of HB 257:

Required Disclosure of Conflict of Interest - Regarding dual agency, on in-house transactions, whether commercial or residential. If it can be shown that the actions of the sales agent encourages a belief that the sales agent represented the buyer/lessee/tenant, then an undisclosed, and therefore illegal, dual agency probably has been created.

Removing the requirement of disclosure is an act of fraud. How can misleading the public in issues as important as fiduciary duty be anything but fraud?

Common Law of Agency - If these principles do not apply, then what does? The reality of abrogating common law is that the states that have attempted it, have attempted to define the duty of the agent and penalties for non compliance. No state has been successful in this endeavor, and the National Association of REALTORS does not recommend abrogation of common law. Simply, it works as a balance of consumer protection and defining acceptable professional conduct.

Fiduciary Duty - This provision is simply embarrassing to professionals that endorse the National Association of REALTORS Code of Ethics. You can interpret this as; Citizen of Alaska, I will be honest, fair, and act in good faith, but you can't trust me.

In regard to page 5, section (g) of the bill; attempting to trivialize the requirement of AS 08.88.396 as technical violation is simply absurd. Most would not consider disclosing, who you work for and how you're paid a trivial technical violation. All states classify undisclosed dual agency as fraud, deceit, and misrepresentation.

Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion.

Sincerely,

Carole Winton
President, Alaska Association of Realtors

Subject: HB257

Date: Tue, 22 Apr 2003 16:05:46 EDT

From: PLumetta@aol.com

To: Representative_Lesil_McGuire@legis.state.ak.us

DEAR REPRESENTATIVE McGUIRE,

I WOULD LIKE TO ASK FOR YOUR SUPPORT OF HB257, REP. ROKEBERG'S RELATING TO THE REAL ESTATE INDUSTRY. I AM A MEMBER OF THE ANCHORAGE BOARD OF REALTORS AS WELL AS THE ALASKA ASSOC. OF REALTORS (LIC. #14223). THANKS FOR YOUR SUPPORT.

SINCERELY

PETER LUMETTA

Subject: HB257**Date:** Tue, 22 Apr 2003 12:37:16 -0800**From:** "Debbie Barnhardt" <debbie@nexthomealaska.com>

To: <Representative_Lesil_McGuire@legis.state.ak.us>, <Representative_Tom_Anderson@legis.state.ak.us>, <Representative_Jim_Holm@legis.state.ak.us>, <Representative_Dan_Ogg@legis.state.ak.us>, <Representative_Ralph_Samuels@legis.state.ak.us>, <Representative_Les_Gara@legis.state.ak.us>, <Representative_Max_Gruenberg@legis.state.ak.us>, <Representative_Norman_Rokeberg@legis.state.ak.us>

Dear Representative,

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Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion.

Sincerely,

Debbie Barnhardt

Subject: Yes on H257

Date: Tue, 22 Apr 2003 17:06:12 EDT

From: Susanpcock@aol.com

To: Representative_Lesil_McGuire@legis.state.ak.us

As a Realtor and active agent I have been hoping for some changes to the current statues. I believe H257 is a start. Please vote for it. Susan Peacock

Subject: HB 257

Date: Tue, 22 Apr 2003 17:41:30 -0800

From: Patrick Tufts <ptufts@alaska.com>

To: Lesil McGuire <representative_lesil_mcguire@legis.state.ak.us>

<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

Dear Representative _____ Lesil McGuire _____,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

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Thank you so much for considering my opinion.

Sincerely,

Patrick Tufts

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Encoding: base64
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I would like to ask for your support for...57 relating to the real estate industry.

Subject: I would like to ask for your support for HB 257 relating to the real estate industry.

Date: Wed, 23 Apr 2003 10:05:04 -0800

From: "Rita Stuckart" <RStuckart@jackwhite.com>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

I would like to ask for your support for HB 257 relating to the real estate industry.

Rita Stuckart
Residential Manager
Prudential Jack White Real Estate
1-800-770-2001

Subject: HB 257

Date: Wed, 23 Apr 2003 14:15:33 -0800

From: "Beckie Brocies" <bbrocies@alaska.net>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

CC: <Representative_Tom_Anderson@legis.state.ak.us>, <Representative_Jim_Holm@legis.state.ak.us>, <Representative_Dan_Ogg@legis.state.ak.us>, <Representative_Ralph_Samuels@legis.state.ak.us>, <Representative_Les_Gara@legis.state.ak.us>, <Representative_Max_Gruenberg@legis.state.ak.us>

Representative McGuire:

I am writing to you as the Chair of the House Judiciary Committee, to urge that you do NOT support HB 257. As an Anchorage Realtor who fights the daily battle to improve the reputation of members of my industry, this legislation is clearly special interest, and will not in any way protect the public.

The Attorney General's office is currently reviewing new regulations which should clear up some of the issues associated with dual agency in the real estate industry and under which we can operate until the entire statute can be re-written, a project that I understand is currently underway.

HB 257 is, at best, nothing - and at the worst, appears to have been designed to protect someone other than the general public.

Thank you for your consideration,

Beckie Brocies
Realtor
Dynamic Properties
3111 C Street
Anchorage, AK 99503
(907) 440-6939

Subject: HB 257

Date: Wed, 23 Apr 2003 14:16:50 -0800

From: "Bill Mehner" <Bill@BonnieMehner.com>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

Lesil,

I SUPPORT HB 257. . . AND HOPE YOU WILL TOO!

This House Bill is very important to the health of the real estate industry State-wide. Your support is needed to **insure passage this session**. There are many important issues confronting real estate agents and brokers especially where agency disclosure is concerned. I have gained some expertise recently in this area and was hoping to have a Bill submitted that would help resolve some of the problems for all real estate agents.

The Anchorage and Alaska Board of REALTORS has started that effort with a task force to address a total rewrite of the current statutes. This is a lengthy process and consensus has been frustrating at this point.

Rep. Rokebergs' HB 257 sends a message and points the direction for later legislation. But we need this interim step now to safeguard consumers and to keep our industry strong. We are concerned about agents' ability for timely compliance to the current statutes and the exposure the industry has for loss of E & O insurance coverage. It is in the best interest of consumers to have realistic disclosure procedures and limit exposure to class actions that could cripple the real estate industry.

I would like to ask for your help to pass this House Bill and would make myself available if you have questions or reservations.

I also have a draft that you may want to consider for additional statute changes and would appreciate your involment to direct this important process.

Thank you for your help!

Bill Mehner

(907)317-0710 cell

(907)248-0254 home

(907)762-3108 work

Subject: HB 257

Date: Wed, 23 Apr 2003 14:35:49 -0800

From: island@alaska.net

To: Representative_Lesil_McGuire@legis.state.ak.us

Please do not pass this bill - it does NOT serve the public as Realtors are pledged to do. Whether it is Commercial or Residential, disclosure of who I'm working for is mandatory and if I have deceived a former client I should be held accountable. This "get out of jail" free card can only protect an agent who has not previously followed the rules.

Susan Nix, ABR, GRI
Ricker & Associates Real Estate

Subject: HB257: PLEASE VOTE YES!

Date: Wed, 23 Apr 2003 18:29:11 -0800

From: Sallie Nickerson <callme@gci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

Dear Representative McGuire:

The Alaska Association of Realtors is all wet! There are a few people on a committee trying to build a camel -- they've been working on their "proposed legislation" for almost a year and have yet to come to internal agreement. I am a licensed real estate agent #3886, since 1976, and urge you to support this legislation. If this bill doesn't pass, I'm told our E&O insurance is in danger of disappearing from the State of Alaska. We must protect our consumers by being able to obtain E&O and an easier way of disclosing agency in who we represent. This can do it until the "camel builders" get their act together!. Thank you for your help. Sallie Nickerson, Anchorage.

Subject: House Bill 257

Date: Fri, 25 Apr 2003 16:58:38 -0800

From: "Dan Wolf" <danwolf@alaska.net>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

April 25, 2003

The Honorable Lesil McGuire

House of Representatives

Alaska State Capitol

Juneau, AK 99801-1182

Dear Representative McGuire,

I'm writing you to request your support of HB 257. The purpose of this legislation is to be a "stop gap" measure to prevent lawsuits against real estate agencies and individual agents until a new regulation can be agreed upon and enacted into law. The current law surrounding the disclosure of dual agency is unclear and is very unpractical for the way real estate really functions in today's real estate environment.

Recently lawyers have learned how to exploit dual agency transactions on 'technical violations' where no person has been wronged or harmed, but formal agency notice was not given in strict accordance to the existing statutes.

The real estate industry is under threat from particular lawyers who hope to muster enough buyers and sellers who bought or sold in transactions where the same real estate company represented both parties to the transaction. There is no way to show any harm was done to parties. The only issue is the timing of the 'dual agency' disclosure. Dual agency is very common in small communities where there are few real estate companies and occurs in about 40% of the transactions in the Anchorage area.

If attorneys can gain enough support for a class action suit against real estate agents and offices, the Errors and Omission (E & O) insurance carriers will undoubtedly drop Alaska from further coverage and this will be very harmful to the real estate industry as well as to the public at large.

The Alaska Association of Realtors has been working on proposed legislation for nearly a year but is still not quite in agreement. This bill, although maybe not perfect or fully comprehensive will provide temporary relief from suits on a technical violation.

Thank you,

Dan Wolf

Re/Max Properties, Inc

Anchorage, AK

(907) 257-0114

Subject: HB 257

Date: Sat, 26 Apr 2003 19:12:52 -0800


From: Pauline Hofseth <pauline@gci.net>

To: 'House Judiciary' <Committee@legis.state.ak.us>

I am a licensed Realtor in Anchorage with 17 years of real estate practice and my license number is 11220. I am also a member of the Anchorage Board of Realtors and the Alaska Association of Realtors. The subject matter of the HB 257 is an important one to Realtors and to the general public. The changes proposed in HB 257 are important, because no matter how well we work to do our jobs by the letter of the law, there are people who feel it is okay to profit from ambiguities. And that's not fair, nor do I believe that was the purpose of creating any law. Thanks for your consideration in support of HB 257. If I can answer any questions, please feel free to contact me.

Sincerely,

Pauline Hofseth, CRS, ABR, RECS "Daring to Care
Associate Broker www.PaulineHofseth.com
[Mailto:pauline@PaulineHofseth.com](mailto:pauline@PaulineHofseth.com)
Prudential Vista Real Estate (907) 562-5485 (fax)
4241 B Street Anchorage AK 99503
(907) 273-7274/ (907) 229-4007/ (800) 909-6464

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ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
LEGISLATIVE ETHICS COMMITTEE, MEMBER

website: <http://www.akrepublicans.org/rokeberg/>



INTERIM:
716 WEST 4TH AVENUE, SUITE 300
ANCHORAGE, AK 99501
PHONE: (907) 269-0117
FAX: (907) 269-0119

SESSION:
ALASKA STATE CAPITOL
JUNEAU, AK 99801-1182
PHONE: (907) 465-4968
FAX: (907) 465-2040

Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

SPONSOR STATEMENT FOR HB 257

BY: Representative Norman Rokeberg

Title: An Act relating to the disclosure requirements for real estate licensees, to disciplinary action against real estate licensees, to private actions against real estate licensees, and to real estate licensee agency relationships, fiduciary duties, and other duties; and providing for an effective date.

HB 257 makes several improvements to Alaska's real estate laws.

Commercial Real Estate Transactions

HB 257 exempts commercial real estate licensees from certain disclosure requirements. The purpose of the disclosure requirements in AS 08.88.896 is to provide consumer protection to those people who may not be familiar with their legal responsibilities and rely in part on real estate licensees for advice when buying and selling real estate. Commercial real estate practitioners should be exempt from these requirements because of the level of sophistication and knowledge typical of parties to commercial real estate transactions. Parties to commercial transactions do not need this protection and the disclosure requirements do not reflect the standards of practice in commercial real estate.

HB 257 also provides that in those cases where the commercial transaction is exempt from the disclosure requirements, and the real estate licensee is representing both the buyer and seller (or both lessor and lessee), the common law principles of agency do not apply. Instead, the licensee shall act with honesty, fairness and good faith when representing both parties.

AS 08.88.396

In addition to the commercial real estate licensees' exemption, HB 257 makes several other changes to the disclosure statute. First, all references to a real estate "agent" have been replaced with real estate "licensee." This is to conform with the rest of the real estate statutes which use the term "licensee." Second, references to lessors and lessees have been added to the statute to reflect that the disclosure statute also applies to real estate lease transactions. Finally, subsection (g) clarifies that a failure to disclose or obtain written consent as required by the statute does not give rise to a private cause of action, but can result in a disciplinary action against the licensee. However, in cases of fraud, misrepresentation or deceit a person can bring an action against the real estate surety fund for damages.

I encourage your support of this legislation.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
LEGISLATIVE ETHICS COMMITTEE, MEMBER

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ANCHORAGE, AK 99501
PHONE: (907) 269-0117
FAX: (907) 269-0119

SESSION:
ALASKA STATE CAPITOL
JUNEAU, AK 99801-1182
PHONE: (907) 465-4968
FAX: (907) 465-2040

Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

SECTIONAL ANALYSIS FOR HB 257

BY: Representative Norman Rokeberg

Title: An Act relating to the disclosure requirements for real estate licensees, to disciplinary action against real estate licensees, to private actions against real estate licensees, and to real estate licensee agency relationships, fiduciary duties, and other duties; and providing for an effective date.

- Section 1:** Legislative findings and intent.
- Section 2:** Adds the disclosure statute (AS 08.88.396) to the list of actions that the Real Estate Commission can discipline a real estate licensee for violating. Also makes several grammatical corrections.
- Section 3:** Changes "agent" to "real estate licensee." Adds references to lessor and lessee. Corrects misspelling of "acknowledgment."
- Section 4:** Changes "agent" to "real estate licensee." Adds references to lessor and lessee.
- Section 5:** Changes "agent" to "real estate licensee." Adds references to lessor and lessee.
- Section 6:** AS 08.88.396(e): Exempts certain commercial real estate transactions from the disclosure statute.
- AS 08.88.396(f): For those transactions exempt under (e), common law principles of agency do not apply and licensee must act with honesty, fairness and good faith when representing both parties.
- AS 08.88.396(g): Failure to make a disclosure or obtain written consent required by this statute does not give a person a cause of action against the licensee for the failure. An action can be brought against the Real Estate Surety Fund in cases of fraud, misrepresentation or deceit, if there are damages.
- Section 7:** (a) The provisions of this Act apply to a real estate transaction that occurs before, on or after the effective date of this Act.
- (b) As 08.88.396(g) applies to an action pending in a court in the state in which a final judgment has not been rendered before the effective date of this Act.
- Section 8:** This Act takes effect immediately.

MEMORANDUM

Date : 5/1/03
To : House Judiciary Committee
From : Linda Garrison-Broker/Owner
AAR #1 Buyers Agency
RE : HB 257

*RUSH -
Please review
for Judiciary
meeting*

Today, I listened in to the Alaska State REALTORS Association discussing the revised bill HB257.

I expressed my opinion that this statute isn't flawed. This statute and suggested modification does absolutely nothing to protect the consumer or to extend/expand protection for the public. In fact, it perpetuates "dual agency" and, I believe, makes it easier for agents to do "dual agency."

The most telling comment made during this discussion was that dual agency was "just fine" with consumers and, in fact, most of the buyers and sellers "liked it." DUAL AGENCY DOES NOT REPRESENT THE BEST INTERESTS OF THE PUBLIC. PROTECTION AND CLIENT LEVEL SERVICES (FIDUCIARY DUTIES) TO THE SELLER ARE REDUCED; PROTECTION AND CLIENT LEVEL SERVICES (FIDUCIARY DUTIES) TO THE BUYER ARE REDUCED. IF AN AGENT/AGENCY BELIEVES THAT DUAL AGENCY GIVES THE SAME LEVEL OF SERVICE TO THE CONSUMER-THAT IS THEIR OPINION. DUAL AGENCY DOES NOT FOSTER PROTECTION OF BUYER OR SELLER; IN FACT DUAL AGENCY OPENS THE DOOR FOR FRAUD TO OCCUR. PRACTICING DUAL AGENCY SHOULD BE DONE IN ACCORDANCE WITH THE CURRENT STATUTE.

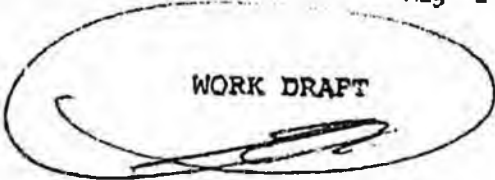
Recommendation for passage of HB257 was voted "yes". This vote was NOT unanimous.

HB29 (a larger, revised version) has been started in House L&C. I still have the same questions:

- * How does this modification (HB257) increase protection for the public ? - It doesn't.
- * Why the rush? Why can't these modifications be put in with HB29. The statute has operated for a decade+ very successfully.

Thank-you for your consideration. I would urge the Committee to protect the consumer as this statute currently does and I would urge the committee to recommend that HB257 be sent back to the sponsor for coordination with HB29.

WORK DRAFT



WORK DRAFT

23-LS0893U
Bannister
5/1/03

CS FOR HOUSE BILL NO. 257()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, Foster

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the disclosure requirements for real estate licensees, to disciplinary
2 action against real estate licensees, to private actions and remedies against real estate
3 licensees, and to real estate licensee agency, relationships, and duties; and providing for
4 an effective date."

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

6 * Section 1. AS 08.88.071(a)(3) is amended to read:

7 (3) after hearing, have the authority to suspend or revoke the license of
8 a licensee or impose other disciplinary sanctions authorized under AS 08.01.075 on a
9 licensee who

10 (A) with respect to a real estate transaction

11 (i) made a substantial misrepresentation;

12 (ii) made a false promise likely to influence, persuade,

13 or induce;

14 (iii) in the case of a real estate broker, pursued a

CSHB 257()

ALASKA STATE LEGISLATURE

House of Representatives

Committee Assignments:

Rules Committee, Chairman
Labor & Commerce Committee, Member
Legislative Council, Member
Special Committees:

Oil & Gas
Ways & Means



Interim:
716 West 4th Avenue, Suite 350
Anchorage, AK 99501
PHONE: (907) 269-0117
FAX: (907) 269-0119

SESSION:
State Capitol
PHONE: (907) 465-4968
FAX: (907) 465-3040

REPRESENTATIVE NORMAN ROKEBERG

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

FAX COVERSHEET

DATE: 5.2.03

TO: DAVE FEEN, RUTH BLACKWELL, SANDY FOREST, WENDY MULDER,
RICK FULLER, HOWARD TRICKEY

FAX: _____ VOICE: _____

RE: Latest CB for HB 257.

MESSAGE: _____

TOTAL NUMBER OF PAGES SENT, INCLUDING COVER SHEET: 6