

LEG. FINANCE - BILLS 1979 - 1980 1306
SB 205 cont., thru CSSB 212 1306

ate at a much slower rate and are estimated to have economic lives of 40 years.

Several recent factors suggest that mobile homes currently depreciate at a slower rate than in the past. One is that improved construction standards and enforcement have increased the durability of mobile homes. A major factor in the depreciation of mobile homes has been the functional obsolescence created by changes in the size and design of mobile homes, and these changes have been reduced in recent years. Despite these improvements, however, the evidence suggests that mobile homes still depreciate more rapidly than conventional homes.

Though data are minimal, existing information suggests that in recent years mobile home resale values have stayed closer to the original purchase price than in the past and that in some cases individual mobile homes have appreciated in value. This appreciation in value is primarily the result of recent inflation rates rather than a significant reduction in the depreciation rate.

The resale value of any home is determined by both the sale price of new homes and depreciation. Recent high rates of inflation have increased the cost of producing mobile homes in much the same way they have increased the cost of other goods and services. To an extent, escalating prices of new, and consequently existing mobile homes, have offset the depreciation that has taken place. The fact that used mobile homes have just maintained their original value during the early seventies is an improvement over the past. However, it also dramatizes the differences between mobile homes and conventional homes. Sales prices of existing conventional homes increased over fifty percent between 1970 and 1975, providing major benefits to owners as an inflation hedge.

It has been suggested that mobile home owners would realize the same appreciation as conventional home owners if they owned the land where the mobile home is located. While it is true that land ownership will result in more equity for the homeowner, since any appreciation in land values will go to the homeowner rather than a rental park owner, owning the land will not in itself drastically reduce the depreciation in a mobile home. Location of a mobile home on a high-quality

site, whether owned or rented, will increase the potential resale value of a mobile home. However, the fact that a site is owned rather than rented in itself will not have an appreciable effect on the depreciation of a mobile home.

One group of particular concern are the young families who purchase mobile homes as an initial step toward conventional homeownership. These families are attracted by the relatively low initial and monthly housing costs, but they also see ownership as a means of generating the equity needed as a downpayment on a conventional home. As was stated previously, the degree to which a mobile home owner actually accumulates this equity depends to a great extent both on the inflation rate and on the depreciation of the mobile home.

A recent Congressional Budget Office study of the affordability of housing concluded that during periods of high inflation the first time home buyers suffer the greatest decline in the affordability of housing, since initial and monthly housing expenses are affected by increases in all cost components including price increases. For the most part current homeowners and even homeowners moving from one home to another have not been affected by home price increases since the value of their homes has increased proportionately. Renters are the primary group that has realized a decline in the affordability of conventional homeownership, but the previous discussion also suggests that mobile home owners may also be affected since the increase in the resale value of their homes has not matched that of conventional homes. If depreciation erodes the equity that an owner has in a mobile home he may be at a relative disadvantage compared with renters. Generally, a mobile home owner's advantage over renters in terms of equity accumulation will increase with the inflation rate; yet both will be at a disadvantage with conventional home owners when it comes to purchasing a conventional home.

B. Modular and Panelized Homes

Modular and panelized homes are essentially identical with conventional site-built homes and result in identical expenses for property taxes, property

insurance, maintenance and utilities. Since these forms of manufactured housing are eligible for the same mortgage terms as site-built housing, any differences in initial and monthly expenses should result solely from differences in purchase prices.

Unlike mobile homes, modular and panelized home manufacturers have not been able to establish significant price advantages over site-builders. For the most part, any cost savings that have been realized by factory construction have been offset by transportation costs. Table 12 illustrates typical development costs for a site-built home and a factory built modular home. The table suggests little difference in the cost of the structure, including delivery and installation. Some cost savings may result from lower interim financing and overhead costs, since the modular home can be erected on-site much faster than a site-built home.

Table 12

Development and Land Costs: 1977

<u>Cost Element</u>	<u>Site-Built</u>	<u>Modular</u>
Structure	\$18,900	\$18,700
Factory cost	n.a.	\$14,800
Site cost	\$18,900	\$ 3,900
Interim financing	\$ 2,700	\$ 1,400
Overhead and profit	\$ 4,600	\$ 4,200
Miscellaneous	<u>\$ 3,800</u>	<u>\$ 3,700</u>
Development cost	\$30,000	\$28,000
Land cost	<u>\$ 7,500</u>	<u>\$ 7,500</u>
Total cost	\$37,500	\$35,500

Source: MHFA estimates.

Long-term costs of modular and panelized homes should not be significantly different from those of site-built homes. Though the homes are produced using different delivery systems, all three types of homes are constructed to the same set of construction standards. There should be little if any difference in the economic life of a home whether it be produced as a modular, panelized or site-built home.

VI. MOBILE HOME FINANCING

The Housing Finance Agency evaluated the feasibility of several financing activities related to mobile homes. Basically, the Agency was concerned with three major financing areas: consumer financing of mobile homes, construction and permanent mortgage financing of mobile home parks and consumer financing for the rehabilitation of used mobile homes.

A. Rehabilitation of Mobile Homes

A major activity area in which the Minnesota Housing Finance Agency could provide resources is in the rehabilitation of mobile homes. Approximately 45 percent of the year-round mobile home stock, or 26,000 units, were manufactured before Minnesota adopted mobile home standards in 1972. No reliable survey of condition has been made, but it is believed that a significant portion have construction related problems that could affect the health and safety of residents. Fire safety and energy conservation in these homes, as well as in mobile homes built since 1972, are of particular concern.

Private lenders have not provided financing for the rehabilitation of mobile homes on a widespread basis. To our knowledge there are no Minnesota lenders making home improvement loans on mobile homes, though one Twin Cities area utility company is providing funds to mobile home owners to retrofit their units with additional insulation and other energy conserving improvements. Any Agency activity would be expected to provide the major if not the only source of financial assistance for homeowners wanting to upgrade their mobile homes.

In evaluating the technical feasibility of loan and grant programs for the rehabilitation of mobile homes, the Housing Finance Agency must deal with two considerations. One is the development of a statewide delivery system that is efficient and cost effective. The other is the funding of the programs.

It is felt that the existing network of lenders and grant administration centers could be used to deliver loans and grants to low and moderate income mobile home owners. While there might be some resistance on the part of lenders

to make home improvement loans to mobile home owners, this resistance should be less than if the lender were asked to make home purchase loans. Since most home improvement loans are unsecured by a mortgage, lenders are more concerned with the credit worthiness of the loan applicant than with the security provided by the property.

Funding for a home improvement loan program for mobile homes would come from bond sales. The volume of loans would not be sufficient to allow a separate bond sale, necessitating funding with bond proceeds from the regular home improvement loan program. State appropriations would provide funding for the grant program.

The general consensus is that the Agency could market home improvement bonds that permit proceeds to be used for improvements to mobile homes provided that some form of loan insurance provided security to the bond holders. Currently, all home improvement loans made by the Agency are insured under the Federal Housing Administration's Title I Property Improvement Loan Program. This federal loan insurance provides the security that bond holders need and allows the Agency's bonds to be marketed at reasonable interest rates.

Under the present Title I program, mobile homes are eligible for insurance if they meet six criteria. These include requirements that the mobile home has been placed on property owned or being purchased by the borrower, that the wheels have been removed and the unit has been placed on permanent foundation, that the security for the mobile home loan is in the form of a deed of trust or mortgage covering the realty and the unit is no longer capable of being repossessed as personal property and that the unit is carried on the local tax rolls as real property. Few mobile homes, however, meet these criteria and are eligible for Title I property improvement loans.

This situation could be resolved in one of two ways. One would require modifications to the Title I program. The Department of Housing and Urban Development has received Congressional authorization to expand Title I coverage

to personal property mobile homes. HUD is currently preparing proposed rules for such an expansion of eligibility, but no information is available on when rules are expected to be adopted or on the content of the proposed rules. An alternative would be to make uninsured home improvement loans to mobile home owners. Such a decision, however, would probably necessitate a State-appropriated insurance reserve fund to replace the bond security provided by the Title I insurance program.

B. Purchase of Mobile Homes

Private sector financing of mobile homes has developed independently from mortgage lending activities, resulting in several unique characteristics. Under this system, mobile home dealers play a central role in the delivery of consumer financing, acting as an intermediary between the consumer and the lender and originating approximately 90 percent of all consumer financing. This "one-stop shopping" arrangement has been a key element in the mobile home industry's marketing strategy.

Private lenders have generally been able to keep mobile homes affordable to a wide range of income groups. As mobile homes have grown larger over the years and purchase prices have increased, lenders have been able to keep monthly payments down by gradually increasing the repayment period on loans. In addition, downpayments have been kept near 10 to 15 percent of the purchase price and have made access to mobile home financing comparatively easy for many consumers.

Interest rates charged by private lenders on mobile homes have been the most criticized aspect of mobile home financing. Currently, interest rates on conventional mortgage loans are 8 to 9 percent, while interest rates on mobile home loans are 12 to 13 percent. The primary reason for the higher interest rates is that most mobile home loans are installment loans and yields on mobile home portfolios must be competitive with yields on other types of installment loans to attract capital. Despite high interest rates, however, the private finance sector has been responsive to most consumers. In fact, the financing

package has probably been one of the most attractive features of mobile homes for many consumers. One reason for the success of mobile homes is a financing system that has provided readily available, fast credit with initial and monthly costs attractive and affordable to many families.

The Housing Finance Agency could reduce the monthly payments on mobile home loans through a reduction in interest rates and slightly longer maturities. Given reasonable assumptions about the Agency's borrowing and administrative costs under a mobile home program, the Agency could provide loans at an interest rate of 7-1/4 to 7-3/4 percent, compared with private sector interest rates of 12 to 13 percent. The potential interest rate differential on a typical mobile home loan, would reduce the monthly payment by approximately 20 percent, or \$35 per month.

Whether the Housing Finance Agency has an impact on the availability of credit depends to a great extent on how competitive an Agency program would be with private lending activities. It appears likely that a large portion of any Agency lending activity would be business taken away from private lenders, rather than a new addition in mobile home lending activity. Most mobile home purchasers have incomes under the Agency's income limit of \$16,000; and unless a program were limited to lower income groups, the Agency would be in direct competition with private lenders across their entire market.

One component of the mobile home market that has not received strong support from private lenders is financing of the combined purchase of a mobile home and land. While mobile homes have traditionally been located in mobile home parks on rented spaces, an increasing number of mobile homes are placed on land owned by the mobile home owner. Private lenders have not been entirely responsive in providing a financing instrument that meets the needs of these consumers, possibly because of the legal problems involved in combining real and personal property under one loan.

The Housing Finance Agency has two key concerns in evaluating the feasibility

of financing the purchase of new or used mobile homes with or without a parcel of land. One is the ability of the Agency to raise funds in the bond market. The other is the feasibility of developing an effective, cost efficient system for delivering the funds to low and moderate income families.

To fund a mobile home loan program and to provide significant benefits to consumers, the Housing Finance Agency must be able to sell bonds at a reasonable rate. The most desirable approach would be to issue separate bonds for mobile homes rather than fund a program out of proceeds from homeownership bond sales. Not only would shorter maturities on mobile home loans make the structuring of a combined bond sale difficult, but the Agency would not want to risk affecting the marketability or cost of homeownership bonds.

The general consensus is that the Agency could market bonds for a mobile home program at reasonable borrowing costs provided that some form of loan insurance was available to provide security on the loans. Currently the Federal Housing Administration and the Veterans Administration have mobile home loan insurance programs that would provide this security. The VA program covers both new and used mobile homes and allows combination purchases of mobile homes and land. The FHA program is similar but excludes used mobile homes. If the Agency could not operate under these programs, an appropriated insurance reserve fund would be necessary to provide the security.

The Agency must also develop a delivery system for a mobile home program. The success of a program will depend to a great extent on the ability of the Agency to establish a statewide network of dealers or lenders willing to originate mobile home loans for a reasonable fee and to attract an experienced mobile home servicer willing to service the Agency's loans.

The most effective delivery system would probably utilize mobile home dealers since consumers are not accustomed to seeking financing directly from lenders. However, there would be serious shortcomings in using dealers. Currently, all lenders participating in Agency programs must be FHA-approved and eligible to

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cell loans to the Federal National Mortgage Association or the Federal Home Loan Bank Board. This provides a screening process that ensures that lenders are qualified. The absence of such a screening process would create difficulties in selecting dealers for participation. An alternative would be to use lenders currently participating in the homeownership and home improvement loan programs, but there it is questionable whether lenders will be willing to originate mobile home loans, since few lenders currently engage in and are familiar with mobile home financing.

Equally important to the success of any mobile home financing program is the ability to find a lender or service company willing and able to service mobile home loans for a reasonable fee. Considering the anticipated low volume of loans under a mobile home program and the complex nature of mobile home servicing, it is likely that only a few lenders currently servicing mobile homes could perform the servicing.

C. Park Development

Another loan activity in which the Housing Finance Agency could become involved is the financing of mobile home parks. Such a program could include construction and permanent mortgage financing of rental parks as well as construction financing for condominium parks and subdivision development. The research indicated that the need for such a program activity is limited.

There has been relatively little park development in Minnesota in recent years due to overbuilding during the early seventies and because of local zoning practices in some areas. Lack of financing has not been a key factor preventing the development of parks.

Though the Agency could have an impact on debt service costs through reduced interest rates and longer maturities, the monthly cost savings would be minimal due to the relatively small development cost per individual park space. The key role the Agency could play would be in reducing the equity requirements placed on park developers and in increasing the availability of loan funds in

the State. Whether Agency involvement would increase park development activity is questionable. It is also questionable whether developers would even participate in an Agency program given expected program requirements and the necessity for continued Agency involvement to control rents and restrict occupancy to low and moderate income families.

As with a loan program for individual mobile homes, any evaluation of a park financing program must take into consideration the ability of the Agency to raise and deliver funds. A system to deliver program funds already exists within the Agency's Apartment Development Division. The development review and loan underwriting process for mobile home parks is similar to the process the Agency uses for apartment development. A key concern, however, is the additional workload that a park development program would place on Agency staff. The staff time and expense necessary to underwrite park proposals would not be significantly less than the effort of underwriting apartment developments. However, the typical apartment development financed by the Agency has approximately 65 apartments and a mortgage of \$2,000,000 to \$2,500,000, while a typical park development might have 100 spaces and a mortgage of \$500,000. Unless fee schedules for underwriting, construction administration and management were revised to reflect this lower per unit development cost, fee income could not be expected to generate sufficient revenue to cover Agency expenses.

The most crucial concern with a park financing program lies not with the delivery system but with the ability to raise funds for a program. Given the level of park development activity in the State, the volume of activity under an Agency loan program would probably be too low to justify a separate bond issue. The alternative would be to finance park developments with proceeds from apartment development notes and bonds. The Agency, however, should consider such an alternative with extreme caution. Since the apartment developments financed by the Agency are uninsured, the marketability of the bonds used to finance the developments is tied closely to the ability of the Agency to convince

the bond market of the financial soundness of the individual apartment developments. The Agency must give serious consideration to the possible effect that inclusion of park developments would have on the ability of the Agency to market apartment development bonds at a favorable interest rate. A park mortgage insurance program is available through the Federal Housing Administration, but this program has experienced high foreclosure rates and it is uncertain whether it would provide the security sought by the bond market.

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RECORDS



CERTIFICATION

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James A. Smith
Signature of Camera Operator

3/23/90
Date

COMMITTEE REPORT

HOUSE

(11)

5/20/80

FURTHER:

Date: 5/27/80

Mr. Speaker:

The Committee on FINANCE has had CSSB 212 (2d Jud.) am

"An Act relating to the regulation of real estate brokers and salesmen and to the real estate surety fund; and providing for an effective date."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

do pass

do not pass

do pass with attached amendments(s)

replace with ^{H (commerce)} CS for CSSB 212 same title new title

and recommends do pass

AND attaches a "Letter of Intent" New Fiscal Note

reports it back without recommendation

referred to the _____ Committee

MEMBERS SIGNING

DO PASS

Duncan
McKen
Freeman
Smith
Rogers

MEMBERS HAVING

OTHER RECOMMENDATIONS:

Roberts - no Rec

McKen
CHAIRMAN

FISCAL NOTE

I. REQUEST HCS CSSB 212 Page 1 of 2 of the Real Estate
 Bill/Resolution No. HCS CSSB 212
 Title Commission and amending its powers and duties; and providing for an effective date
 Requested by Commerce Committee Date 5/7/80

II. FISCAL DETAIL

Agency Affected Department of Commerce and Economic Development
 Program Category Affected Consumer Protection
 BRU, Program, or Subprogram(s) Affected Alaska Real Estate Commission
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES	-0-	113.4	193.5	207.0	221.5	237.0
200 TRAVEL	-0-	15.2	22.3	23.9	25.6	27.4
300 CONTRACTUAL	-0-	35.2	52.0	55.6	59.5	63.7
400 COMMODITIES	-0-	4.2	6.6	7.0	7.5	8.0
500 EQUIPMENT	-0-	8.2	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	-0-	5.6	10.1	10.8	1.6	12.4
700 GRANTS, CLAIMS, ETC.	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	181.8	284.5	304.3	325.7	248.5

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	284.5	304.3	325.7	348.5
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Fund Source)	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME	-0-	5	5	5	5	5
PART TIME	-0-	1	1	1	1	1
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Personal Services (7% inflation factor used)

1 Executive Director (difference in current salary at Range 18D and proposed salary at Range 22A.)	\$ 8,677.32
1 Investigator/Auditor - Range 18A	37,186.44
2 Clerk III's - Range 8A (\$19,995.24 ea.)	39,990.48
Assistant Attorney General - 1/2 Time	27,500.00
Total	\$113,354.24

(Continued on next page)

IV. DATE 5/7/80

PREPARED BY Ann Griggs, Director
 AGENCY Division of Occupational Licensing
 PHONE 465-2534

Original: Legislative Finance
 cc: and Management
 For Sponsor (First Legislator Named).

Executive Director	
Commission Member - 6 meetings per year	\$ 12,168.00
One time expense moving Licensing Examiner from Juneau to Anchorage	3,000.00
Total	<u>\$ 15,168.00</u>

(Includes difference of Division of Occupational Licensing transfer over from its budget whatever travel was requested for the Real Estate Commission Members and Executive Director for the FY '81 budget).

Contractual

Hearing Costs at \$1300 per hearing x 12	\$ 15,600.00
Word Processor equipment lease (WANG)	8,500.00
Property law digest subscription	200.00
Phone hook up	1,800.00
Automobile lease & maintenance	5,136.00
Copier rental, etc.	1,000.00
Postage meter	1,000.00
Exam application packets, etc.	2,000.00
Total	<u>\$ 35,236.00</u>

Commodities

Tapes for Lanier	\$ 180.00
Postage	2,000.00
Paper stock	2,000.00
Total	<u>\$ 4,180.00</u>

Equipment - One time expense in FY '81

4 desks, standard	\$ 1,559.52
2 typewriter tables	121.86
2 mats	70.92
2 typewriters	2,000.00
3 chairs, desk	380.49
4 side chairs	530.20
1 swivel chair	200.00
7 4/drawer file cabinets	1,272.74
3 bookcases	231.66
2 tables (72" x 30")	354.54
2 brief cases	120.00
1 file tub	181.50
1 Lanier	1,000.00
mail baskets	30.00
waste baskets	45.00
form racks	150.00
Total	<u>\$ 8,248.43</u>

Original sponsor: Bennett by request

Offered: 5/20/80
Referred: Rules

1 IN THE SENATE

BY THE COMMERCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 212

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act continuing the existence of the Real Estate
7 Commission and amending its powers and duties; and
8 providing for an effective date."

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

10 * Section 1. AS 08.88.031 is amended to read:

11 Sec. 08.88.031. EXECUTIVE DIRECTOR [SECRETARY] OF COMMISSION. The
12 commission [COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT] shall
13 appoint a full-time staff administrator and delineate his authority and
14 duties. He shall serve as the executive director [SECRETARY] of the
15 Real Estate Commission.

16 * Sec. 2. AS 08.88 is amended by adding new sections to read:

17 Sec. 08.88.034. INVESTIGATOR OF THE COMMISSION. The executive
18 director of the commission shall appoint, with the approval of the com-
19 mission, a full-time investigator or auditor to assist the board in
20 matters of professional discipline.

21 Sec. 08.88.037. INVESTIGATION AND INJUNCTION. (a) The commission
22 may, upon its own motion, conduct investigations to determine whether a
23 person has violated a provision of this chapter or a regulation adopted
24 under it, or to secure information useful in the administration of this
25 chapter.

26 (b) If it appears to the executive director that a person has
27 engaged in or is about to engage in an act or practice in violation of a
28 provision of this chapter or a regulation adopted under it and that
action is warranted in the public interest, he shall notify all commis-

1 sion members by telephone or telegraph of a proposed order or action,
2 and, if a majority of the members of the commission approve, he may

3 (1) after reasonable notice of and an opportunity for a
4 hearing is given to the person, issue an order directing the person to
5 stop the act or practice; the executive director may issue a temporary
6 order before a hearing is held; a temporary order remains in effect
7 until a final order affirming, modifying, or reversing the temporary
8 order is issued or until 15 days have elapsed after the person receives
9 the notice and has not requested a hearing; a temporary order becomes
10 final if the person to whom the notice is addressed does not request a
11 hearing within 15 days after receiving the notice; if a hearing is
12 requested, a hearing shall be conducted by a hearing officer within 30
13 days; the commission shall issue a final order within 10 days after the
14 hearing;

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

18 (3) examine or have examined the books and records of a
19 person whose business activities require licensure under this chapter
20 and he may require the person to pay the reasonable costs of the exami-
21 nation; and

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

24 * Sec. 3. AS 08.88.041(b) is amended to read:

25 (b) Of the five members of the commission who must be real estate
26 brokers or associate brokers, one [ONE] member [OF THE COMMISSION] shall
27 be from the First Judicial District, one shall be from the Second Judi-
28 cial District, one shall be from the Third Judicial District, one shall
29 be from the Fourth Judicial District and one shall be from the state at

1 large. However, if no licensed real estate broker or licensed associate
2 broker [PERSON] is eligible or available for appointment from the Second
3 Judicial District, then two licensed real estate brokers or licensed
4 associate brokers shall be appointed from the state at large.

5 * Sec. 4. AS 08.88.061 is amended to read:

6 Sec. 08.88.061. ASSISTANTS. The commission [, WITH THE APPROVAL
7 OF THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT,] may employ
8 assistants to

- 9 (1) prepare questions on examinations;
10 (2) grade examinations;
11 (3) investigate alleged violations of this chapter.

12 * Sec. 5. AS 08.88.071(a) is amended by adding a new paragraph to read:

13 (6) issue a temporary permit to the personal representative
14 of the estate of a deceased broker or to some other person designated by
15 the commission with the approval of the personal representative of the
16 estate, in order to secure proper administration in concluding the
17 affairs of decedent broker's real estate business.

18 * Sec. 6. AS 08.88.071(b) is repealed and re-enacted to read:

19 (b) When an award is made from the real estate surety fund under
20 AS 45.85 in reimbursement of losses suffered by a claimant as a result
21 of fraud, misrepresentation, deceit or conversion of trust funds on the
22 part of a licensed broker, associate broker, or salesman and the commis-
23 sion, after hearing, has suspended the license of the broker, associate
24 broker or salesman under this section, the broker, associate broker or
25 salesman may not be reinstated until he has repaid the real estate
26 surety fund the amount of an award made under AS 45.85.051 or until the
27 commission has deposited in the real estate surety fund money realized
28 by the commission in an action under AS 45.85.090 in an amount equal to
29 the award.

1 * Sec. 7. AS 08.88.081 is amended to read:

2 Sec. 08.88.081. COMMISSION REGULATIONS. The commission shall
3 adopt [SUBSTANTIVE] regulations pertaining to [MAKING MORE SPECIFIC] the
4 responsibilities of persons licensed under this chapter and the [GENERAL]
5 grounds for revoking or suspending a license.

6 * Sec. 8. AS 08.88.091 is amended to read:

7 Sec. 08.88.091. EDUCATION. The commission may conduct and assist
8 in conducting real estate clinics, meetings, courses, or institutes.
9 The commission may

10 (1) assist libraries and educational institutions in sponsor-
11 ing studies and programs; and

12 (2) publish informational materials for the purpose of raising
13 the standards of the real estate business and the competency of licen-
14 sees.

15 * Sec. 9. AS 08.88.101 is repealed and re-enacted to read:

16 Sec. 08.88.101. ADMINISTRATIVE DUTIES OF THE COMMISSION. The
17 commission shall

18 (1) collect fees and issue receipts;

19 (2) keep records of receipts and disbursements;

20 (3) distribute and receive application forms;

21 (4) notify an applicant whether the commission has accepted
22 his application;

23 (5) designate the dates on which examinations are to be held;

24 (6) publish notice that an examination is to be held at least
25 30 days before an examination is held;

26 (7) print examinations;

27 (8) provide space for holding examinations;

28 (9) proctor examinations;

29 (10) notify applicants of the results of an examination;

1 (11) print and distribute uniform license certificates and
2 pocket-sized recognition cards, and duplicate license certificates to
3 replace lost certificates;

4 (12) send notice, before December 1 of each year, that li-
5 censes must be renewed;

6 (13) keep a current register of licenses;

7 (14) employ secretarial assistants;

8 (15) reply to routine requests for information;

9 (16) print and distribute forms and informational bulletins;

10 (17) maintain records and completed examinations;

11 (18) record suspensions and revocations of licenses; and

12 (19) record office registrations.

13 * Sec. 10. AS 08.88.111 is amended to read:

14 Sec. 08.88.111. COMMISSION [DEPARTMENT] REGULATIONS. The commis-
15 sion [DEPARTMENT] shall adopt procedural regulations describing

16 (1) how it conducts an examination;

17 (2) how a person applies to take an examination, applies for
18 a license, and registers his office.

19 * Sec. 11. AS 08.88.121 is amended to read:

20 Sec. 08.88.121. SALE OF REGISTER. The commission [DEPARTMENT]
21 shall offer for sale to the public publications containing the names,
22 addresses, license classifications, and business associations of persons
23 licensed by the commission. The commission [DEPARTMENT] shall sell the
24 publications at a price designed to recover costs of compilation, publi-
25 cation, and distribution.

26 * Sec. 12. AS 08.88.171(a) is amended to read:

27 (a) A person is entitled to a real estate broker license if he is
28 [HAS BEEN] a resident of the state, if he passes the real estate brokers
29 examination, [FOR 90 DAYS AND] if he applies for his license within

1 six months after [RECEIPT OF NOTICE THAT] he has taken [PASSED] the real
2 estate brokers examination, if he has had at least 24 months of active
3 and continuous experience as a licensed real estate salesman, if he is
4 not under indictment for, or seven years have elapsed since he has
5 completed a sentence imposed upon conviction of, forgery, theft, ex-
6 tortion, conspiracy to defraud creditors, or any other felony involving
7 moral turpitude, and if he [, FILES THE REQUIRED BOND, AND] is an owner
8 of a real estate business or employed as a real estate broker by a
9 corporation or a partnership, and if that [THE] corporation or partner-
10 ship does not have an existing licensed broker. Unless the broker [HE]
11 fails to pay the biennial renewal fee or unless his license is suspended
12 or revoked under AS 08.88.071(a)(3), the [A] real estate broker's
13 license continues in effect so long as he is an owner of a real estate
14 business, or he is employed as a real estate broker by a corporation or
15 a partnership. If he stops being an owner of a real estate business, or
16 stops being employed as a real estate broker by a corporation or
17 partnership, his license is suspended from the time he stops until

18 (1) he again becomes an owner of a real estate business or is
19 again employed as a real estate broker by a corporation or a partner-
20 ship; or

21 (2) he is employed by a licensed real estate broker as an
22 associate real estate broker, in which case his real estate broker
23 license is returned to the commission [DEPARTMENT], and the commission
24 [DEPARTMENT] issues him an associate real estate broker license.

25 * Sec. 13. AS 08.88.171(b) is amended to read:

26 (b) A person is entitled to an associate real estate broker li-
27 cense if he is [HAS BEEN] a resident of the state, [FOR 90 DAYS AND] if
28 he passes the real estate brokers examination, if he applies for his
29 license within six months after [RECEIPT OF NOTICE THAT] he has taken

1 [PASSED] the examination, if he has had at least 24 months of active and
2 continuous experience as a licensed real estate salesman, if he is not
3 under indictment for, or five years have elapsed since he has completed
4 a sentence imposed upon conviction of, forgery, theft, extortion, con-
5 spiracy to defraud creditors, or any other felony involving moral turpi-
6 tude [FILES THE REQUIRED BOND], and if he is employed by a licensed real
7 estate broker as an associate real estate broker. Unless the associate
8 broker [HE] fails to pay the biennial renewal fee or unless his license
9 is suspended or revoked under AS 08.88.071(a)(3), the [AN] associate
10 real estate broker's license continues in effect so long as he is
11 employed by a licensed real estate broker as an associate broker. If he
12 stops being employed by a licensed real estate broker, his license is
13 suspended from the time he stops until

14 (1) he again is employed by a real estate broker as an asso-
15 ciate broker; or

16 (2) he becomes an owner of a real estate business, in which
17 case his associate real estate broker license is returned to the commis-
18 sion [DEPARTMENT], and the commission [DEPARTMENT] issues him a real
19 estate broker license.

20 * Sec. 14. AS 08.88.171(c) is amended to read:

21 (c) A person is entitled to a real estate salesman license if he
22 is [HAS BEEN] a resident of the state, [FOR 90 DAYS AND] if he passes
23 the real estate salesman examination, if he applies for his license
24 within six months after [RECEIPT OF NOTICE THAT] he has taken [PASSED]
25 the examination, if he is at least 19 years old, if he is not under in-
26 dictment for forgery, theft, extortion, conspiracy to defraud creditors,
27 or any other felony involving moral turpitude, or, if he has been con-
28 vinced of such an offense, he has completed the sentence imposed upon
29 conviction [FILES THE REQUIRED BOND], and if he is employed by a real

1 estate broker. Unless the salesman [HE] fails to pay the biennial re-
2 newal fee or unless his license is suspended or revoked under AS 08.88.-
3 071(a)(3), a real estate salesman's license continues in effect so long
4 as he is employed as a salesman by a licensed real estate broker. If he
5 stops being employe' as a real estate salesman, his license is suspended
6 from the time he stops until he again is employed as a salesman by a
7 licensed real estate broker.

8 * Sec. 15. AS 08.88.171(d) is amended to read:

9 (d) A licensee shall promptly inform the commission [DEPARTMENT]
10 of a change in his business association that affects the status of his
11 license under this section.

12 * Sec. 16. AS 08.88.181(a) is amended to read:

13 (a) The real estate examination may include, but is not neces-
14 sarily limited to, [INCLUDES] questions on business ethics; arithmetic;
15 elementary principles of land economics and appraisal; the general
16 principles in state statutes relating to deeds, mortgages, real estate
17 contracts, subdivisions, legal descriptions, building restrictions,
18 agency and brokerage; and the general provisions of [IN] this chapter
19 and of the [IN] regulations of the commission.

20 * Sec. 17. AS 08.88.191 is repealed and re-enacted to read:

21 Sec. 08.88.191. ADMINISTRATION OF EXAMINATION. (a) The commis-
22 sion shall offer written examinations at periodic intervals but at least
23 once a year.

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

26 (1) the commission shall review the examination and approve
27 its contents;

28 (2) application for the examination, accompanied by the
29 proper filing fee, may be transmitted by the applicant directly to the

1 national testing service.

2 (c) An applicant who fails the written examination may request that
3 his examination be reevaluated. The commission shall provide by regula-
4 tion for a system of reevaluating examinations on request of an applicant
5 who fails the examination. The system provided by the commission may
6 provide for reevaluation by the testing service or by any other person.

7 * Sec. 18. AS 08.88.221(c) is amended to read:

8 (c) The fee for amending or transferring a license is \$5 [\$2].

9 * Sec. 19. AS 08.88.221 is amended by adding a new subsection to read:

10 (d) If the commission contracts with a national testing service to
11 prepare, administer and grade examinations, the examination fee charged
12 under (a)(1) or (b)(1) of this section which the applicant is required
13 to pay to the commission shall be reduced by the amount of the fee
14 charged the applicant by the national testing service for the examina-
15 tion.

16 * Sec. 20. AS 08.88.231 is amended to read:

17 Sec. 08.88.231. DEPOSIT IN GENERAL FUND. The commission [DEPART-
18 MENT] shall deposit money collected under this chapter in the general
19 fund.

20 * Sec. 21. AS 08.88.241 is amended to read:

21 Sec. 08.88.241. REINSTATEMENT OF LAPSED LICENSE. A licensee who
22 was required to take an examination before receiving a license and whose
23 license has lapsed for more than two [THREE] years shall be re-examined
24 before reinstatement.

25 * Sec. 22. AS 08.88.251(a) is amended to read:

26 (a) A person licensed by the commission may become inactive by
27 returning to the commission [DEPARTMENT] his license certificate and a
28 form provided by the commission [DEPARTMENT]. In the form, he shall
29 state the date on which he intends to become inactive. His inactive

1 status begins on the date stated. The commission [DEPARTMENT] shall
2 issue him an inactive license certificate.

3 * Sec. 23. AS 08.88.251(b) is repealed and re-enacted to read:

4 (b) An inactive licensee may not attempt or offer to do any of the
5 activities listed in AS 08.88.161.

6 * Sec. 24. AS 08.88.251(c) is amended to read:

7 (c) A person who is inactive may become active by applying for an
8 active license and paying the required fees [BY RETURNING TO THE DEPART-
9 MENT HIS INACTIVE LICENSE CERTIFICATE, THE ACTIVE LICENSE BIENNIAL
10 RENEWAL FEE, IF HE BECOMES ACTIVE MORE THAN FIVE MONTHS BEFORE JANUARY 1
11 FOLLOWING, AND A COMPLETED FORM PROVIDED BY THE DEPARTMENT]. In the
12 application form he shall state the date on which he intends to become
13 active. His active status begins on the date stated. The commission
14 [DEPARTMENT] shall send him a license certificate. A person is entitled
15 to change from an inactive to an active status without examination if he
16 has not been inactive more than three years. If he has been inactive
17 more than three years, he is required to take an examination.

18 * Sec. 25. AS 08.88 is amended by adding a new section to read:

19 Sec. 08.88.263. LICENSE BY ENDORSEMENT. A person who holds a
20 valid active real estate license issued by another state shall be granted
21 an equivalent Alaska real estate license if he

22 (1) passes the portion of the real estate examination which
23 examines on Alaska law; and

24 (2) meets the requirements of AS 08.88.171 and 08.88.211.

25 * Sec. 26. AS 08.88.291 is amended to read:

26 Sec. 08.88.291. LOCATION. A licensed real estate broker shall
27 inform the commission of his principal office and of any branch offices
28 he has. He and the associate real estate brokers and real estate sales-
29 men he employs may do business only in or out of his principal office

1 and his branch offices. Failure of a real estate broker to maintain a
2 place of business or inform the commission [DEPARTMENT] of its location
3 and the names and addresses of all licensees under his jurisdiction at
4 the location are grounds for the suspension or revocation of his broker
5 license.

6 * Sec. 27. AS 08.88.301 is amended to read:

7 Sec. 08.88.301. CHANGE OF LOCATION. If a real estate broker
8 changes the location of his principal office or of a branch office, he
9 shall immediately notify the commission [DEPARTMENT].

10 * Sec. 28. AS 08.88.361 is amended to read:

11 Sec. 08.88.361. WHEN COMMISSION IS EARNED. A commission is earned
12 when the real estate broker fulfills the terms of a written personal
13 services contract [FINDS A BUYER WILLING AND ABLE TO PURCHASE AT A PRICE
14 AND ON TERMS SET BY THE SELLER, PROVIDING NEGOTIATIONS WITH THE BUYER
15 WERE INITIATED DURING THE TERM OF A VALID LISTING AGREEMENT AND WITHIN
16 THE TIME LIMIT OF THE LISTING].

17 * Sec. 29. AS 08.88.421(1) is amended to read:

18 (1) a person who is not licensed under this chapter who makes
19 [MAKING] a real estate transaction with respect to real estate he owns
20 or on his own behalf, unless the transaction involves land defined in
21 AS 34.55.044(6) which is not in Alaska;

22 * Sec. 30. AS 08.88.421(9) is amended to read:

23 (9) each of the following:

24 (A) a domestic or foreign corporation, or a general or
25 limited partnership; [,] or

26 (B) a partner or regular employee of a domestic or
27 foreign corporation or a general or limited partnership [ONE OF
28 THESE], when performing an act [ACTS] described in AS 08.88.161 in
29 the regular course, or as an incident to, the management, sale or

1 other disposition of real estate owned by the corporation or part-
2 nership; [HOWEVER,] the exemption provided in this subparagraph
3 does not apply to a person who performs an act described in AS 08.-
4 88.161 either [MAY NOT PERFORM THESE ACTS] as a vocation or for
5 compensation if the amount of the compensation is dependent upon or
6 directly related to the value of the real estate with respect to
7 which the act is [ACTS ARE] performed.

8 * Sec. 31. AS 08.88.421 is amended by adding a new paragraph to read:

9 (10) a resident manager of rented real estate if his duties
10 are limited to the negotiation of leases and rental agreements and the
11 collection of rent for the use of the real estate and if he is

12 (A) employed by the owner of the real estate; or

13 (B) employed by, or engaged under contract with, a

14 licensed real estate broker.

15 * Sec. 32. AS 08.88.431 is amended by adding a new paragraph to read:

16 (5) "resident manager" means a person who resides on real
17 property and manages it for the benefit of another person.

18 * Sec. 33. AS 45.85.010 is amended to read:

19 Sec. 45.85.010. REAL ESTATE SURETY FUND. There is created a
20 special account in the general fund known as the real estate surety fund
21 to carry out the purposes of this chapter. The fund shall be composed
22 of payments made by licensed real estate brokers and salesmen under
23 AS 45.85.020. The fund may not exceed \$500,000 [\$300,000] and amounts
24 in the fund in excess of \$250,000 may be appropriated for real estate
25 educational purposes as provided in AS 08.88.091.

26 * Sec. 34. AS 45.85.020 is amended to read:

27 Sec. 45.85.020. PAYMENTS BY REAL ESTATE BROKERS AND SALESMEN. (a)
28 A licensed real estate broker or associate broker, when obtaining or
29 renewing his real estate license, in lieu of obtaining a corporate

1 surety bond, shall pay to the commission [COMMISSIONER OF COMMERCE] in
2 addition to the license fee, a bond fee not to exceed \$125, and a li-
3 censed salesman, when obtaining or renewing his license, in lieu of
4 obtaining a corporate surety bond, shall pay to the commission [COMMIS-
5 SIONER] in addition to the license fee, a bond fee not to exceed \$40.
6 After the fund reaches \$250,000 the commission [COMMISSIONER] shall by
7 regulation adjust the bond fees so that, taking into account anticipated
8 expenditures for claims against the fund and real estate educational
9 purposes, the fund is maintained at a level not less than \$250,000.

10 (b) All fees collected under this section shall be paid at least
11 once a month by the commission [COMMISSIONER] into the general fund.
12 These payments shall be credited to the real estate surety fund.

13 * Sec. 35. AS 45.85 is amended by adding new sections to read:

14 Sec. 45.85.031.. CLAIM FOR PAYMENT. (a) A person seeking reim-
15 bursement for a loss suffered in a transaction as a result of fraud,
16 misrepresentation, deceit, or the conversion of trust funds on the part
17 of a real estate broker, associate real estate broker, or real estate
18 salesman licensed under AS 08.88 shall make a claim to the commission
19 for reimbursement on a form furnished by the commission. The form shall
20 be executed under penalty of perjury, and information required to be
21 supplied shall include the following:

22 (1) the name and address of the real estate broker, associate
23 real estate broker, or real estate salesman;

24 (2) the amount of the alleged loss;

25 (3) the date or period of time during which the alleged loss
26 occurred;

27 (4) the date upon which the alleged loss was discovered;

28 (5) the name and address of the claimant; or

29 (6) the general statement of facts relative to the claimant.

1 (b) A copy of a claim filed with the commission under (a) of this
2 section shall be sent to the real estate broker, associate real estate
3 broker, or real estate salesman alleged to have committed the misconduct
4 resulting in losses, as well as a real estate broker employing an
5 associate real estate broker or real estate salesman alleged to have
6 committed the conduct resulting in losses, at least 20 days before any
7 hearing held on the claim by the commission.

8 Sec. 45.85.041. CONSIDERATION OF APPLICATION. (a) Upon receipt
9 of a claim for reimbursement, the commission may, in considering whether
10 a claim should be granted,

- 11 (1) take and hear evidence pertaining to the claim;
- 12 (2) administer oaths and affirmations;
- 13 (3) compel, by subpoena, the attendance of witnesses and the
14 production of books, papers and documents pertaining to the claim;
- 15 (4) engage the services of an investigator, accountant, or
16 other expert necessary to process the claim.

17 (b) A certified or authenticated copy of a record, including a
18 transcript of testimony, of a hearing held under AS 08.88.071(a)(3) in
19 which fraud, misrepresentation, deceit, or conversion of funds on the
20 part of a licensed broker, associate broker, or real estate salesman is
21 established, may constitute sufficient evidence to support a finding.

22 (c) Before the commission finds that payment should be made from
23 the real estate surety fund, the real estate broker, associate broker,
24 or real estate salesman shall be afforded an opportunity to file with
25 the commission, within 10 days after receipt of notification of the
26 claim under AS 45.85.031(b), either a written statement in opposition to
27 the claim or an application for the presentation of additional evidence.

28 (d) The claimant bears the burden of proof of establishing that he
29 suffered losses in a transaction as a result of fraud, misrepresenta-

1 tion, deceit, or the conversion of trust funds on the part of a real
2 estate broker, associate real estate broker, or real estate salesman and
3 the extent of those losses. All facts shall be established by a pre-
4 ponderance of the evidence.

5 (e) The commission may postpone consideration of a claim until
6 after a hearing under AS 08.88.071(a)(3) or until after a pending or
7 contemplated court proceeding is completed.

8 Sec. 45.85.051. FINDINGS AND PAYMENT. At the conclusion of the
9 commission's consideration of a claim made under AS 45.85.031, it shall
10 make in writing findings and conclusions on the evidence. If the com-
11 mission finds that the claimant has suffered a loss in a transaction as
12 a result of fraud, misrepresentation, deceit, or the conversion of trust
13 funds on the part of a real estate broker, associate broker, or sales-
14 man, the commission may award a claimant reimbursement out of the real
15 estate surety fund for his loss up to \$10,000. However, not more than
16 \$10,000 may be paid for each transaction regardless of the number of
17 persons injured or the number of parcels of real estate involved in the
18 transaction.

19 * Sec. 36. AS 45.85.070 is amended to read:

20 Sec. 45.85.070. ORDER OF CLAIM PAYMENT. If the money deposited in
21 the real estate surety fund is insufficient at a given time to satisfy a
22 duly authorized claim against the fund, the commission [COMMISSIONER]
23 shall, when sufficient money has been deposited in the fund and appro-
24 priated, satisfy unpaid claims in the order that the claims were ori-
25 ginally filed, plus accumulated interest at the rate of eight percent a
26 year.

27 * Sec. 37. AS 45.85.080 is amended to read:

28 Sec. 45.85.080. FALSE CLAIMS OR DOCUMENTS. A person who files
29 with the commission [COMMISSIONER] a notice, statement or other document

1 required under this chapter which contains a wilful material misstate-
2 ment of fact, is guilty of a misdemeanor and is punishable by imprison-
3 ment for a period of not more than one year, or a fine of not more than
4 \$1,000, or by both.

5 * Sec. 38. AS 45.85.090 is amended to read:

6 Sec. 45.85.090. RIGHT TO SUBROGATION. When the commission [COM-
7 MISSIONER] has paid to a claimant [JUDGMENT CREDITOR] from the real
8 estate surety fund the sum awarded [ORDERED] by the commission [COURT],
9 the commission [COMMISSIONER] shall be subrogated to all of the rights
10 of the claimant [JUDGMENT CREDITOR] to the amount paid and the claimant
11 [JUDGMENT CREDITOR] shall assign all of his right, title and interest in
12 that portion of the claim [JUDGMENT] to the commission [COMMISSIONER].
13 Amounts subsequently realized by the commission [COMMISSIONER] on the
14 claim [JUDGMENT] shall be deposited to the real estate surety fund.

15 * Sec. 39. AS 45.85 is amended by adding a new section to read:

16 Sec. 45.85.120. DEFINITION. In this chapter, "commission" means
17 the Real Estate Commission established under AS 08.88.

18 * Sec. 40. AS 08.03.010(c) is amended by adding a new paragraph to read:

19 (2) Real Estate Commission (AS 08.88.010) -- June 30, 1982.

20 * Sec. 41. AS 08.01.010(13); AS 08.03.010(b)(9); AS 08.88.211, 08.88.-
21 431(3); AS 45.85.030, 45.85.040, and 45.85.050 are repealed.

22 * Sec. 42. This Act takes effect June 30, 1980.
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FISCAL NOTE

I. REQUEST HCS CSSB 212 Page 1 of 2 of the Real Estate
 Bill/Resolution No. Title Commission and amending its powers and duties; and providing for an effective date
 Requested by Commerce Committee Date 5/7/80

II. FISCAL DETAIL

Agency Affected Department of Commerce and Economic Development

Program Category Affected Consumer Protection

BRU, Program, or Subprogram(s) Affected Alaska Real Estate Commission

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES	-0-	113.4	193.5	207.0	221.5	237.0
200 TRAVEL	-0-	15.2	22.3	23.9	25.6	27.4
300 CONTRACTUAL	-0-	35.2	52.0	55.6	59.5	63.7
400 COMMODITIES	-0-	4.2	6.6	7.0	7.5	8.0
500 EQUIPMENT	-0-	8.2	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	-0-	5.6	10.1	10.8	11.6	12.4
700 GRANTS, CLAIMS, ETC.	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	181.8	284.5	304.3	325.7	248.5

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	284.5	304.3	325.7	348.5
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Fund Source)	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME	-0-	5	5	5	5	5
PART TIME	-0-	1	1	1	1	1
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Personal Services (7% inflation factor used)

1 Executive Director (difference in current salary at Range 18D and proposed salary at Range 22A.)	\$ 8,677.32
1 Investigator/Auditor - Range 18A	37,186.44
2 Clerk III's - Range 8A (\$19,995.24 ea.)	39,990.48
Assistant Attorney General - 1/2 Time	27,500.00
Total	\$113,354.24

(Continued on next page)

IV. DATE 5/7/80

PREPARED BY *Ann Griggs*
 Ann Griggs, Director
 AGENCY Division of Occupational Licensing
 PHONE 465-2534

Original: Legislative Finance

cc: and Management

F Sponsor (First Legislator Named)

Executive Director	
Commission Member - 6 meetings per year	\$ 12,168.00
One time expense moving Licensing Examiner from Juneau to Anchorage	3,000.00
Total	\$ 15,168.00

(Includes difference of Division of Occupational Licensing transfer over from its budget whatever travel was requested for the Real Estate Commission Members and Executive Director for the FY '81 budget).

Contractual

Hearing Costs at \$1300 per hearing x 12	\$ 15,600.00
Word Processor equipment lease (WANG)	8,500.00
Property law digest subscription	200.00
Phone hook up	1,800.00
Automobile lease & maintenance	5,136.00
Copier rental, etc.	1,000.00
Postage meter	1,000.00
Exam application packets, etc.	2,000.00
Total	\$ 35,236.00

Commodities

Tapes for Lanier	\$ 180.00
Postage	2,000.00
Paper stock	2,000.00
Total	\$ 4,180.00

Equipment - One time expense in FY '81

4 desks, standard	\$ 1,559.52
2 typewriter tables	121.86
2 mats	70.92
2 typewriters	2,000.00
3 chairs, desk	380.49
4 side chairs	530.20
1 swivel chair	200.00
7 4/drawer file cabinets	1,272.74
3 bookcases	231.66
2 tables (72" x 30")	354.54
2 brief cases	120.00
1 file tub	181.50
1 Lanier	1,000.00
mail baskets	30.00
waste baskets	45.00
form racks	150.00
Total	\$ 8,248.43

Original sponsor: Bennett by request

Offered: 5/20/80
Referred: Rules

1 IN THE SENATE

BY THE COMMERCE COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 212

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act continuing the existence of the Real Estate
7 Commission and amending its powers and duties; and
8 providing for an effective date."

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

10 * Section 1. AS 08.88.031 is amended to read:

11 Sec. 08.88.031. EXECUTIVE DIRECTOR [SECRETARY] OF COMMISSION. The
12 commission [COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT] shall
13 appoint a full-time staff administrator and delineate his authority and
14 duties. He shall serve as the executive director [SECRETARY] of the
15 Real Estate Commission.

16 * Sec. 2. AS 08.88 is amended by adding new sections to read:

17 Sec. 08.88.034. INVESTIGATOR OF THE COMMISSION. The executive
18 director of the commission shall appoint, with the approval of the com-
19 mission, a full-time investigator or auditor to assist the board in
20 matters of professional discipline.

21 Sec. 08.88.037. INVESTIGATION AND INJUNCTION. (a) The commission
22 may, upon its own motion, conduct investigations to determine whether a
23 person has violated a provision of this chapter or a regulation adopted
24 under it, or to secure information useful in the administration of this
25 chapter.

26 (b) If it appears to the executive director that a person has
27 engaged in or is about to engage in an act or practice in violation of a
28 provision of this chapter or a regulation adopted under it and that
29 action is warranted in the public interest, he shall notify all commis-

1 sion members by telephone or telegraph of a proposed order or action,
2 and, if a majority of the members of the commission approve, he may

3 (1) after reasonable notice of and an opportunity for a
4 hearing is given to the person, issue an order directing the person to
5 stop the act or practice; the executive director may issue a temporary
6 order before a hearing is held; a temporary order remains in effect
7 until a final order affirming, modifying, or reversing the temporary
8 order is issued or until 15 days have elapsed after the person receives
9 the notice and has not requested a hearing; a temporary order becomes
10 final if the person to whom the notice is addressed does not request a
11 hearing within 15 days after receiving the notice; if a hearing is
12 requested, a hearing shall be conducted by a hearing officer within 30
13 days; the commission shall issue a final order within 10 days after the
14 hearing;

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

18 (3) examine or have examined the books and records of a
19 person whose business activities require licensure under this chapter
20 and he may require the person to pay the reasonable costs of the exami-
21 nation; and

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

24 * Sec. 3. AS 08.88.041(b) is amended to read:

25 (b) Of the five members of the commission who must be real estate
26 brokers or associate brokers, one [ONE] member [OF THE COMMISSION] shall
27 be from the First Judicial District, one shall be from the Second Judi-
28 cial District, one shall be from the Third Judicial District, one shall
29 be from the Fourth Judicial District and one shall be from the state at

1 large. However, if no licensed real estate broker or licensed associate
2 broker [PERSON] is eligible or available for appointment from the Second
3 Judicial District, then two licensed real estate brokers or licensed
4 associate brokers shall be appointed from the state at large.

5 * Sec. 4. AS 08.88.061 is amended to read:

6 Sec. 08.88.061. ASSISTANTS. The commission [, WITH THE APPROVAL
7 OF THE COMMISSIONER OF COMMERCE AND ECONOMIC DEVELOPMENT,] may employ
8 assistants to

- 9 (1) prepare questions on examinations;
10 (2) grade examinations;
11 (3) investigate alleged violations of this chapter.

12 * Sec. 5. AS 08.88.071(a) is amended by adding a new paragraph to read:

13 (6) issue a temporary permit to the personal representative
14 of the estate of a deceased broker or to some other person designated by
15 the commission with the approval of the personal representative of the
16 estate, in order to secure proper administration in concluding the
17 affairs of decedent broker's real estate business.

18 * Sec. 6. AS 08.88.071(b) is repealed and re-enacted to read:

19 (b) When an award is made from the real estate surety fund under
20 AS 45.85 in reimbursement of losses suffered by a claimant as a result
21 of fraud, misrepresentation, deceit or conversion of trust funds on the
22 part of a licensed broker, associate broker, or salesman and the commis-
23 sion, after hearing, has suspended the license of the broker, associate
24 broker or salesman under this section, the broker, associate broker or
25 salesman may not be reinstated until he has repaid the real estate
26 surety fund the amount of an award made under AS 45.85.051 or until the
27 commission has deposited in the real estate surety fund money realized
28 by the commission in an action under AS 45.85.090 in an amount equal to
29 the award.

1 * Sec. 7. AS 08.88.081 is amended to read:

2 Sec. 08.88.081. COMMISSION REGULATIONS. The commission shall
3 adopt [SUBSTANTIVE] regulations pertaining to [MAKING MORE SPECIFIC] the
4 responsibilities of persons licensed under this chapter and the [GENERAL]
5 grounds for revoking or suspending a license.

6 * Sec. 8. AS 08.88.091 is amended to read:

7 Sec. 08.88.091. EDUCATION. The commission may conduct and assist
8 in conducting real estate clinics, meetings, courses, or institutes.
9 The commission may

10 (1) assist libraries and educational institutions in sponsor-
11 ing studies and programs; and

12 (2) publish informational materials for the purpose of raising
13 the standards of the real estate business and the competency of licen-
14 sees.

15 * Sec. 9. AS 08.88.101 is repealed and re-enacted to read:

16 Sec. 08.88.101. ADMINISTRATIVE DUTIES OF THE COMMISSION. The
17 commission shall

18 (1) collect fees and issue receipts;

19 (2) keep records of receipts and disbursements;

20 (3) distribute and receive application forms;

21 (4) notify an applicant whether the commission has accepted
22 his application;

23 (5) designate the dates on which examinations are to be held;

24 (6) publish notice that an examination is to be held at least
25 30 days before an examination is held;

26 (7) print examinations;

27 (8) provide space for holding examinations;

28 (9) proctor examinations;

29 (10) notify applicants of the results of an examination;

1 (11) print and distribute uniform license certificates and
2 pocket-sized recognition cards, and duplicate license certificates to
3 replace lost certificates;

4 (12) send notice, before December 1 of each year, that li-
5 censes must be renewed;

6 (13) keep a current register of licenses;

7 (14) employ secretarial assistants;

8 (15) reply to routine requests for information;

9 (16) print and distribute forms and informational bulletins;

10 (17) maintain records and completed examinations;

11 (18) record suspensions and revocations of licenses; and

12 (19) record office registrations.

13 * Sec. 10. AS 08.88.111 is amended to read:

14 Sec. 08.88.111. COMMISSION [DEPARTMENT] REGULATIONS. The commis-
15 sion [DEPARTMENT] shall adopt procedural regulations describing

16 (1) how it conducts an examination;

17 (2) how a person applies to take an examination, applies for
18 a license, and registers his office.

19 * Sec. 11. AS 08.88.121 is amended to read:

20 Sec. 08.88.121. SALE OF REGISTER. The commission [DEPARTMENT]
21 shall offer for sale to the public publications containing the names,
22 addresses, license classifications, and business associations of persons
23 licensed by the commission. The commission [DEPARTMENT] shall sell the
24 publications at a price designed to recover costs of compilation, publi-
25 cation, and distribution.

26 * Sec. 12. AS 08.88.171(a) is amended to read:

27 (a) A person is entitled to a real estate broker license if he is
28 [HAS BEEN] a resident of the state, if he passes the real estate brokers
29 examination, [FOR 90 DAYS AND] if he applies for his license within

1 six months after [RECEIPT OF NOTICE THAT] he has taken [PASSED] the real
2 estate brokers examination, if he has had at least 24 months of active
3 and continuous experience as a licensed real estate salesman, if he is
4 not under indictment for, or seven years have elapsed since he has
5 completed a sentence imposed upon conviction of, forgery, theft, ex-
6 tortion, conspiracy to defraud creditors, or any other felony involving
7 moral turpitude, and if he [, FILES THE REQUIRED BOND, AND] is an owner
8 of a real estate business or employed as a real estate broker by a
9 corporation or a partnership, and if that [THE] corporation or partner-
10 ship does not have an existing licensed broker. Unless the broker [HE]
11 fails to pay the biennial renewal fee or unless his license is suspended
12 or revoked under AS 08.88.071(a)(3), the [A] real estate broker's
13 license continues in effect so long as he is an owner of a real estate
14 business, or he is employed as a real estate broker by a corporation or
15 a partnership. If he stops being an owner of a real estate business, or
16 stops being employed as a real estate broker by a corporation or
17 partnership, his license is suspended from the time he stops until

18 (1) he again becomes an owner of a real estate business or is
19 again employed as a real estate broker by a corporation or a partner-
20 ship; or

21 (2) he is employed by a licensed real estate broker as an
22 associate real estate broker, in which case his real estate broker
23 license is returned to the commission [DEPARTMENT], and the commission
24 [DEPARTMENT] issues him an associate real estate broker license.

25 * Sec. 13. AS 08.88.171(b) is amended to read:

26 (b) A person is entitled to an associate real estate broker li-
27 cense if he is [HAS BEEN] a resident of the state, [FOR 90 DAYS AND] if
28 he passes the real estate brokers examination, if he applies for his
29 license within six months after [RECEIPT OF NOTICE THAT] he has taken

1 national testing service.

2 (c) An applicant who fails the written examination may request that
3 his examination be reevaluated. The commission shall provide by regula-
4 tion for a system of reevaluating examinations on request of an applicant
5 who fails the examination. The system provided by the commission may
6 provide for reevaluation by the testing service or by any other person.

7 * Sec. 18. AS 08.88.221(c) is amended to read:

8 (c) The fee for amending or transferring a license is \$5 [\$2].

9 * Sec. 19. AS 08.88.221 is amended by adding a new subsection to read:

10 (d) If the commission contracts with a national testing service to
11 prepare, administer and grade examinations, the examination fee charged
12 under (a)(1) or (b)(1) of this section which the applicant is required
13 to pay to the commission shall be reduced by the amount of the fee
14 charged the applicant by the national testing service for the examina-
15 tion.

16 * Sec. 20. AS 08.88.231 is amended to read:

17 Sec. 08.88.231. DEPOSIT IN GENERAL FUND. The commission [DEPART-
18 MENT] shall deposit money collected under this chapter in the general
19 fund.

20 * Sec. 21. AS 08.88.241 is amended to read:

21 Sec. 08.88.241. REINSTATEMENT OF LAPSED LICENSE. A licensee who
22 was required to take an examination before receiving a license and whose
23 license has lapsed for more than two [THREE] years shall be re-examined
24 before reinstatement.

25 * Sec. 22. AS 08.88.251(a) is amended to read:

26 (a) A person licensed by the commission may become inactive by
27 returning to the commission [DEPARTMENT] his license certificate and a
28 form provided by the commission [DEPARTMENT]. In the form, he shall
29 state the date on which he intends to become inactive. His inactive

1 status begins on the date stated. The commission [DEPARTMENT] shall
2 issue him an inactive license certificate.

3 * Sec. 23. AS 08.88.251(b) is repealed and re-enacted to read:

4 (b) An inactive licensee may not attempt or offer to do any of the
5 activities listed in AS 08.88.161.

6 * Sec. 24. AS 08.88.251(c) is amended to read:

7 (c) A person who is inactive may become active by applying for an
8 active license and paying the required fees [BY RETURNING TO THE DEPART-
9 MENT HIS INACTIVE LICENSE CERTIFICATE, THE ACTIVE LICENSE BIENNIAL
10 RENEWAL FEE, IF HE BECOMES ACTIVE MORE THAN FIVE MONTHS BEFORE JANUARY 1
11 FOLLOWING, AND A COMPLETED FORM PROVIDED BY THE DEPARTMENT]. In the
12 application form he shall state the date on which he intends to become
13 active. His active status begins on the date stated. The commission
14 [DEPARTMENT] shall send him a license certificate. A person is entitled
15 to change from an inactive to an active status without examination if he
16 has not been inactive more than three years. If he has been inactive
17 more than three years, he is required to take an examination.

18 * Sec. 25. AS 08.88 is amended by adding a new section to read:

19 Sec. 08.88.263. LICENSE BY ENDORSEMENT. A person who holds a
20 valid active real estate license issued by another state shall be granted
21 an equivalent Alaska real estate license if he

22 (1) passes the portion of the real estate examination which
23 examines on Alaska law; and

24 (2) meets the requirements of AS 08.88.171 and 08.88.211.

25 * Sec. 26. AS 08.88.291 is amended to read:

26 Sec. 08.88.291. LOCATION. A licensed real estate broker shall
27 inform the commission of his principal office and of any branch offices
28 he has. He and the associate real estate brokers and real estate sales-
29 men he employs may do business only in or out of his principal office

1 and his branch offices. Failure of a real estate broker to maintain a
2 place of business or inform the commission [DEPARTMENT] of its location
3 and the names and addresses of all licensees under his jurisdiction at
4 the location are grounds for the suspension or revocation of his broker
5 license.

6 * Sec. 27. AS 08.88.301 is amended to read:

7 Sec. 08.88.301. CHANGE OF LOCATION. If a real estate broker
8 changes the location of his principal office or of a branch office, he
9 shall immediately notify the commission [DEPARTMENT].

10 * Sec. 28. AS 08.88.361 is amended to read:

11 Sec. 08.88.361. WHEN COMMISSION IS EARNED. A commission is earned
12 when the real estate broker fulfills the terms of a written personal
13 services contract [FINDS A BUYER WILLING AND ABLE TO PURCHASE AT A PRICE
14 AND ON TERMS SET BY THE SELLER, PROVIDING NEGOTIATIONS WITH THE BUYER
15 WERE INITIATED DURING THE TERM OF A VALID LISTING AGREEMENT AND WITHIN
16 THE TIME LIMIT OF THE LISTING].

17 * Sec. 29. AS 08.88.421(1) is amended to read:

18 (1) a person who is not licensed under this chapter who makes
19 [MAKING] a real estate transaction with respect to real estate he owns
20 or on his own behalf, unless the transaction involves land defined in
21 AS 34.55.044(6) which is not in Alaska;

22 * Sec. 30. AS 08.88.421(9) is amended to read:

23 (9) each of the following:

24 (A) a domestic or foreign corporation, or a general or
25 limited partnership; [,] or

26 (B) a partner or regular employee of a domestic or
27 foreign corporation or a general or limited partnership [ONE OF
28 THESE], when performing an act [ACTS] described in AS 08.88.161 in
29 the regular course, or as an incident to, the management, sale or

1 other disposition of real estate owned by the corporation or part-
2 nership; [HOWEVER,] the exemption provided in thi. subparagraph
3 does not apply to a person who performs an act described in AS 08.-
4 88.161 either [MAY NOT PERFORM THESE ACTS] as a vocation or for
5 compensation if the amount of the compensation is dependent upon or
6 directly related to the value of the real estate with respect to
7 which the act is [ACTS ARE] performed.

8 * Sec. 31. AS 08.88.421 is amended by adding a new paragraph to read:

9 (10) a resident manager of rented real estate if his duties
10 are limited to the negotiation of leases and rental agreements and the
11 collection of rent for the use of the real estate and if he is

12 (A) employed by the owner of the real estate; or

13 (B) employed by, or engaged under contract with, a

14 licensed real estate broker.

15 * Sec. 32. AS 08.88.431 is amended by adding a new paragraph to read:

16 (5) "resident manager" means a person who resides on real
17 property and manages it for the benefit of another person.

18 * Sec. 33. AS 45.85.010 is amended to read:

19 Sec. 45.85.010. REAL ESTATE SURETY FUND. There is created a
20 special account in the general fund known as the real estate surety fund
21 to carry out the purposes of this chapter. The fund shall be composed
22 of payments made by licensed real estate brokers and salesmen under
23 AS 45.85.020. The fund may not exceed \$500,000 [\$300,000] and amounts
24 in the fund in excess of \$250,000 may be appropriated for real estate
25 educational purposes as provided in AS 08.88.091.

26 * Sec. 34. AS 45.85.020 is amended to read:

27 Sec. 45.85.020. PAYMENTS BY REAL ESTATE BROKERS AND SALESMEN. (a)
28 A licensed real estate broker or associate broker, when obtaining or
29 renewing his real estate license, in lieu of obtaining a corporate

1 surety bond, shall pay to the commission [COMMISSIONER OF COMMERCE] in
2 addition to the license fee, a bond fee not to exceed \$125, and a li-
3 censed salesman, when obtaining or renewing his license, in lieu of
4 obtaining a corporate surety bond, shall pay to the commission [COMMIS-
5 SIONER] in addition to the license fee, a bond fee not to exceed \$40.
6 After the fund reaches \$250,000 the commission [COMMISSIONER] shall by
7 regulation adjust the bond fees so that, taking into account anticipated
8 expenditures for claims against the fund and real estate educational
9 purposes, the fund is maintained at a level not less than \$250,000.

10 (b) All fees collected under this section shall be paid at least
11 once a month by the commission [COMMISSIONER] into the general fund.
12 These payments shall be credited to the real estate surety fund.

13 * Sec. 35. AS 45.85 is amended by adding new sections to read:

14 Sec. 45.85.031. CLAIM FOR PAYMENT. (a) A person seeking reim-
15 bursement for a loss suffered in a transaction as a result of fraud,
16 misrepresentation, deceit, or the conversion of trust funds on the part
17 of a real estate broker, associate real estate broker, or real estate
18 salesman licensed under AS 08.88 shall make a claim to the commission
19 for reimbursement on a form furnished by the commission. The form shall
20 be executed under penalty of perjury, and information required to be
21 supplied shall include the following:

22 (1) the name and address of the real estate broker, associate
23 real estate broker, or real estate salesman;

24 (2) the amount of the alleged loss;

25 (3) the date or period of time during which the alleged loss
26 occurred;

27 (4) the date upon which the alleged loss was discovered;

28 (5) the name and address of the claimant; or

29 (6) the general statement of facts relative to the claimant.

1 (b) A copy of a claim filed with the commission under (a) of this
2 section shall be sent to the real estate broker, associate real estate
3 broker, or real estate salesman alleged to have committed the misconduct
4 resulting in losses, as well as a real estate broker employing an
5 associate real estate broker or real estate salesman alleged to have
6 committed the conduct resulting in losses, at least 20 days before any
7 hearing held on the claim by the commission.

8 Sec. 45.85.041. CONSIDERATION OF APPLICATION. (a) Upon receipt
9 of a claim for reimbursement, the commission may, in considering whether
10 a claim should be granted,

- 11 (1) take and hear evidence pertaining to the claim;
- 12 (2) administer oaths and affirmations;
- 13 (3) compel, by subpoena, the attendance of witnesses and the
14 production of books, papers and documents pertaining to the claim;
- 15 (4) engage the services of an investigator, accountant, or
16 other expert necessary to process the claim.

17 (b) A certified or authenticated copy of a record, including a
18 transcript of testimony, of a hearing held under AS 08.88.071(a)(3) in
19 which fraud, misrepresentation, deceit, or conversion of funds on the
20 part of a licensed broker, associate broker, or real estate salesman is
21 established, may constitute sufficient evidence to support a finding.

22 (c) Before the commission finds that payment should be made from
23 the real estate surety fund, the real estate broker, associate broker,
24 or real estate salesman shall be afforded an opportunity to file with
25 the commission, within 10 days after receipt of notification of the
26 claim under AS 45.85.031(b), either a written statement in opposition to
27 the claim or an application for the presentation of additional evidence.

28 (d) The claimant bears the burden of proof of establishing that he
29 suffered losses in a transaction as a result of fraud, misrepresenta-

1 tion, deceit, or the conversion of trust funds on the part of a real
2 estate broker, associate real estate broker, or real estate salesman and
3 the extent of those losses. All facts shall be established by a pre-
4 ponderance of the evidence.

5 (e) The commission may postpone consideration of a claim until
6 after a hearing under AS 08.88.071(a)(3) or until after a pending or
7 contemplated court proceeding is completed.

8 Sec. 45.85.051. FINDINGS AND PAYMENT. At the conclusion of the
9 commission's consideration of a claim made under AS 45.85.031, it shall
10 make in writing findings and conclusions on the evidence. If the com-
11 mission finds that the claimant has suffered a loss in a transaction as
12 a result of fraud, misrepresentation, deceit, or the conversion of trust
13 funds on the part of a real estate broker, associate broker, or sales-
14 man, the commission may award a claimant reimbursement out of the real
15 estate surety fund for his loss up to \$10,000. However, not more than
16 \$10,000 may be paid for each transaction regardless of the number of
17 persons injured or the number of parcels of real estate involved in the
18 transaction.

19 * Sec. 36. AS 45.85.070 is amended to read:

20 Sec. 45.85.070. ORDER OF CLAIM PAYMENT. If the money deposited in
21 the real estate surety fund is insufficient at a given time to satisfy a
22 duly authorized claim against the fund, the commission [COMMISSIONER]
23 shall, when sufficient money has been deposited in the fund and appro-
24 priated, satisfy unpaid claims in the order that the claims were ori-
25 ginally filed, plus accumulated interest at the rate of eight percent a
26 year.

27 * Sec. 37. AS 45.85.080 is amended to read:

28 Sec. 45.85.080. FALSE CLAIMS OR DOCUMENTS. A person who files
29 with the commission [COMMISSIONER] a notice, statement or other document

1 required under this chapter which contains a wilful material misstate-
2 ment of fact, is guilty of a misdemeanor and is punishable by imprison-
3 ment for a period of not more than one year, or a fine of not more than
4 \$1,000, or by both.

5 * Sec. 38. AS 45.85.090 is amended to read:

6 Sec. 45.85.090. RIGHT TO SUBROGATION. When the commission [COM-
7 MISSIONER] has paid to a claimant [JUDGMENT CREDITOR] from the real
8 estate surety fund the sum awarded [ORDERED] by the commission [COURT],
9 the commission [COMMISSIONER] shall be subrogated to all of the rights'
10 of the claimant [JUDGMENT CREDITOR] to the amount paid and the claimant
11 [JUDGMENT CREDITOR] shall assign all of his right, title and interest in
12 that portion of the claim [JUDGMENT] to the commission [COMMISSIONER].
13 Amounts subsequently realized by the commission [COMMISSIONER] on the
14 claim [JUDGMENT] shall be deposited to the real estate surety fund.

15 * Sec. 39. AS 45.85 is amended by adding a new section to read:

16 Sec. 45.85.120. DEFINITION. In this chapter, "commission" means
17 the Real Estate Commission established under AS 08.88.

18 * Sec. 40. AS 08.03.010(c) is amended by adding a new paragraph to read:

19 (2) Real Estate Commission (AS 08.88.010) -- June 30, 1982.

20 * Sec. 41. AS 08.01.010(13); AS 08.03.010(b)(9); AS 08.88.211, 08.88.-
21 431(3); AS 45.85.030, 45.85.040, and 45.85.050 are repealed.

22 * Sec. 42. This Act takes effect June 30, 1980.

Original sponsor: Bennett by request

Offered: 4/7/80
Referred: Rules

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 CS FOR SENATE BILL NO. 212 (2d Judiciary) am
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the regulation of real estate
7 brokers and salesmen and to the real estate surety
8 fund; and providing for an effective date."

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

10 * Section 1. AS 08.88.041(b) is amended to read:

11 (b) Of the five members of the commission who must be real estate
12 brokers or associate brokers, one [ONE] member [OF THE COMMISSION] shall
13 be from the First Judicial District, one shall be from the Second Judi-
14 cial District, one shall be from the Third Judicial District, one shall
15 be from the Fourth Judicial District and one shall be from the state at
16 large. However, if no licensed real estate broker or licensed associate
17 broker [PERSON] is eligible or available for appointment from the Second
18 Judicial District, then two licensed real estate brokers or licensed
19 associate brokers shall be appointed from the state at large.

20 * Sec. 2. AS 08.88.071(a) is amended by adding a new paragraph to read:

21 (6) issue a temporary permit to the personal representative
22 of the estate of a deceased broker or to some other person designated by
23 the commission in order to secure proper administration in concluding
24 the affairs of decedent broker's real estate business.

25 * Sec. 3. AS 08.88.081 is amended to read:

26 Sec. 08.88.081. COMMISSION REGULATIONS. The commission shall
27 adopt [SUBSTANTIVE] regulations pertaining to [MAKING MORE SPECIFIC] the
28 responsibilities of persons licensed under this chapter and the
29 [GENERAL] grounds for revoking or suspending a license.

1 * Sec. 4. AS 08.88.091 is amended to read:

2 Sec. 08.88.091. EDUCATION. The commission may conduct and assist
3 in conducting real estate clinics, meetings, courses, or institutes.

4 The commission may

5 (1) assist libraries and educational institutions in sponsor-
6 ing studies and programs; and

7 (2) publish informational materials for the purpose of
8 raising the standards of the real estate business and the competency of
9 licensees.

10 * Sec. 5. AS 08.88.171(a) is amended to read:

11 (a) A person is entitled to a real estate broker license if he
12 satisfies the requirements of AS 08.88.211, if he is [HAS BEEN] a resi-
13 dent of the state, [FOR 90 DAYS AND] if he applies for his license
14 within six months after receipt of notice that he has passed the real
15 estate brokers examination, if he [, FILES THE REQUIRED BOND, AND] is an
16 owner of a real estate business or employed as a real estate broker by a
17 corporation or a partnership, and if that [THE] corporation or partner-
18 ship does not have an existing licensed broker. Unless the broker [HE]
19 fails to pay the biennial renewal fee or unless his license is suspended
20 or revoked under AS 08.88.C71(a)(3) or AS 08.88.276, the [A] real estate
21 broker's license continues in effect so long as he is an owner of a real
22 estate business, or he is employed as a real estate broker by a
23 corporation or a partnership. If he stops being an owner of a real
24 estate business, or stops being employed as a real estate broker by a
25 corporation or partnership, his license is suspended from the time he
26 stops until

27 (1) he again becomes an owner of a real estate business or is
28 again employed as a real estate broker by a corporation or a partner-
29 ship; or

1 (2) he is employed by a licensed real estate broker as an
2 associate real estate broker, in which case his real estate broker
3 license is returned to the department, and the department issues him an
4 associate real estate broker license.

5 * Sec. 6. AS 08.88.171(b) is amended to read:

6 (b) A person is entitled to an associate real estate broker li-
7 cense if he satisfies the requirements under AS 08.88.211, if he is [HAS
8 BEEN] a resident of the state, [FOR 90 DAYS AND] if he passes the real
9 estate brokers examination, if he applies for his license within six
10 months after receipt of notice that he has passed the examination [,
11 FILES THE REQUIRED BOND], and if he is employed by a licensed real
12 estate broker as an associate real estate broker. Unless the associate
13 broker [HE] fails to pay the biennial renewal fee or unless his license
14 is suspended or revoked under AS 08.88.071(a)(3) or AS 08.88.276, the
15 [AN] associate real estate broker's license continues in effect so long
16 as he is employed by a licensed real estate broker as an associate
17 broker. If he stops being employed by a licensed real estate broker,
18 his license is suspended from the time he stops until

19 (1) he again is employed by a real estate broker as an asso-
20 ciate broker; or

21 (2) he becomes an owner of a real estate business, in which
22 case his associate real estate broker license is returned to the depart-
23 ment, and the department issues him a real estate broker license.

24 * Sec. 7. AS 08.88.171(c) is amended to read:

25 (c) A person is entitled to a real estate salesman license if he
26 satisfies the requirements under AS 08.88.211, if he is [HAS BEEN] a
27 resident of the state, [FOR 90 DAYS AND] if he passes the real estate
28 salesman examination, if he applies for his license within six months
29 after receipt of notice that he has passed the examination [, FILES THE

1 REQUIRED BOND], and if he is employed by a real estate broker. Unless
2 the salesman [HE] fails to pay the biennial renewal fee or unless his
3 license is suspended or revoked under AS 08.88.071(a)(3) or AS 08.88.-
4 276, the [A] real estate salesman's license continues in effect so long
5 as he is employed as a salesman by a licensed real estate broker. If
6 he stops being employed as a real estate salesman, his license is
7 suspended from the time he stops until he again is employed as a sales-
8 man by a licensed real estate broker.

9 * Sec. 8. AS 08.88.181(a) is amended to read:

10 (a) The real estate examination may include, but is not neces-
11 sarily limited to, [INCLUDES] questions on business ethics; arithmetic;
12 elementary principles of land economics and appraisal; the general
13 principles in state statutes relating to deeds, mortgages, real estate
14 contracts, subdivisions, legal descriptions, building restrictions,
15 agency and brokerage; and the general provisions of [IN] this chapter
16 and of the [IN] regulations of the commission.

17 * Sec. 9. AS 08.88.191 is repealed and re-enacted to read:

18 Sec. 08.88.191. ADMINISTRATION OF EXAMINATION. (a) The depart-
19 ment shall offer written examinations at periodic intervals but at least
20 once a year.

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

23 (1) the commission shall review the examination and approve
24 its contents;

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

28 (c) An applicant who fails the written examination may request
29 that his examination be reevaluated. The commission shall provide by

1 regulation for a system of reevaluating examinations on request of an
2 applicant who fails the examination. The system provided by the com-
3 mission may provide for reevaluation by the testing service or by any
4 other person.

5 * Sec. 10. AS 08.88.211 is amended to read:

6 Sec. 08.88.211. QUALIFICATIONS [QUALIFICATION FOR EXAMINATION].

7 (a) A person is entitled to be licensed as [TAKE A] real estate broker
8 or associate broker [EXAMINATION] if he

9 (1) has had at least 24 months of active and continuous
10 experience as a licensed real estate salesman;

11 (2) (repealed)

12 (3) (repealed)

13 (4) has not been convicted of forgery, theft, extortion,
14 conspiracy to defraud creditors or similar offense or any other [A]
15 felony involving moral turpitude within the past 10 years, is not under
16 indictment for forgery, theft, extortion, conspiracy to defraud creditors
17 or similar offense or any other felony involving moral turpitude [FRAUD
18 OR EMBEZZLEMENT] and has not engaged in conduct that demonstrates that
19 he is unfit to be a real estate broker;

20 (5) (repealed)

21 (6) (repealed)

22 (b) A person is entitled to be licensed as [TAKE A] real estate
23 salesman [EXAMINATION] if he

24 (1) is at least 19 years old;

25 (2) (repealed)

26 (3) has not been convicted of forgery, theft, extortion,
27 conspiracy to defraud creditors or similar offense or any other [A]
28 felony involving moral turpitude within the past 10 years, is not under
29 indictment for forgery, theft, extortion, conspiracy to defraud creditors

1 or similar offense or any other felony involving moral turpitude [FRAUD
2 OR EMBEZZLEMENT] and has not engaged in conduct that demonstrates that
3 he is unfit to be a real estate salesman;

4 (4) (repealed)

5 (5) (repealed)

6 (c) In addition to the requirements of (a) or (b) of this section,
7 [TO BE QUALIFIED TO TAKE AN EXAMINATION] a person shall [MUST]

8 (1) within the time specified by a [DEPARTMENT] regulation
9 of the commission, return application forms [TO THE DEPARTMENT] showing
10 the information specified; and [IN REGULATIONS OF THE COMMISSION;]

11 (2) pay all required fees, including the examination fee,
12 license fee, surety fee, and any amount owed to the real estate surety
13 fund [THE APPLICATION FEE]; and

14 (3) meet the requirement of AS 08.88.171 applicable to the
15 license for which he is making application.

16 (d) (repealed)

17 * Sec. 11. AS 08.88.221(c) is amended to read:

18 (c) The fee for amending or transferring a license is \$5 [\$2].

19 * Sec. 12. AS 08.88.221 is amended by adding a new subsection to read:

20 (d) If the commission contracts with a national testing service to
21 prepare, administer and grade examinations, the examination fee charged
22 under (a)(1) or (b)(1) of this section which the applicant is required
23 to pay to the department shall be reduced by the amount of the fee
24 charged the applicant by the national testing service for the examina-
25 tion.

26 * Sec. 13. AS 08.88.241 is amended to read:

27 Sec. 08.88.241. REINSTATEMENT OF LAPSED LICENSE. A licensee who
28 was required to take an examination before receiving a license and whose
29 license has lapsed for more than six months [THREE YEARS] shall be

1 re-examined before reinstatement.

2 * Sec. 14. AS 08.88.251(b) is repealed and re-enacted to read:

3 (b) An inactive licensee may not attempt or offer to do any of the
4 activities listed in AS 08.88.161.

5 * Sec. 15. AS 08.88.251(c) is amended to read:

6 (c) A person who is inactive may become active by applying for an
7 active license and paying the required fees [BY RETURNING TO THE DEPART-
8 MENT HIS INACTIVE LICENSE CERTIFICATE, THE ACTIVE LICENSE BIENNIAL
9 RENEWAL FEE, IF HE BECOMES ACTIVE MORE THAN FIVE MONTHS BEFORE JANUARY 1
10 FOLLOWING, AND A COMPLETED FORM PROVIDED BY THE DEPARTMENT]. In the
11 application form he shall state the date on which he intends to become
12 active. His active status begins on the date stated. The department
13 shall send him a license certificate. A person is entitled to change
14 from an inactive to an active status without examination if he has not
15 been inactive more than three years. If he has been inactive more than
16 three years, he is required to take an examination.

17 * Sec. 16. AS 08.88 is amended by adding new sections to read:

18 Sec. 08.88.263. LICENSE BY ENDORSEMENT. A person who holds a
19 valid active real estate license issued by another state shall be
20 granted an equivalent Alaska real estate license if he

21 (1) passes the portion of the real estate examination which
22 examines on Alaska law; and

23 (2) meets the requirements of AS 08.88.171 and 08.88.211.

24 Sec. 08.88.276. SUSPENSION OF LICENSE. When a payment is made
25 from the real estate surety fund in satisfaction of a claim against a
26 broker or salesman under AS 45.85.060, the license of the broker or
27 salesman shall be suspended by the commission. A suspension under this
28 section is effective on the date of the first payment of a claim from
29 the real estate surety fund. A suspension under this section continues

1 until the broker or salesman reimburses the real estate surety fund, or
2 the commissioner of commerce and economic development recovers amounts
3 paid from the real estate surety fund in accordance with AS 45.85.090.

4 * Sec. 17. AS 08.88.361 is amended to read:

5 Sec. 08.88.361. WHEN COMMISSION IS EARNED. A commission is earned
6 when the real estate broker fulfills the terms of a written personal
7 services contract [FINDS A BUYER WILLING AND ABLE TO PURCHASE AT A PRICE
8 AND ON TERMS SET BY THE SELLER, PROVIDING NEGOTIATIONS WITH THE BUYER
9 WERE INITIATED DURING THE TERM OF A VALID LISTING AGREEMENT AND WITHIN
10 THE TIME LIMIT OF THE LISTING].

11 * Sec. 18. AS 08.88.421(1) is amended to read:

12 (1) a person who is not licensed under this chapter who makes
13 [MAKING] a real estate transaction with respect to real estate he owns
14 or on his own behalf, unless the transaction involves land defined in
15 AS 34.55.044(6) which is not in Alaska;

16 * Sec. 19. AS 08.88.421(9) is amended to read:

17 (9) each of the following:

18 (A) a domestic or foreign corporation, or a general or
19 limited partnership, [,] or

20 (B) a partner or regular employee of a domestic or
21 foreign corporation or a general or limited partnership [ONE OF
22 THESE], when performing an act [ACTS] described in AS 08.88.161 in
23 the regular course, or as an incident to, the management, sale or
24 other disposition of real estate owned by the corporation or part-
25 nership; [HOWEVER,] the exemption provided in this subparagraph
26 does not apply to a person who performs an act described in
27 AS 08.88.161 either [MAY NOT PERFORM THESE ACTS] as a vocation or
28 for compensation if the amount of the compensation is dependent
29 upon or directly related to the value of the real estate with

1 respect to which the act is [ACTS ARE] performed.

2 * Sec. 20. AS 08.88.421 is amended by adding a new paragraph to read:

3 (10) a resident manager of rented real estate if his duties
4 are limited to the negotiation of leases and rental agreements and the
5 collection of rent for the use of the real estate and if he is

6 (A) employed by the owner of the real estate; or

7 (B) employed by, or engaged under contract with, a

8 licensed real estate broker.

9 * Sec. 21. AS 08.88.431 is amended by adding a new paragraph to read:

10 (5) "resident manager" means a person who resides on real
11 property and manages it for the benefit of another person.

12 * Sec. 22. AS 45.85.010 is amended to read:

13 Sec. 45.85.010. REAL ESTATE SURETY FUND. There is created a
14 special account in the general fund known as the real estate surety fund
15 to carry out the purposes of this chapter. The fund shall be composed
16 of payments made by licensed real estate brokers and salesmen under
17 AS 45.85.020. The fund may not exceed \$500,000 [\$300,000] and amounts
18 in the fund in excess of \$250,000 may be appropriated for real estate
19 educational purposes as provided in AS 08.88.091.

20 * Sec. 23. AS 08.88.181(b), and 08.88.261 are repealed.

21 * Sec. 24. Section 1 of this Act takes effect February 1, 1981.

22 * Sec. 25. Section 22 of this Act takes effect June 1, 1980.

23 * Sec. 26. Sections 2 - 21 and 23 - 26 of this Act take effect immedi-
24 ately in accordance with AS 01.10.070(c).

Original sponsor: Bennett by request

Offered: 4/7/80
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 212 (2d Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the regulation of real estate
7 brokers and salesmen and to the real estate surety
8 fund; and providing for an effective date."

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

10 * Section 1. AS 08.88.041(b) is amended to read:

11 (b) Of the five members of the commission who must be real estate
12 brokers or associate brckers, one [ONE] member [OF THE COMMISSION] shall
13 be from the First Judicial District, one shall be from the Second Judi-
14 cial District, one shall be from the Third Judicial District, one shall
15 be from the Fourth Judicial District and one shall be from the state at
16 large. However, if no licensed real estate broker or licensed associate
17 broker [PERSON] is eligible or available for appointment from the Second
18 Judicial District, then two licensed real estate brokers or licensed
19 associate brokers shall be appointed from the state at large.

20 * Sec. 2. AS 08.88.071(a) is amended by adding a new paragraph to read:

21 (6) issue a temporary permit to the personal representative
22 of the estate of a deceased broker or to some other person designated by
23 the commission in order to secure proper administration in concluding
24 the affairs of decedent broker's real estate business.

25 * Sec. 3. AS 08.88.081 is amended to read:

26 Sec. 08.88.081. COMMISSION REGULATIONS. The commission shall
27 adopt [SUBSTANTIVE] regulations pertaining to [MAKING MORE SPECIFIC] the
28 responsibilities of persons licensed under this chapter and the
29 [GENERAL] grounds for revoking or suspending a license.

1 * Sec. 4. AS 08.88.091 is amended to read:

2 Sec. 08.88.091. EDUCATION. The commission may conduct and assist
3 in conducting real estate clinics, meetings, courses, or institutes.

4 The commission may

5 (1) assist libraries and educational institutions in sponsor-
6 ing studies and programs; and

7 (2) publish informational materials for the purpose of
8 raising the standards of the real estate business and the competency of
9 licensees.

10 * Sec. 5. AS 08.88.171(a) is amended to read:

11 (a) A person is entitled to a real estate broker license if he
12 satisfies the requirements of AS 08.88.211, if he is [HAS BEEN] a resi-
13 dent of the state, [FOR 90 DAYS AND] if he applies for his license
14 within six months after receipt of notice that he has passed the real
15 estate brokers examination, if he [, FILES THE REQUIRED BOND, AND] is an
16 owner of a real estate business or employed as a real estate broker by a
17 corporation or a partnership, and if that [THE] corporation or partner-
18 ship does not have an existing licensed broker. Unless the broker [HE]
19 fails to pay the biennial renewal fee or unless his license is suspended
20 or revoked under AS 08.88.071(a)(3) or AS 08.88.276, the [A] real estate
21 broker's license continues in effect so long as he is an owner of a real
22 estate business, or he is employed as a real estate broker by a
23 corporation or a partnership. If he stops being an owner of a real
24 estate business, or stops being employed as a real estate broker by a
25 corporation or partnership, his license is suspended from the time he
26 stops until

27 (1) he again becomes an owner of a real estate business or is
28 again employed as a real estate broker by a corporation or a partner-
29 ship; or

1 (2) he is employed by a licensed real estate broker as an
2 associate real estate broker, in which case his real estate broker
3 license is returned to the department, and the department issues him an
4 associate real estate broker license.

5 * Sec. 6. AS 08.88.171(b) is amended to read:

6 (b) A person is entitled to an associate real estate broker li-
7 cense if he satisfies the requirements under AS 08.88.211, if he is [HAS
8 BEEN] a resident of the state, [FOR 90 DAYS AND] if he passes the real
9 estate brokers examination, if he applies for his license within six
10 months after receipt of notice that he has passed the examination [,
11 FILES THE REQUIRED BOND], and if he is employed by a licensed real
12 estate broker as an associate real estate broker. Unless the associate
13 broker [HE] fails to pay the biennial renewal fee or unless his license
14 is suspended or revoked under AS 08.88.071(a)(3) or AS 08.88.276, the
15 [AN] associate real estate broker's license continues in effect so long
16 as he is employed by a licensed real estate broker as an associate
17 broker. If he stops being employed by a licensed real estate broker,
18 his license is suspended from the time he stops until

19 (1) he again is employed by a real estate broker as an asso-
20 ciate broker; or

21 (2) he becomes an owner of a real estate business, in which
22 case his associate real estate broker license is returned to the depart-
23 ment, and the department issues him a real estate broker license.

24 * Sec. 7. AS 08.88.171(c) is amended to read:

25 (c) A person is entitled to a real estate salesman license if he
26 satisfies the requirements under AS 08.88.211, if he is [HAS BEEN] a
27 resident of the state, [FOR 90 DAYS AND] if he passes the real estate
28 salesman examination, if he applies for his license within six months
29 after receipt of notice that he has passed the examination [, FILES THE

1 REQUIRED BOND], and if he is employed by a real estate broker. Unless
2 the salesman [HE] fails to pay the biennial renewal fee or unless his
3 license is suspended or revoked under AS 08.88.071(a)(3) or AS 08.88.-
4 276, the [A] real estate salesman's license continues in effect so long
5 as he is employed as a salesman by a licensed real estate broker. If
6 he stops being employed as a real estate salesman, his license is
7 suspended from the time he stops until he again is employed as a sales-
8 man by a licensed real estate broker.

9 * Sec. 8. AS 08.88.181(a) is amended to read:

10 (a) The real estate examination may include, but is not neces-
11 sarily limited to, [INCLUDES] questions on business ethics; arithmetic;
12 elementary principles of land economics and appraisal; the general
13 principles in state statutes relating to deeds, mortgages, real estate
14 contracts, subdivisions, legal descriptions, building restrictions,
15 agency and brokerage; and the general provisions of [IN] this chapter
16 and of the [IN] regulations of the commission.

17 * Sec. 9. AS 08.88.191 is repealed and re-enacted to read:

18 Sec. 08.88.191. ADMINISTRATION OF EXAMINATION. (a) The depart-
19 ment shall offer written examinations at periodic intervals but at least
20 once a year.

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

23 (1) the commission shall review the examination and approve
24 its contents;

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

28 (c) An applicant who fails the written examination may request
29 that his examination be reevaluated. The commission shall provide by

1 regulation for a system of reevaluating examinations on request of an
2 applicant who fails the examination. The system provided by the com-
3 mission may provide for reevaluation by the testing service or by any
4 other person.

5 * Sec. 10. AS 08.88.211 is amended to read:

6 Sec. 08.88.211. QUALIFICATIONS [QUALIFICATION FOR EXAMINATION].

7 (a) A person is entitled to be licensed as [TAKE A] real estate broker
8 or associate broker [EXAMINATION] if he

9 (1) has had at least 24 months of active and continuous
10 experience as a licensed real estate salesman;

11 (2) (repealed)

12 (3) (repealed)

13 (4) has not been convicted of forgery, theft, extortion,
14 conspiracy to defraud creditors or similar offense or any other [A]
15 felony involving moral turpitude within the past 10 years, is not under
16 indictment for forgery, theft, extortion, conspiracy to defraud creditors
17 or similar offense or any other felony involving moral turpitude [FRAUD
18 OR EMBEZZLEMENT] and has not engaged in conduct that demonstrates that
19 he is unfit to be a real estate broker;

20 (5) (repealed)

21 (6) (repealed)

22 (b) A person is entitled to be licensed as [TAKE A] real estate
23 salesman [EXAMINATION] if he

24 (1) is at least 19 years old;

25 (2) (repealed)

26 (3) has not been convicted of forgery, theft, extortion,
27 conspiracy to defraud creditors or similar offense or any other [A]
28 felony involving moral turpitude within the past 10 years, is not under
29 indictment for forgery, theft, extortion, conspiracy to defraud creditors

1 or similar offense or any other felony involving moral turpitude [FRAUD
2 OR EMBEZZLEMENT] and has not engaged in conduct that demonstrates that
3 he is unfit to be a real estate salesman;

4 (4) (repealed)

5 (5) (repealed)

6 (c) In addition to the requirements of (a) or (b) of this section,
7 [TO BE QUALIFIED TO TAKE AN EXAMINATION] a person shall [MUST]

8 (1) within the time specified by a [DEPARTMENT] regulation
9 of the commission, return application forms [TO THE DEPARTMENT] showing
10 the information specified; and [IN REGULATIONS OF THE COMMISSION;]

11 (2) pay all required fees, including the examination fee,
12 license fee, surety fee, and any amount owed to the real estate surety
13 fund [THE APPLICATION FEE]; and

14 (3) meet the requirement of AS 08.88.171 applicable to the
15 license for which he is making application.

16 (d) (repealed)

17 * Sec. 11. AS 08.88.221(c) is amended to read:

18 (c) The fee for amending or transferring a license is \$5 [\$2].

19 * Sec. 12. AS 08.88.221 is amended by adding a new subsection to read:

20 (d) If the commission contracts with a national testing service to
21 prepare, administer and grade examinations, the examination fee charged
22 under (a)(1) or (b)(1) of this section which the applicant is required
23 to pay to the department shall be reduced by the amount of the fee
24 charged the applicant by the national testing service for the examina-
25 tion.

26 * Sec. 13. AS 08.88.241 is amended to read:

27 Sec. 08.88.241. REINSTATEMENT OF LAPSED LICENSE. A licensee who
28 was required to take an examination before receiving a license and whose
29 license has lapsed for more than six months [THREE YEARS] shall be

1 re-examined before reinstatement.

2 * Sec. 14. AS 08.88.251(b) is repealed and re-enacted to read:

3 (b) An inactive licensee may not attempt or offer to do any of the
4 activities listed in AS 08.88.161.

5 * Sec. 15. AS 08.88.251(c) is amended to read:

6 (c) A person who is inactive may become active by applying for an
7 active license and paying the required fees [BY RETURNING TO THE DEPART-
8 MENT HIS INACTIVE LICENSE CERTIFICATE, THE ACTIVE LICENSE BIENNIAL
9 RENEWAL FEE, IF HE BECOMES ACTIVE MORE THAN FIVE MONTHS BEFORE JANUARY 1
10 FOLLOWING, AND A COMPLETED FORM PROVIDED BY THE DEPARTMENT]. In the
11 application form he shall state the date on which he intends to become
12 active. His active status begins on the date stated. The department
13 shall send him a license certificate. A person is entitled to change
14 from an inactive to an active status without examination if he has not
15 been inactive more than three years. If he has been inactive more than
16 three years, he is required to take an examination.

17 * Sec. 16. AS 08.88 is amended by adding new sections to read:

18 Sec. 08.88.263. LICENSE BY ENDORSEMENT. A person who holds a
19 valid active real estate license issued by another state shall be
20 granted an equivalent Alaska real estate license if he

21 (1) passes the portion of the real estate examination which
22 examines on Alaska law; and

23 (2) meets the requirements of AS 08.88.171 and 08.88.211.

24 Sec. 08.88.276. SUSPENSION OF LICENSE. When a payment is made
25 from the real estate surety fund in satisfaction of a claim against a
26 broker or salesman under AS 45.85.060, the license of the broker or
27 salesman shall be suspended by the commission. A suspension under this
28 section is effective on the date of the first payment of a claim from
29 the real estate surety fund. A suspension under this section continues

1 until the broker or salesman reimburses the real estate surety fund, or
2 the commissioner of commerce and economic development recovers amounts
3 paid from the real estate surety fund in accordance with AS 45.85.090.

4 * Sec. 17. AS 08.88.361 is amended to read:

5 Sec. 08.88.361. WHEN COMMISSION IS EARNED. A commission is earned
6 when the real estate broker fulfills the terms of a written personal
7 services contract [FINDS A BUYER WILLING AND ABLE TO PURCHASE AT A PRICE
8 AND ON TERMS SET BY THE SELLER, PROVIDING NEGOTIATIONS WITH THE BUYER
9 WERE INITIATED DURING THE TERM OF A VALID LISTING AGREEMENT AND WITHIN
10 THE TIME LIMIT OF THE LISTING].

11 * Sec. 18. AS 08.88.421(1) is amended to read:

12 (1) a person who is not licensed under this chapter who makes
13 [MAKING] a real estate transaction with respect to real estate he owns
14 or on his own behalf, unless the transaction involves land defined in
15 AS 34.55.044(6) which is not in Alaska;

16 * Sec. 19. AS 08.88.421(9) is amended to read:

17 (9) each of the following:

18 (A) a domestic or foreign corporation, or a general or
19 limited partnership, [,] or

20 (B) a partner or regular employee of a domestic or
21 foreign corporation or a general or limited partnership [ONE OF
22 THESE], when performing an act [ACTS] described in AS 08.88.161 in
23 the regular course, or as an incident to, the management, sale or
24 other disposition of real estate owned by the corporation or part-
25 nership; [HOWEVER,] the exemption provided in this subparagraph
26 does not apply to a person who performs an act described in
27 AS 08.88.161 either [MAY NOT PERFORM THESE ACTS] as a vocation or
28 for compensation if the amount of the compensation is dependent
29 upon or directly related to the value of the real estate with

1 respect to which the act is [ACTS ARE] performed.

2 * Sec. 20. AS 08.88.421 is amended by adding a new paragraph to read:

3 (10) a resident manager of rented real estate if his duties
4 are limited to the negotiation of leases and rental agreements and the
5 collection of rent for the use of the real estate and if he is

6 (A) employed by the owner of the real estate; or

7 (B) employed by, or engaged under contract with, a

8 licensed real estate broker.

9 * Sec. 21. AS 08.88.431 is amended by adding a new paragraph to read:

10 (5) "resident manager" means a person who resides on real
11 property and manages it for the benefit of another person.

12 * Sec. 22. AS 45.85.010 is amended to read:

13 Sec. 45.85.010. REAL ESTATE SURETY FUND. There is created a
14 special account in the general fund known as the real estate surety fund
15 to carry out the purposes of this chapter. The fund shall be composed
16 of payments made by licensed real estate brokers and salesmen under
17 AS 45.85.020. The fund may not exceed \$500,000 [\$300,000] and amounts
18 in the fund in excess of \$250,000 may be appropriated for real estate
19 educational purposes as provided in AS 08.88.091.

20 * Sec. 23. AS 08.88.181(b), 08.88.191(b) - (e), and 08.88.261 are re-
21 pealed.

22 * Sec. 24. Section 1 of this Act takes effect February 1, 1981.

23 * Sec. 25. Section 22 of this Act takes effect June 1, 1980.

24 * Sec. 26. Sections 2 - 21 and 23 - 26 of this Act take effect immedi-
25 ately in accordance with AS 01.10.070(c).

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Original sponsor: Bennett by request

Offered: 4/16/79
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2

CS FOR SENATE BILL NO. 212 (Judiciary)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

ELEVENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the regulation of real estate

7

brokers and salesmen; and providing for an effective

8

date."

9

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

10

* Section 1. AS 08.88.041(b) is amended to read:

11

(b) Of the five members of the commission who must be real estate

12

brokers or associate brokers, one [ONE] member [OF THE COMMISSION] shall

13

be from the First Judicial District, one shall be from the Second

14

Judicial District, one shall be from the Third Judicial District, one

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shall be from the Fourth Judicial District and one shall be from the

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state at large. However, if no licensed real estate broker or licensed

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associate broker [PERSON] is eligible or available for appointment from

18

the Second Judicial District, then two licensed real estate brokers or

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licensed associate brokers shall be appointed from the state at large.

20

* Sec. 2. AS 08.88.071(a) is amended by adding a new paragraph to read:

21

(6) issue a temporary permit to the executor, administrator,

22

or personal representative of the estate of a deceased broker or to some

23

other person designated by the commission in order to secure proper

24

administration in concluding the affairs of decedent broker's real

25

estate business.

26

* Sec. 3. AS 08.88.091 is repealed and re-enacted to read:

27

Sec. 08.88.091. EDUCATION. The commission shall

28

(1) initiate and maintain a program of continuing education

29

in real estate by

1 (A) reviewing and, when applicable, granting approval to
2 courses of instruction which provide opportunity to persons engaged
3 in the real estate business to gain knowledge and reasonable pro-
4 ficiency in current real estate practices and procedures;

5 (B) defining course standards, to include a variety of
6 subject material covering general and special areas of real estate
7 practice and procedure in courses presented by

8 (i) accredited educational institutions;

9 (ii) private vocational schools;

10 (iii) correspondence schools; or

11 (iv) educational programs, seminars, and workshops
12 offered by institutes, professional societies and organiza-
13 tions, and equivalent offerings;

14 (C) qualifying instructors to present approved courses
15 of instruction based on the academic qualifications and practical
16 experience in real estate of the instructor and the specific course
17 to be offered;

18 (2) assist in conducting real estate clinics, meetings,
19 courses, or institutes;

20 (3) assist educational institutions in sponsoring studies and
21 programs for the purpose of raising the standards of the real estate
22 business and the competency of licensees; and

23 (4) maintain a list of those educational programs which
24 receive approval under (1) of this subsection.

25 * Sec. 4. AS 08.88.171(a) is amended to read:

26 (a) A person is entitled to a real estate broker license if he has
27 been a resident of the state for 90 days and if he applies for his
28 license within six months after the date he completed the real estate
29 examination, furnishes satisfactory proof that he has successfully com-

1 pleted all requirements imposed by AS 08.88.173 [RECEIPT OF NOTICE THAT
2 HE HAS PASSED THE REAL ESTATE EXAMINATION, FILES THE REQUIRED BOND], and
3 is an owner of a real estate business or employed as a real estate
4 broker by a corporation or a partnership, if the corporation or partner-
5 ship does not have an existing licensed broker. Unless the broker [HE]
6 fails to pay the biennial renewal fee or fails to furnish satisfactory
7 proof that he has complied with all continuing educational requirements
8 under AS 08.88.175, or unless his license is suspended or revoked under
9 AS 08.88.071(3), the [A] real estate broker's license continues in
10 effect so long as he is an owner of a real estate business, or he is
11 employed as a real estate broker by a corporation or a partnership. If
12 he stops being an owner of a real estate business, or stops being
13 employed as a real estate broker by a corporation or partnership, his
14 license is suspended from the time he stops until

15 (1) he again becomes an owner of a real estate business or is
16 again employed as a real estate broker by a corporation or a partner-
17 ship; or

18 (2) he is employed by a licensed real estate broker, in which
19 case his real estate broker license is returned to the department, and
20 the department issues him an associate real estate broker license.

21 * Sec. 5. AS 08.88.171(b) is amended to read:

22 (b) A person is entitled to an associate real estate broker li-
23 cense if he has been a resident of the state for 90 days and if he
24 passes the real estate examination, applies for his license within six
25 months after the date he completed the real estate examination, fur-
26 nishes satisfactory proof that he has successfully completed all require-
27 ments imposed by AS 08.88.173 [RECEIPT OF NOTICE THAT HE HAS PASSED THE
28 EXAMINATION, FILES THE REQUIRED BOND], and is employed by a licensed
29 real estate broker. Unless the associate broker [HE] fails to pay the

1 biennial renewal fee or fails to furnish satisfactory proof that he has
2 complied with all continuing educational requirements under AS 08.88.175,
3 or unless his license is suspended or revoked under AS 08.88.071(3), the
4 [AN] associate real estate broker's license continues in effect so long
5 as he is employed by a licensed real estate broker. If he stops being
6 employed by a licensed real estate broker, his license is suspended from
7 the time he stops until

8 (1) he again is employed by a real estate broker; or

9 (2) he becomes an owner of a real estate business, in which
10 case his associate real estate broker license is returned to the depart-
11 ment, and the department issues him a real estate broker license.

12 * Sec. 6. AS 08.88.171(c) is amended to read:

13 (c) A person is entitled to a real estate salesman license if he
14 has been a resident of the state for 90 days and if he passes the real
15 estate salesman examination, applies for his license within six months
16 after the date he completed the real estate examination, furnishes
17 satisfactory proof that he has successfully completed all requirements
18 imposed by AS 08.88.173 [RECEIPT OF NOTICE THAT HE HAS PASSED THE EXAM-
19 INATION, FILES THE REQUIRED BOND], and is employed by a real estate
20 broker. Unless the salesman [HE] fails to pay the biennial renewal fee
21 or fails to furnish satisfactory proof that he has complied with all
22 continuing educational requirements under AS 08.88.175, or unless his
23 license is suspended or revoked under AS 08.88.071(3), the [A] real
24 estate salesman's license continues in effect so long as he is employed
25 by a licensed real estate broker. If he stops being employed as a real
26 estate salesman, his license is suspended from the time he stops until
27 he again is employed by a licensed real estate broker.

28 * Sec. 7. AS 08.88 is amended by adding new sections to read:

29 Sec. 08.88.173. PREPARATORY REQUIREMENTS. (a) An applicant for

1 pleted all requirements imposed by AS 08.88.173 [RECEIPT OF NOTICE THAT
2 HE HAS PASSED THE REAL ESTATE EXAMINATION, FILES THE REQUIRED BOND], and
3 is an owner of a real estate business or employed as a real estate
4 broker by a corporation or a partnership, if the corporation or partner-
5 ship does not have an existing licensed broker. Unless the broker [HE]
6 fails to pay the biennial renewal fee or fails to furnish satisfactory
7 proof that he has complied with all continuing educational requirements
8 under AS 08.88.175, or unless his license is suspended or revoked under
9 AS 08.88.071(3), the [A] real estate broker's license continues in
10 effect so long as he is an owner of a real estate business, or he is
11 employed as a real estate broker by a corporation or a partnership. If
12 he stops being an owner of a real estate business, or stops being
13 employed as a real estate broker by a corporation or partnership, his
14 license is suspended from the time he stops until

15 (1) he again becomes an owner of a real estate business or is
16 again employed as a real estate broker by a corporation or a partner-
17 ship; or

18 (2) he is employed by a licensed real estate broker, in which
19 case his real estate broker license is returned to the department, and
20 the department issues him an associate real estate broker license.

21 * Sec. 5. AS 08.88.171(b) is amended to read:

22 (b) A person is entitled to an associate real estate broker li-
23 cense if he has been a resident of the state for 90 days and if he
24 passes the real estate examination, applies for his license within six
25 months after the date he completed the real estate examination, fur-
26 nishes satisfactory proof that he has successfully completed all require-
27 ments imposed by AS 08.88.173 [RECEIPT OF NOTICE THAT HE HAS PASSED THE
28 EXAMINATION, FILES THE REQUIRED BOND], and is employed by a licensed
29 real estate broker. Unless the associate broker [HE] fails to pay the

1 biennial renewal fee or fails to furnish satisfactory proof that he has
2 complied with all continuing educational requirements under AS 08.88.175,
3 or unless his license is suspended or revoked under AS 08.88.071(3), the
4 [AN] associate real estate broker's license continues in effect so long
5 as he is employed by a licensed real estate broker. If he stops being
6 employed by a licensed real estate broker, his license is suspended from
7 the time he stops until

8 (1) he again is employed by a real estate broker; or

9 (2) he becomes an owner of a real estate business, in which
10 case his associate real estate broker license is returned to the depart-
11 ment, and the department issues him a real estate broker license.

12 * Sec. 6. AS 08.88.171(c) is amended to read:

13 (c) A person is entitled to a real estate salesman license if he
14 has been a resident of the state for 90 days and if he passes the real
15 estate salesman examination, applies for his license within six months
16 after the date he completed the real estate examination, furnishes
17 satisfactory proof that he has successfully completed all requirements
18 imposed by AS 08.88.173 [RECEIPT OF NOTICE THAT HE HAS PASSED THE EXAM-
19 INATION, FILES THE REQUIRED BOND], and is employed by a real estate
20 broker. Unless the salesman [HE] fails to pay the biennial renewal fee
21 or fails to furnish satisfactory proof that he has complied with all
22 continuing educational requirements under AS 08.88.175, or unless his
23 license is suspended or revoked under AS 08.88.071(3), the [A] real
24 estate salesman's license continues in effect so long as he is employed
25 by a licensed real estate broker. If he stops being employed as a real
26 estate salesman, his license is suspended from the time he stops until
27 he again is employed by a licensed real estate broker.

28 * Sec. 7. AS 08.88 is amended by adding new sections to read:

29 Sec. 08.88.173. PREPARATORY REQUIREMENTS. (a) An applicant for

1 an initial license as a real estate broker or associate real estate
2 broker shall provide evidence that he has passed the real estate examina-
3 tion and, during the two years preceding submission of his license
4 application, successfully completed 60 hours of courses, workshops,
5 seminars, institutes or programs approved by the commission under AS 08.-
6 88.091(1).

7 (b) An applicant for an initial license as a real estate salesman
8 shall provide evidence that he has passed the real estate examination
9 and, during the two years preceding submission of his license applica-
10 tion, successfully completed 30 hours of courses, workshops, seminars,
11 institutes or programs approved by the commission under AS 08.88.091(1).

12 Sec. 08.88.175. CONTINUING EDUCATION REQUIREMENTS. (a) A real
13 estate broker, associate real estate broker, or real estate salesman who
14 holds an active license or who seeks reinstatement of an inactive
15 license shall provide evidence that he has, during the two years preced-
16 ing the biennial renewal period, successfully completed 30 hours of
17 courses, workshops, seminars, institutes or programs approved by the
18 commission under AS 08.88.091(1).

19 (b) The provisions of (a) of this section do not apply to a person
20 renewing an inactive license within two years of the date on which his
21 license becomes inactive.

22 Sec. 08.88.177. CREDIT FOR INSTRUCTION. A real estate broker,
23 associate real estate broker, or real estate salesman who provides
24 evidence that he has been an instructor in a course, workshop, seminar,
25 institute or program approved by the commission under AS 08.88.091(1)
26 shall receive credit for his hours as an instructor against the require-
27 ments of AS 08.88.175. The commission may give course instruction
28 credit under this section only once for the same course of instruction.

29 * Sec. 8. AS 08.88.211(a)(4) is amended to read:

1 (4) has not been convicted of forgery, embezzlement, obtain-
2 ing money under false pretenses, larceny, extortion, conspiracy to de-
3 fraud or similar offense or of a felony involving moral turpitude within
4 the past 10 years, is not under indictment for fraud or embezzlement and
5 has not engaged in conduct that demonstrates that he is unfit to be a
6 real estate broker;

7 * Sec. 9. AS 08.88.211(b)(3) is amended to read:

8 (3) has not been convicted of forgery, embezzlement, obtain-
9 ing money under false pretenses, larceny, extortion, conspiracy to de-
10 fraud or similar offense or of a felony involving moral turpitude within
11 the past 10 years, is not under indictment for fraud or embezzlement and
12 has not engaged in conduct that demonstrates that he is unfit to be a
13 real estate salesman;

14 * Sec. 10. AS 08.88.241 is amended to read:

15 Sec. 08.88.241. REINSTATEMENT OF LAPSED LICENSE. A licensee who
16 was required to take an examination before receiving a license and whose
17 license has lapsed for more than six months [THREE YEARS] shall be
18 re-examined before reinstatement.

19 * Sec. 11. AS 08.88.251(b) is amended to read:

20 (b) An inactive licensee may not do anything authorized by [ANY OF
21 THE THINGS] AS 08.88.161 for [AUTHORIZES] an active licensee [TO DO, NOR
22 IS HE REQUIRED TO HAVE A BOND].

23 * Sec. 12. AS 08.88.251(c) is amended to read:

24 (c) A person who is inactive may become active by applying for an
25 active license, paying the required fees, and providing evidence of com-
26 pletion of educational requirements, when required [BY RETURNING TO THE
27 DEPARTMENT HIS INACTIVE LICENSE CERTIFICATE, THE ACTIVE LICENSE BIENNIAL
28 RENEWAL FEE, IF HE BECOMES ACTIVE MORE THAN FIVE MONTHS BEFORE JANUARY 1
29 FOLLOWING AND A COMPLETED FORM PROVIDED BY THE DEPARTMENT]. In the

1 application form he shall state the date on which he intends to become
2 active. His active status begins on the date stated. The department
3 shall send him a license certificate. A person is entitled to change
4 from an inactive to an active status without examination if he has not
5 been inactive more than three years. If he has been inactive more than
6 three years, he is required to take an examination.

7 * Sec. 13. AS 08.88. is amended by adding a new section to read:

8 Sec. 08.88.263. LICENSE BY ENDORSEMENT. A person who holds a
9 valid active real estate license issued by another state shall be
10 granted an equivalent Alaska real estate license if he

11 (1) passes the portion of the real estate examination which
12 examines on Alaska law; and

13 (2) meets the requirements of AS 08.88.171 and 08.88.211.

14 * Sec. 14. AS 08.88.361 is amended to read:

15 Sec. 08.88.361. WHEN COMMISSION IS EARNED. A commission is earned
16 when the real estate broker fulfills the terms of a written agreement
17 [FINDS A BUYER WILLING AND ABLE TO PURCHASE AT A PRICE AND ON TERMS SET
18 BY THE SELLER, PROVIDING NEGOTIATIONS WITH THE BUYER WERE INITIATED
19 DURING THE TERM OF A VALID LISTING AGREEMENT AND WITHIN THE TIME LIMIT
20 OF THE LISTING].

21 * Sec. 15. AS 08.88.261 is repealed.

22 * Sec. 16. Section 1 of this Act takes effect February 1, 1981. Sections
23 2, 3, 8 - 11, and 13 - 15 of this Act take effect immediately in accordance
24 with AS 01.10.070(c). Sections 4 - 7 and 12 of this Act take effect
25 February 1, 1980.

Original sponsor: Bennett by request

Offered: 4/16/79
Referred: Rules

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BY THE JUDICIARY COMMITTEE

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CS FOR SENATE BILL NO. 212 (Judiciary)

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IN THE LEGISLATURE OF THE STATE OF ALASKA

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ELEVENTH LEGISLATURE - FIRST SESSION

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For an Act entitled: "An Act relating to the regulation of real estate

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