

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 86/2

9259 HOUSE LABOR & COMMERCE

**HB**

**33**

**File 1**

# HOUSE COMMITTEE REPORT

⑦

Date Referred to Committee: January 13, 1997

FURTHER REFERRALS:

Finance

Date of Committee Action: 1/28/98

The LABOR AND COMMERCE Committee considered:

HB 33

HOUSE BILL NO. 33

REAL ESTATE LICENSING

"An Act relating to real estate licensing and the real estate surety fund; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 33(LC)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal note(s) DCFD  fiscal note(s) \_\_\_\_\_  
 zero fiscal note(s) \_\_\_\_\_  zero fiscal note(s) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>Bill Hyde</u>	✓			
<u>Joe Ryan</u>			✓	
<u>Sam Rice</u>			✓	
<u>Chris Sanders</u>			✓	
<u>John J. Cawley</u>			✓	
<u>Neil Kately</u>	✓			

CHAIR'S SIGNATURE: *Neil Kately* 1/28/98

**FISCAL NOTE**

Bill Version: CSSSHB 49 (L&C)

(H) Publish Date: 2/20/98

**STATE OF ALASKA  
1998 LEGISLATIVE SESSION**

Revision Date (Note if correction) \_\_\_\_\_ Dept. Affected Law  
 Title "An Act establishing and relating to BRU Civil Division  
consumer protection section in the Department of Law Component Consumer Protection  
 Sponsor Representative Croft  
 Requester House Labor & Commerce Committee Component Serial No. new

**Expenditures/Revenues (Thousands of Dollars)**

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	113.2	113.2	113.2	113.2	113.2	113.2
Travel	2.9	3.0	3.0	3.0	3.0	3.0
Contractual	20.6	20.6	20.6	20.6	20.6	20.6
Supplies	1.8	1.8	1.8	1.8	1.8	1.8
Equipment	6.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>145.0</b>	<b>138.6</b>	<b>138.6</b>	<b>138.6</b>	<b>138.6</b>	<b>138.6</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	145.0	138.6	138.6	138.6	138.6	138.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>145.0</b>	<b>138.6</b>	<b>138.6</b>	<b>138.6</b>	<b>138.6</b>	<b>138.6</b>

Estimate of any current year (FY98) cost: 0.0

**POSITIONS**

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

Sponsor Substitute for HB 49 establishes a consumer protection section in the Department of Law. In addition, the bill increases the civil penalty to \$10,000 for using an act or practice declared unlawful by AS 45.50.471, relating to unfair trade practices and consumer protection. Recoveries obtained through this provision, including attorneys fee awards, would be accounted for separately and available for appropriation by the legislature for the expenses of the consumer protection section.

The Department of Law currently has a consumer protection unit, included within the Fair Business Practices section. Passage of this legislation would require an organizational structure change, and appointment of a supervisory level Attorney V to head the section. Using the department's standard FY98/99 attorney cost schedule, the fiscal impact from

Prepared by Joan M. Kasson *Joan M. Kasson*  
 Division Attorney General's Office  
 Approved by Commissioner Bruce M. Botelho, Attorney General  
 Agency Department of Law

Phone 465-5370  
 Date 2/10/98  
 Date 2/10/98

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# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. CSHB 33 (L&C)

Revision Date: \_\_\_\_\_ Department: Commerce and Economic Development  
 Title: An Act relating to real estate licensing and the BRU: Occupational Licensing  
real estate surety fund;... Component: Operations  
 Sponsor: Representative Rokeberg by Request  
 Requestor: House Finance COMPONENT SERIAL NO. 1844

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	7.1	7.1				
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>7.1</b>	<b>7.1</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES</b>	***	***				

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1091 Designated PR	7.1	7.1				
<b>TOTAL</b>	<b>7.1</b>	<b>7.1</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 98) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

CSHB 33 (L&C) makes several amendments to the real estate licensing statutes, AS 08.88. The costs shown on this fiscal note represent costs associated with the re-write and public noticing of regulations for \$1.2; printing and mailing of new statute and regulation booklets to approximately 2,124 licensees for \$5.9. No costs are included for restructuring of the examination since the exam is scheduled for review at no additional costs in FY 98 by the exam contractor. Costs are shown for the first two-years only to cover the implementation stage of this legislation. Once CSHB 33 (L&C) is implemented, these costs will no longer apply. \*\*\*Revenue in both designated program receipts and the surety fund can be expected to increase with the mandate that community association managers have real estate licenses. However, the amount of revenue cannot be estimated at this time until fees are reviewed in accordance with sec. 08.88.221.

Prepared by: Jennifer Strickler, Administrative Manager  
 Division: Occupational Licensing  
 Approved by Commissioner: Deborah B. Sedwick  
 Agency: Commerce and Economic Development

Phone: 465-2144  
 Date: 2/9/98  
 Date: 2-9-98

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# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services  
Department of Education  
State of Alaska

# FISCAL NOTE

Bill Version: CSSSHB 49 (L&C)  
 (H) Publish Date: 2/20/98

**STATE OF ALASKA  
 1998 LEGISLATIVE SESSION**

Revision Date (Note if correction)	_____	Dept. Affected	<u>Law</u>
Title	<u>"An Act establishing and relating to a</u>	BRU	<u>Civil Division</u>
	<u>consumer protection section in the Department of Law</u>	Component	<u>Consumer Protection</u>
Sponsor	<u>Representative Croft</u>	Component Serial No.	<u>new</u>
Requester	<u>House Labor &amp; Commerce Committee</u>		

**Expenditures/Revenues (Thousands of Dollars)**

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	113.2	113.2	113.2	113.2	113.2	113.2
Travel	2.9	3.0	3.0	3.0	3.0	3.0
Contractual	20.6	20.6	20.6	20.6	20.6	20.6
Supplies	1.8	1.8	1.8	1.8	1.8	1.8
Equipment	6.5					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>145.0</b>	<b>138.6</b>	<b>138.6</b>	<b>138.6</b>	<b>138.6</b>	<b>138.6</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	145.0	138.6	138.6	138.6	138.6	138.6
1005 GF/Program Receipts						
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Other (Specify Type)						
<b>TOTAL</b>	<b>145.0</b>	<b>138.6</b>	<b>138.6</b>	<b>138.6</b>	<b>138.6</b>	<b>138.6</b>

Estimate of any current year (FY98) cost: 0.0

**POSITIONS**

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

Sponsor Substitute for HB 49 establishes a consumer protection section in the Department of Law. In addition, the bill increases the civil penalty to \$10,000 for using an act or practice declared unlawful by AS 45.50.471, relating to unfair trade practices and consumer protection. Recoveries obtained through this provision, including attorneys fee awards, would be accounted for separately and available for appropriation by the legislature for the expenses of the consumer protection section.

The Department of Law currently has a consumer protection unit, included within the Fair Business Practices section. Passage of this legislation would require an organizational structure change, and appointment of a supervisory level Attorney V to head the section. Using the department's standard FY98/99 attorney cost schedule, the fiscal impact from

Prepared by Joan M. Kasson  
 Division Attorney General's Office

Approved by Commissioner Bruce M. Botelho, Attorney General  
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Phone 465-5370  
 Date 2/10/98  
 Date 2/10/98

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FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. SSBH 49

ANALYSIS CONTINUATION

adding a full-time equivalent attorney would be \$133,500. This cost includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses. The standard cost does not include case-specific costs or one-time new equipment purchases. \$5,000 is added for case-specific costs, and \$6,500 is added for one-time equipment purchases in FY 99 only.

# FISCAL NOTE

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

BILL NO. CSHB 33 (L&C)

Revision Date: \_\_\_\_\_  
 Title: An Act relating to real estate licensing and the  
real estate surety fund;...  
 Sponsor: Representative Rokeberg by Request  
 Requestor: House Finance

Department: Commerce and Economic Development  
 BRU: Occupational Licensing  
 Component: Operations  
 COMPONENT SERIAL NO. 1844

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	7.1	7.1				
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>7.1</b>	<b>7.1</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES</b>	***	***				

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1091 Designated PR	7.1	7.1				
<b>TOTAL</b>	<b>7.1</b>	<b>7.1</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 98) cost: \$ 0.0

POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

CSHB 33 (L&C) makes several amendments to the real estate licensing statutes, AS 08.88. The costs shown on this fiscal note represent costs associated with the re-write and public noticing of regulations for \$1.2; printing and mailing of new statute and regulation booklets to approximately 2,124 licensees for \$6.9. No costs are included for restructuring of the examination since the exam is scheduled for review at no additional costs in FY 98 by the exam contractor. Costs are shown for the first two-years only to cover the implementation stage of this legislation. Once CSHB 33 (L&C) is implemented, these costs will no longer apply.

\*\*\*Revenue in both designated program receipts and the surety fund can be expected to increase with the mandate that community association managers have real estate licenses. However, the amount of revenue cannot be estimated at this time until fees are reviewed in accordance with sec. 08.88.221.

Prepared by: Jennifer Stockler, Administrative Manager  
 Division: Occupational Licensing  
 Approved by Commissioner: Deborah B. Sedwick  
 Agency: Commerce and Economic Development

Phone: 465-2144  
 Date: 2/9/98  
 Date: 2-9-98

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# FISCAL NOT

No: 1

STATE OF ALASKA  
1998 LEGISLATIVE SESSION

Bill Version: CSHB 33 (L&C)  
(H) Publish Date: 1/30/98

Revision Date: \_\_\_\_\_  
 Title: An Act relating to real estate licensing and the  
real estate surety fund;....  
 Sponsor: Representative Rokeberg by Request  
 Requestor: House Labor and Commerce

Department: Commerce and Economic Development  
 BRU: Occupational Licensing  
 Component: Operations  
 COMPONENT SERIAL NO. 1844

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MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>7.1</b>	<b>7.1</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
CHANGE IN REVENUES	***	***				

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
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Other 1091 Designated PR	7.1	7.1				
<b>TOTAL</b>	<b>7.1</b>	<b>7.1</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 98) cost: \$ 0.0

POSITIONS						
FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary)

HB 33 makes several amendments to the real estate licensing statutes, AS 08.88. The costs shown on this fiscal note represent costs associated with the re-write and public noticing of regulations for \$1.2; printing and mailing of new statute and regulation booklets to approximately 2,124 licensees for \$5.9. No costs are included for restructuring of the examination since the exam is scheduled for review at no additional costs in FY 98 by the exam contractor. Costs are shown for the first two-years only to cover the implementation stage of this legislation. Once HB 33 is implemented, these costs will no longer apply. \*\*\*Revenue in both designated program receipts and the surety fund can be expected to increase with the authority to set fees for each type of endorsement and to recover costs for educational programs. However, the amount of revenue cannot be estimated at this time until fees are reviewed in accordance with sec. 08.88.221.

Prepared by: Jennifer Strickler, Administrative Manager  
 Division: Occupational Licensing  
 Approved by Commissioner: Deborah B. Sedwick  
 Agency: Commerce and Economic Development

Phone: 465-2144  
 Date: 1/29/98  
 Date: \_\_\_\_\_

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# FISCAL NOTE

STATE OF ALASKA  
1997 LEGISLATIVE SESSION

BILL NO. HB 33

Revision Date: \_\_\_\_\_ Department: Commerce and Economic Development  
 Title: An Act relating to real estate licensing and the BRU: Occupational Licensing  
real estate surety fund;.... Component: Operations  
 Sponsor: Representative Rokeberg by Request  
 Requestor: House Labor and Commerce COMPONENT SERIAL NO. 1844

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	17.1	17.1				
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>17.1</b>	<b>17.1</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES	***	***				
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FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1091 Designated PR	17.1	17.1				
<b>TOTAL</b>	<b>17.1</b>	<b>17.1</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 97) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORAR						

**ANALYSIS:** (Attach a separate page if necessary)

HB 33 makes several amendments to the real estate licensing statutes, AS 08.88. The costs shown on this fiscal note represent costs associated with the re-write and public noticing of regulations for \$1.2; printing and mailing of new statute and regulation booklets to approximately 2,124 licensees for \$6.9; and re-structure of the current examination for \$10.0. Costs are shown for the first two-years only to cover the implementation stage of this legislation. Once HB 33 is implemented, these costs will no longer apply. \*\*\*Revenue in both designated program receipts and the surety fund can be expected to increase with the authority to set fees for each type of endorsement and to recover costs for educational programs. However, the amount of revenue cannot be estimated at this time until fees are reviewed in accordance with sec. 08.88.221.

Prepared by: Jennifer Strickler, Administrative Manager  
 Division: Occupational Licensing  
 Approved by Commissioner: William L. Hensley  
 Agency: Commerce and Economic Development

Phone: 465-2144  
 Date: 3/13/97  
 Date: 3-13-97

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0-LS0197P  
Lauterbach  
1/16/98

CS FOR HOUSE BILL NO. 33(L&C)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE ROKEBERG BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to real estate <sup>licenses and #13</sup> [licensing] and to the real estate surety fund; and  
2 providing for an effective date."

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

4 \* Section <sup>insert 08.67.010 sec 1 and #13</sup> 1. AS 08.88.051(c) is amended to read:

5 (c) The commission shall elect its officers at the first meeting of each fiscal  
6 year.

7 \* Sec. 2. AS 08.88.061 is amended to read:

8 Sec. 08.88.061. Assistants. Notwithstanding contrary provisions of  
9 AS 08.01.050, the [THE] commission may assign or designate [USE] assistants to

10 (1) issue licenses to applicants who meet the qualifications for  
11 licensure established under this chapter;

12 (2) prepare questions on examinations;

13 (3) administer and [(2)] grade examinations;

14 (4) certify courses required under this chapter;

- 1                                    (5) approve instructors to teach courses required under this  
 2                                    chapter; and  
 3                                    (6) negotiate terms of payment of fines and other money due under  
 4                                    this chapter.

5 \* Sec. 3. AS 08.88.071 is amended to read:

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

- 7                                    (1) determine whether [PASS ON QUALIFICATIONS OF] applicants  
 8                                    meet requirements for licenses under this chapter and issue licenses to those who  
 9                                    qualify;  
 10                                    (2) prepare and grade examinations;  
 11                                    (3) after hearing, have the authority to suspend or revoke the license  
 12                                    of a licensee or impose other disciplinary sanctions authorized under AS 08.01.075  
 13                                    on a licensee who  
 14                                    (A) with respect to a real estate transaction  
 15                                    (i) made a substantial misrepresentation;  
 16                                    (ii) made a false promise likely to influence, persuade,  
 17                                    or induce;  
 18                                    (iii) in the case of a real estate broker, pursued a  
 19                                    flagrant course of misrepresentation or made a false promise through  
 20                                    another [AN AGENT, ASSOCIATE REAL ESTATE BROKER, OR]  
 21                                    real estate licensee [SALESMAN];  
 22                                    (iv) has engaged in conduct that is fraudulent or  
 23                                    dishonest;  
 24                                    (v) violates AS 08.88.391;  
 25                                    (B) procures a license by deceiving the commission, or aids  
 26                                    another to do so;  
 27                                    (C) has engaged in conduct of [IN] which the commission had  
 28                                    no knowledge at the time the licensee was licensed demonstrating the licensee's  
 29                                    unfitness to engage in the business for which the licensee is licensed;  
 30                                    (D) knowingly authorizes, directs, connives at or aids in  
 31                                    publishing, distributing, or circulating a material false statement or

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misrepresentation concerning the licensee's business or concerning real estate offered for sale, rent, or lease, or managed in the course of the licensee's business in this or any other state or concerning the management of an association in the course of a licensee's business in this or another state;

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

(F) if an associate real estate broker, claims to be a real estate broker, or, if a real estate salesperson [SALESMAN], claims to be a real estate broker or associate real estate broker;

(G) if a real estate broker, employs an unlicensed person to perform activities for which a real estate license is required [ASSOCIATE REAL ESTATE BROKER OR REAL ESTATE SALESMAN];

(H) if an employed real estate licensee of a [ASSOCIATE] real estate broker [OR REAL ESTATE SALESMAN], fails immediately to turn money or other property collected in a real estate transaction over to the employing real estate broker;

*Dept of  
Law  
All State  
cases*

(4) <sup>amend #12</sup> prosecute, through the Department of Commerce and Economic Development [LAW], violations of [THE PROVISIONS OF] this chapter or lawful regulations adopted under this chapter;

*change  
back to  
law  
because  
N.C.*

(5) release for publication [PUBLISH, ON THREE CONSECUTIVE WEEKENDS] in a newspaper of general circulation in the locale of the offending person's principal office registered with the commission notice of [LICENSED UNDER THIS CHAPTER,] disciplinary action taken by the commission against a person licensed under this chapter;

(6) issue a temporary permit to the personal representative of the estate of a deceased real estate broker or to another [SOME OTHER] person designated by the commission with the approval of the personal representative of the estate in order to secure proper administration in concluding the affairs of the decedent broker's real estate business;

(7) issue a temporary permit to the personal representative of a legally incompetent real estate broker or to another person designated by the

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commission with the approval of the personal representative of the broker in order to secure proper administration in temporarily managing the real estate business of the broker;

(8) establish and periodically revise the form of the seller's property disclosure statement required by AS 34.70.010;

(9) have the authority to levy civil fines as established in this chapter;

(10) revoke the license of a broker or associate broker who is convicted of a felony committed while licensed under this chapter; notwithstanding AS 08.88.171, a person whose license is revoked under this paragraph is not qualified for a license under AS 08.88.171(a) or (b) until seven years have elapsed since the person completed the sentence imposed for the felony conviction.

(b) When an award is made from the real estate surety fund under this chapter [IN REIMBURSEMENT OF LOSSES SUFFERED BY A CLAIMANT AS A RESULT OF FRAUD, MISREPRESENTATION, DECEIT, OR CONVERSION OF TRUST FUNDS ON THE PART OF A LICENSED BROKER, ASSOCIATE BROKER, OR SALESMAN], the commission <sup>may amend 2</sup> ~~shall/suspend~~ [MAY CONSIDER THE HEARING ON THE CLAIM TO BE A HEARING ON THE SUSPENSION OF] the license of the real estate licensee whose actions formed the basis of the award [BROKER, ASSOCIATE BROKER, OR SALESMAN, AND MAY SUSPEND THE LICENSE OF THE BROKER, ASSOCIATE BROKER, OR SALESMAN]. A suspension ordered under this subsection shall be lifted if the licensee [BROKER, ASSOCIATE BROKER, OR SALESMAN] reaches an agreement with the commission on terms and conditions for the repayment to the real estate surety fund of the money awarded to the claimant and the costs of hearing the claim under AS 08.88.465. The suspension shall be reimposed if the licensee [BROKER, ASSOCIATE BROKER, OR SALESMAN] violates the terms of a repayment agreement entered into under this subsection.

(c) For the purposes of (a)(3) of this section, the conduct of an employee is [NOT] attributable to a real estate broker if [UNLESS] the real estate broker has actual

1 knowledge that the employee is going to engage in the conduct and agrees to the  
2 conduct, either actively or by remaining silent, or ratifies the conduct after it is  
3 engaged in.

4 \* Sec. 4. AS 08.88.091(d) is amended to read:

5 (d) A person who is licensed under this chapter must complete 20 hours of  
6 continuing education approved by the commission before the person's license may be  
7 renewed. The commission may not establish limits that prevent a person from  
8 satisfying this continuing education requirement within a two-day period.

9 \* Sec. 5. AS 08.88.091(e) is amended to read:

10 (e) Except for a course described in (f)(1), (3), or (4) of this section, in  
11 order for an educational course to be recognized for credit under this section,  
12 [THE COMMISSION MAY NOT APPROVE AN EDUCATION OR CONTINUING  
13 EDUCATION COURSE REQUIRED UNDER THIS SECTION UNLESS THE  
14 COMMISSION CERTIFIES] the course outline and [APPROVES] the instructor of the  
15 course must have been approved by the commission or the commission's designee  
16 before the course was [IS] conducted. A course outline or instructor is considered  
17 approved if the commission or the commission's designee does not disapprove the  
18 outline or instructor within 30 days after the date on which application was made  
19 for approval. *insert amendment #3 Revised 7/4*

20 \* Sec. 6. AS 08.88.091 is amended by adding new subsections to read:

21 (f) The commission shall establish by regulation the educational and continuing  
22 educational requirements for each type of license issued by the commission. The  
23 regulations for continuing education requirements must allow the following types of  
24 courses to qualify for the appropriate number of credit hours, as determined by the  
25 commission:

26 (1) courses that are developed by national organizations, as identified  
27 for the purpose of this paragraph in the commission's regulations, that are delivered by  
28 nationally certified instructors and that are required in order to earn professional  
29 designations from a national organization in specialized areas of licensed real estate  
30 practice; notwithstanding other provisions of this chapter, the commission may not  
31 charge a fee for these courses;

(2) technology courses directly related to real estate practice that are designed to enhance the skills and performance of a real estate licensee;

(3) courses offered by an accredited college or university as part of a real estate curriculum that are available for at least one quarter-hour or one-half semester-hour of academic credit; the commission may not charge a fee for these courses; and

(4) courses offered and attended at a national convention for real estate licenses if the courses were approved for continuing education credit by the real estate licensing board of the state in which the convention was held.

(g) The commission shall establish core curricula for continuing education in the following areas: real estate sales, property management, community association management, and commercial sales. A licensee shall complete at least one of the four core curricula during each biennial licensing period as part of the licensee's continuing education.

\* Sec. 7. AS 08.88.161 is amended to read:

Sec. 08.88.161. License required. Unless licensed as a real estate broker, associate real estate broker, or real estate salesperson [SALESMAN], a [NATURAL] person [, FOREIGN OR DOMESTIC CORPORATION, OR PARTNERSHIP, OR LIMITED PARTNERSHIP, OR OTHER ENTITY] may not

(1) sell, exchange, rent, lease, auction, or purchase real estate;

(2) list real estate for sale, exchange, rent, lease, auction, or purchase;

(3) collect rent for the use of real estate or collect fees for property management or community association management;

*amend #4  
(5)(6)(7)  
insert*

(4) *produce or negotiate for contract to produce property management*  
as a business, buy, sell, or deal in

(A) options in real estate; or

(B) options in improvements to real estate;

*amend #4*  
 (5) *or communicate with and sell to*  
assist in or direct the procuring of prospective buyers, or the negotiation of a transaction that [WHICH] results or is calculated to result in the sale, exchange, rent, lease, auction, or purchase of real estate;

*amend #4*  
 (6) practice, or negotiate for a contract to practice, community association management or property management;

1 (7) assist in or direct the management of the affairs of a community  
2 association for property organized under AS 34.07 or AS 34.08: ]

3 <sup>and #4</sup> (8) accept or pay a fee for the performance of any of the activities  
4 listed in this section except as otherwise specifically provided in this chapter:

5 " <sup>12</sup> (9) hold out to the public as being engaged in the business of doing any  
6 of the things listed in this section; or

7 " <sup>11</sup> (10) [(7)] attempt or offer to do any of the things listed in this section  
8 [.

9 (8) REPEALED].

10 \* Sec. 8 AS 08.88 is amended by adding a new section to read:

11 **Sec. 08.88.167. Civil penalty for unlicensed or unauthorized practice.** (a)

12 In addition to penalties prescribed by any other provision of law, if a person engages  
13 or offers to engage in an activity for which a license is required under AS 08.88.161  
14 without being licensed or authorized to engage in the activity in accordance with the  
15 provisions of this chapter, the commission may enter an order levying a civil penalty.

16 (b) A civil penalty levied under this section may not exceed \$5,000, or the  
17 amount of gain realized plus \$5,000, whichever is greater, for each offense. In levying  
18 a civil penalty, the commission shall set the amount of the penalty imposed under this  
19 section after taking into account the seriousness of the violation, the economic benefit  
20 resulting from the violation, the history of violations, and other facts the commission  
21 considers relevant.

22 (c) Before entering an order under (a) of this section, the commission shall  
23 send the person written notice of the proposed order that grants the person a 30-day  
24 period during which the person may request a hearing on the record.

25 (d) In connection with proceedings under (a) - (c) of this section, the  
26 commission may issue subpoenas to compel the attendance and testimony of witnesses  
27 and the disclosure of evidence and may request the department to bring an action to  
28 enforce a subpoena.

29 (e) A person aggrieved by the levy of a civil penalty under this section may  
30 file an appeal with the superior court for judicial review of the penalty under  
31 AS 44.62.560.

1 (f) If a person fails to pay a civil penalty within 30 days after entry of an order  
2 under (a) of this section, or within 10 days after the court enters a final judgment in  
3 favor of the commission of an order stayed pending an appeal under (e) of this section,  
4 the commission may initiate other action to recover the amount of the penalty.

5 (g) An action to enforce an order under this section may be combined with an  
6 action for an injunction under AS 08.88.037.

7 \* Sec. 9. AS 08.88.171 is amended to read:

8 **Sec. 08.88.171. Entitlement to license.** (a) A natural person qualifies [IS  
9 ELIGIBLE] for a real estate broker license if the person passes the [REAL ESTATE]  
10 brokers examination, [IF THE PERSON] applies for a license within six months after  
11 passing the [PERSON HAS TAKEN THE REAL ESTATE BROKERS] examination,  
12 [IF THE PERSON] furnishes satisfactory proof of successful completion of the  
13 education requirements of AS 08.88.091, [IF THE PERSON] has had at least 24  
14 months of active and continuous experience as a licensed real estate salesperson  
15 within the 36 months immediately preceding application for the broker license,  
16 [SALESMAN, IF THE PERSON] is not under indictment for, or seven years have  
17 elapsed since the person has completed a sentence imposed upon conviction of,  
18 forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving  
19 moral turpitude, and [IF THE PERSON] is an owner of a real estate business or  
20 employed as a real estate broker by a foreign or domestic corporation, [OR A]  
21 partnership, limited partnership, or limited liability company [AND IF THAT  
22 CORPORATION OR PARTNERSHIP DOES NOT HAVE AN EXISTING  
23 LICENSED BROKER. UNLESS THE BROKER FAILS TO PAY THE BIENNIAL  
24 RENEWAL FEE OR UNLESS THE BROKER'S LICENSE IS SUSPENDED OR  
25 REVOKED UNDER AS 08.88.071(a)(3), THE REAL ESTATE BROKER'S LICENSE  
26 CONTINUES IN EFFECT SO LONG AS THE BROKER IS AN OWNER OF A  
27 REAL ESTATE BUSINESS, OR THE BROKER IS EMPLOYED AS A REAL  
28 ESTATE BROKER BY A CORPORATION OR A PARTNERSHIP]. If the broker  
29 stops being an owner of a real estate business [,] or stops being employed as a real  
30 estate broker by a foreign or domestic corporation, [OR] partnership, limited  
31 partnership, or limited liability company, the broker's license is suspended from the

1 time the broker stops until

2 (1) the broker again becomes an owner of a real estate business or is  
3 again employed as a real estate broker by a foreign or domestic corporation, [OR A]  
4 partnership, limited partnership, or limited liability company; or

5 (2) the broker is employed by another [A LICENSED REAL  
6 ESTATE] broker as an associate [REAL ESTATE] broker, in which case the real  
7 estate broker license shall be [IS] returned to the commission by the broker, and the  
8 commission shall issue [ISSUES] the broker an associate real estate broker license.

9 (b) A natural person qualifies [IS ELIGIBLE] for an associate real estate  
10 broker license if the person passes the [REAL ESTATE] brokers examination, [IF THE  
11 PERSON] applies for the [A] license within six months after passing [THE PERSON  
12 HAS TAKEN] the examination, [IF THE PERSON] submits satisfactory proof of  
13 successful completion of the education requirements of AS 08.88.091, [IF THE  
14 PERSON] has had at least 24 months of active and continuous experience as a licensed  
15 real estate salesperson within the 36 months immediately preceding application for  
16 the license, [SALESMAN, IF THE PERSON] is not under indictment for, or five  
17 years have elapsed since the person has completed a sentence imposed upon conviction  
18 of, forgery, theft, extortion, conspiracy to defraud creditors, or any other felony  
19 involving moral turpitude, and [IF THE PERSON] is employed by a licensed real  
20 estate broker as an associate real estate broker. Unless the associate broker fails to  
21 renew the license [PAY THE BIENNIAL RENEWAL FEE] or unless the associate  
22 broker's license is suspended or revoked [UNDER AS 08.88.071(a)(3)], the associate  
23 [REAL ESTATE] broker's license continues in effect as [SO] long as the associate  
24 broker is employed by a licensed real estate broker as an associate broker. If the  
25 associate broker stops being employed by a licensed real estate broker, the associate  
26 broker's license is suspended from the time the associate broker stops until

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

29 (2) the associate broker becomes an owner of a real estate business or  
30 is employed as a real estate broker by a foreign or domestic corporation,  
31 partnership, limited partnership, or limited liability company, in which case the

*may should*

1 associate broker's [ASSOCIATE REAL ESTATE BROKER] license shall be [IS]  
2 returned to the commission by the associate broker, and the commission shall issue  
3 [ISSUES] the licensee [ASSOCIATE BROKER] a broker's [REAL ESTATE  
4 BROKER] license.

5 (c) A natural person qualifies [IS ELIGIBLE] for a real estate salesperson  
6 [SALESMAN] license if the person passes the real estate salesperson [SALESMAN]  
7 examination, [IF THE PERSON] applies for the [A] license within six months after  
8 passing [THE PERSON HAS TAKEN] the examination, [IF THE PERSON] submits  
9 satisfactory proof of successful completion of the education requirements of  
10 AS 08.88.091, [IF THE PERSON] is at least 19 years old, [IF THE PERSON] is not  
11 under indictment for forgery, theft, extortion, conspiracy to defraud creditors, or any  
12 other felony involving moral turpitude, or, if convicted of such an offense, the person  
13 has completed the sentence imposed upon conviction, and [IF THE PERSON] is  
14 employed by a real estate broker. Unless the salesperson [SALESMAN] fails to  
15 renew the license [PAY THE BIENNIAL RENEWAL FEE] or unless the real estate  
16 salesperson's [SALESMAN'S] license is suspended or revoked [UNDER  
17 AS 08.88.071(A)(3)], a real estate salesperson's [SALESMAN'S] license continues in  
18 effect as [SO] long as the salesperson [SALESMAN] is employed as a salesperson  
19 [SALESMAN] by a licensed real estate broker. If the salesperson [SALESMAN]  
20 stops being employed as a real estate salesperson [SALESMAN], the real estate  
21 salesperson's [SALESMAN'S] license is suspended from the time the salesperson  
22 [SALESMAN] stops until the salesperson [SALESMAN] again is employed as a real  
23 estate salesperson [SALESMAN] by a licensed real estate broker.

24 (d) A real estate licensee shall promptly inform the commission of a change  
25 in business association that affects the status of the licensee's license under this  
26 section. *within 30 days.*

27 \* Sec. 10. AS 08.88.171 is amended by adding new subsections to read:

28 (e) Notwithstanding (a) - (d) of this section, a natural person qualifies for a  
29 limited license to practice community association management under (f) of this section  
30 if the person

31 (1) applies by January 1, 1999;

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- (2) pays the required fees;
- (3) demonstrates to the commission's satisfaction that the person has engaged in the practice of community association management for at least 24 months before January 1, 1999; and
- (4) meets other requirements that may be established by the commission in its regulations for issuance of a license under this subsection.

(f) A person who qualifies under (e) of this section shall be issued an associate broker license if, at the time of issuance, the person is employed by a broker. A person who qualifies under (e) of this section shall be issued a broker license if, at the time of issuance, the person is the owner of a community association management business or is employed as a community association manager by a foreign or domestic corporation, partnership, limited partnership, or limited liability company. After initial issuance of a license to a person under this subsection, the person is subject to the same requirements that exist for other brokers and associate brokers licensed under this chapter. However, notwithstanding other provisions of this chapter, under a license issued under this subsection, a person may practice only community association management and does not qualify as a broker or associate broker for purposes of

*amend #5 cannot use the term associate or broker*  
 [ AS 08.88.165(2). ] *AS 08.88.161(1)-(4), (7), or (8) or 08.88.165(2)*

\* **Sec. 11.** AS 08.88 is amended by adding a *new section* to read: *amend #8*

**Sec. 08.88.173. Fidelity bond for community association managers.** (a) If the board of directors of a community association allows a broker to exercise some control over community association fees or other community association funds, the broker must provide evidence to the commission that the broker is covered by a blanket fidelity insurance bond. The bond may be in the name of the broker with the association as an additional insured or in the name of the association with the broker as an additional insured. The bond must cover the maximum funds that will be within the control of the community association manager at any time while the bond is in force.

*amend #11 insert new subsection*  
 (b) The commission may adopt regulations to implement this section, including regulations concerning the minimum coverage and terms of coverage that are required and proof of bond *and the granting of exemptions amend #7*

*amend #12 insert*  
*Sec 08.88.175 new section*

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

2 (a) The real estate examinations [EXAMINATION] <sup>operations</sup> may include [, BUT IS  
3 NOT NECESSARILY LIMITED TO,] questions on real estate business ethics and  
4 standards; arithmetic; elementary principles of land economics and appraisal; the  
5 general principles in state statutes relating to deeds, mortgages, real estate contracts,  
6 subdivisions, legal descriptions, building restrictions, agency, disclosure requirements,  
7 trust accounting requirements, landlord and tenant law, property management  
8 ethics and standards, accounting, community association management, ethics and  
9 standards, nonprofit corporation creation and operation, and brokerage; and the  
10 general provisions of this chapter and of the regulations of the commission.

11 \* Sec. 13. AS 08.88.191(b) is amended to read:

12 (b) If the commission authorizes the department to contract with a national  
13 testing service to prepare, administer, and grade examinations,

14 (1) the commission or its designee shall review the examination and  
15 approve its contents;

16 (2) application for an [THE] examination [, ACCOMPANIED BY THE  
17 PROPER FILING FEE,] may be transmitted by the applicant directly to the national  
18 testing service; payment of an examination fee shall be made by the applicant  
19 directly to the national testing service's designated representative before the  
20 examination is taken by the applicant.

21 \* Sec. 14. AS 08.88.201 is amended to read:

22 Sec. 08.88.201. Reexamination. A person who fails an examination may  
23 apply for a subsequent examination, but shall pay the application fee with [FOR] each  
24 application.

25 \* Sec. 15. AS 08.88.221 is amended to read:

26 Sec. 08.88.221. Fees. The Department of Commerce and Economic  
27 Development shall set fees under AS 08.01.065 for a real estate broker, associate  
28 broker, or salesperson [SALESMAN] licensee or applicant for the following:

- 29 (1) examination;
- 30 (2) [RECIPROCITY;
- 31 (3)] initial license;

and #7

- 1                   (3) [(4)] renewal of an active license;
- 2                   (4) [(5)] renewal of an inactive license;
- 3                   (5) [(6)] amending or transferring a license;
- 4                   (6) [(7)] publications offered by the commission;
- 5                   (7) courses and [(8)] seminars offered by the commission;
- 6                   (8) reinstatement of a lapsed license;
- 7                   (9) changes to registered office information;
- 8                   (10) course certification and recertification; and
- 9                   (11) instructor approval and renewal of approval.

10 \* Sec. 16. AS 08.88.241 is repealed and reenacted to read:

11                   Sec. 08.88.241. **Reinstatement of lapsed license.** [(a) A person whose real  
 12                   estate license has lapsed 60 days or less is eligible for reinstatement of the license by  
 13                   providing the required application, licensing fees, applicable late fees, and proof of  
 14                   continuing education as required by AS 08.88.091 for the licensing period during  
 15                   which the license was inactive or lapsed.] *amend #12*

16                   (b) A person whose real estate license has lapsed [more than 60 days and] less  
 17                   than 24 months is eligible for reinstatement of the license if the person provides the  
 18                   required application, license fees, proof of continuing education as required by  
 19                   AS 08.88.091 for licensing periods during which the license was inactive or lapsed,  
 20                   and an additional penalty in an amount equal to the biennial licensing fee.] *amend #12*

21                   (c) A real estate licensee whose license has been lapsed for more than 24  
 22                   months is not eligible for reinstatement of the license and is eligible for the license  
 23                   only by meeting the qualifications applicable to initial licensure under AS 08.88.171.

24 \* Sec. 17. AS 08.88.251 is amended to read:

25                   Sec. 08.88.251. **Inactive license.** (a) A real estate licensee who intends to  
 26                   [PERSON LICENSED BY THE COMMISSION MAY] become inactive shall return  
 27                   [BY RETURNING] to the commission the person's license certificate and a completed  
 28                   inactivation form provided by the commission along with any applicable fees. [IN  
 29                   THE FORM, THE PERSON SHALL STATE THE DATE ON WHICH THE PERSON  
 30                   INTENDS TO BECOME INACTIVE. THE PERSON'S INACTIVE STATUS  
 31                   BEGINS ON THE DATE STATED.] The commission shall issue the person an

1 inactive license certificate.

2 (b) An inactive licensee may not attempt or offer to do any of the activities  
 3 listed in AS 08.88.161, but may receive commissions or other payments from the  
 4 licensee's former employer for services performed while actively licensed  
 5 [EXCEPT AS OTHERWISE ALLOWED FOR UNLICENSED PERSONS UNDER  
 6 AS 08.88.165].

7 (c) A person who has an [IS] inactive license certificate under (a) of this  
 8 section may reactivate the license [BECOME ACTIVE] by applying for an active  
 9 license and paying the required fees. [IN THE APPLICATION FORM THE PERSON  
 10 SHALL STATE THE DATE ON WHICH THE PERSON INTENDS TO BECOME  
 11 ACTIVE. THE PERSON'S ACTIVE STATUS BEGINS ON THE DATE STATED.  
 12 THE COMMISSION SHALL SEND THE PERSON A LICENSE CERTIFICATE.]  
 13 A person is eligible for change from an inactive to an active status under this  
 14 subsection only [WITHOUT EXAMINATION] if the person has [NOT] been in  
 15 inactive status for less [MORE] than 24 months [TWO YEARS]. If the person has  
 16 been in inactive status for 24 months or for more than 24 months [TWO YEARS],  
 17 the person is required to meet the requirements for initial licensure in order to be  
 18 licensed under this chapter again [TAKE AN EXAMINATION].

19 \* Sec. 18. AS 08.88.281 is amended to read:

20 Sec. 08.88.281. Real estate surety fund. Before issuing a license to an  
 21 applicant under this chapter, the commission shall ensure [DETERMINE] that the  
 22 applicant has complied with the provisions of AS 08.88.455 and is covered by the real  
 23 estate surety fund established in AS 08.88.450.

24 \* Sec. 19. AS 08.88.291 is amended to read:

25 Sec. 08.88.291. Location. A person licensed as a real estate broker shall, by  
 26 registering with the commission, inform the commission of the person's  
 27 [BROKER'S] principal office and of any branch offices of the person's real estate  
 28 business and include in the information the names of the real estate licensees who  
 29 are employed at each office. A [BROKER HAS. THE BROKER AND THE  
 30 ASSOCIATE] real estate licensee [BROKERS AND REAL ESTATE SALESMEN  
 31 THE BROKER EMPLOYS] may do real estate business only through a [IN OR OUT

1 OF THE BROKER'S] principal office or from a [AND THE BROKER'S] branch  
2 office registered by the broker by whom the licensee is employed [OFFICES].  
3 Failure of a real estate broker to maintain a place of business or to inform the  
4 commission of its location and the names and addresses of all real estate licensees  
5 employed at each location by the broker is [UNDER THE BROKER'S  
6 JURISDICTION AT THE LOCATION ARE] grounds for the suspension or revocation  
7 of the broker's license.

8 \* **Sec. 20.** AS 08.88.301 is amended to read:

9 **Sec. 08.88.301. Change of location.** Before [IF] a real estate broker changes  
10 the location of the broker's principal office or of a branch office, the broker shall  
11 [IMMEDIATELY] notify the commission of the new address and any other office  
12 changes on a form provided by the commission and pay the applicable fees.

13 \* **Sec. 21.** AS 08.88.311 is amended to read:

14 **Sec. 08.88.311. Branch offices.** (a) A branch office shall be under the direct  
15 supervision of a real estate associate broker whose principal place of business is that  
16 office and who is licensed under this chapter. An associate [REAL ESTATE] broker  
17 may serve in the capacity of direct supervisor at only one office [ONLY].

18 (b) A [ALL] branch office [OFFICES] shall bear and be advertised only in the  
19 name of the principal office but may also indicate that it is a [THEY ARE] branch  
20 [OFFICES OF THE PRINCIPAL] office.

21 \* **Sec. 22.** AS 08.88.321 is repealed and reenacted to read:

22 **Sec. 08.88.321. Possession and display of license certificates.** (a) The  
23 license certificate of a real estate broker shall be displayed in the broker's principal  
24 office.

25 (b) The license certificate of each licensee working in the broker's principal  
26 office shall be displayed in that office.

27 (c) The license certificate of the designated associate broker who is in charge  
28 of a branch office and the certificate of each licensee working in a branch office shall  
29 be displayed in the branch office indicated as the office of the licensees' employment  
30 in the registration required under AS 08.88.291.

31 (d) Certificates displayed under this section must be displayed where they are

1 available for public clients and customers to verify the current active status of licensees  
2 working in the office.

3 \* Sec. 23. AS 08.88.331 is amended to read:

4 *Sec. 08.88.331. Making of transactions. An employed [A] real estate  
5 *licensee* ~~[SALESMAN]~~ OR ASSOCIATE REAL ESTATE BROKER] may perform  
6 activities for which a real estate license is required [MAKE A REAL ESTATE  
7 TRANSACTION] only through the real estate broker who employs the licensee [REAL  
8 ESTATE SALESMAN OR ASSOCIATE REAL ESTATE BROKER]. All money or  
9 other proceeds collected in trust and related to a real estate transaction [ON  
10 BEHALF OF THE BROKER] shall immediately be turned over to the broker or the  
11 broker's authorized agent. [ALL TRANSACTIONS IN REAL ESTATE BY A REAL  
12 ESTATE SALESMAN OR ASSOCIATE REAL ESTATE BROKER SHALL BE  
13 PROCESSED THROUGH THE REAL ESTATE SALESMAN'S OR THE  
14 ASSOCIATE REAL ESTATE BROKER'S EMPLOYING REAL ESTATE  
15 BROKER'S OFFICE, WHETHER THE TRANSACTIONS ARE FOR THE REAL  
16 ESTATE SALESMAN'S OR ASSOCIATE REAL ESTATE BROKER'S OWN USE  
17 OR THE USE OF A CLIENT.]*

18 \* Sec. 24. AS 08.88.341 is amended to read:

19 Sec. 08.88.341. Real estate employment contracts [LISTINGS]. All real  
20 estate employment contracts [LISTINGS] must be in writing and must be signed by  
21 the broker [SELLER] or employed licensee [BY AN AGENT] of the broker and by  
22 the client or an authorized representative of the client for whose benefit the real  
23 estate licensee will act [SELLER]. All real estate employment contracts  
24 [EXCLUSIVE LISTINGS] must have a definite expiration date that may be renewed  
25 or extended only by a written agreement signed by the client or the client's  
26 authorized representative.

27 \* Sec. 25. AS 08.88.351 is amended to read:

28 Sec. 08.88.351. Record of transaction. A real estate broker shall  
29 (1) keep a complete record, [OF ALL REAL ESTATE  
30 TRANSACTIONS MADE BY THE BROKER OR EMPLOYEES OF THE BROKER]  
31 for [AT LEAST] three years, of all real estate transactions in which the broker or

1 employed licensees of the broker engaged:

2 (2) provide upon request to any principal in a transaction an  
3 [MAKE A CLOSING STATEMENT SHOWING DISBURSEMENTS AND]  
4 accounting for all money or other property collected or held in the course of each  
5 transaction;

6 (3) keep a separate trust account in a bank [,] into which the broker  
7 shall deposit all earnest money deposits, [AND] purchase money, security deposits,  
8 contingency funds, collected rental money, rental receipts, or other money  
9 collected in trust until it is appropriate [PROPER] for the broker to distribute the  
10 money to the proper persons;

11 (4) if authorized by the board of directors of a community  
12 association to collect, control, or disburse association funds, keep a separate  
13 account in a bank for the funds;

14 (5) make available to the commission, on request, account records and  
15 all other documents [RELATING TO TRANSACTIONS UNDER (3) OF THIS  
16 SECTION] that the commission may require in order to conduct an investigation or  
17 to [A COMPLETE] audit an account required under this section;

18 (6) if records are delivered to a partnership, corporation, or  
19 business entity other than another licensed broker upon termination of  
20 employment, ensure by contract the maintenance and availability of those records  
21 for a minimum of three years in accordance with this section [OF TRUST  
22 ACCOUNTS].

23 \* Sec. 26. AS 08.88.351 is amended by adding new subsections to read:

24 (b) A real estate licensee

25 (1) shall keep, for a minimum of three years, a complete record of all  
26 real estate transactions in which the licensee was a principal;

27 (2) who maintains records concerning management or sale of the  
28 licensee's own properties or the licensee's client properties separate from the broker's  
29 file, shall retain those records for a minimum of three years;

30 (3) shall make available to the commission, on request, records and  
31 other documents that the commission may require to conduct an investigation.

1 (c) For the purposes of this section, the three-year requirement for records  
2 maintenance begins at the initiation of a transaction and continues, as applicable, until  
3 three years after the date

- 4 (1) a listing agreement ends;  
5 (2) a sales transaction closes or otherwise ends;  
6 (3) a management contract ends; or  
7 (4) another contractual or fiduciary obligation ends.

8 \* Sec. 27. AS 08.88.361 is amended to read:

9 Sec. 08.88.361. When commission or other fee is earned. An obligation to  
10 pay a [A] commission, management fee, or other compensation to a real estate  
11 broker must be based on [IS EARNED WHEN THE REAL ESTATE BROKER  
12 FULFILLS] the terms of a written <sup>find the listing & manage</sup> real estate employment <sup>disposal management</sup> [PERSONAL SERVICES]  
13 contract. Other than through enforcement of the terms of a written real estate  
14 employment contract, a licensee has no right under law to enforce collection of  
15 a commission or other fee for a service that requires a real estate license.

16 \* Sec. 28. AS 08.88.381 is amended to read:

17 Sec. 08.88.381. Signs. A [LICENSED] real estate broker shall maintain a sign  
18 at each of the [REAL ESTATE] broker's registered real estate offices [,] prominently  
19 showing the name of the real estate [BROKER'S] business as registered with the  
20 commission. The required size, content, and location of signs under this section  
21 may be determined by the commission under regulations. The regulations must  
22 allow signs in offices located on premises with more restrictive sign requirements  
23 than would otherwise be applicable under the commission's regulations to be  
24 considered to be in compliance with the regulations if the signs meet the  
25 requirements of the premises and the licensee submits a copy of the sign  
26 requirements of the premises to the commission.

27 \* Sec. 29. AS 08.88.391 is amended to read:

28 Sec. 08.88.391. Conflict of interest. A [LICENSED] real estate licensee  
29 [BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE  
30 SALESMAN] who has a personal financial interest or other conflict of interest  
31 relating to [IN] a real estate transaction shall, at the time of initial substantive

1 contact with the principals or agents of the principals, disclose that interest in  
 2 writing to the principals and agents of the principals [EVERY PERSON] involved  
 3 in the transaction. In this section, "conflict of interest" is when a licensee

4 (1) has a present <sup>and #2</sup> or anticipated personal interest in the property  
 5 that is the subject of a transaction:

6 (2) is whole or part owner of a business interest in the property  
 7 being marketed or considered for purchase or lease:

8 (3) represents a person with whom the licensee has a <sup>financial</sup> material  
 9 relationship or who has a present <sup>and #2</sup> or anticipated material <sup>financial</sup> interest in the property  
 10 being marketed or considered for purchase or lease:

11 (4) represents more than one party in a transaction without giving  
 12 disclosure notification as required by law:

13 (5) receives compensation from someone other than a party to the  
 14 contract or another party having a financial interest in the transaction.

15 \* Sec. 30. AS 08.88.396 is amended to read:

16 Sec. 08.88.396. Disclosure of agency to prospective buyers and sellers. (a)

17 A person licensed [HOLDING A LICENSE] under this chapter shall, when acting as  
 18 an agent for a prospective seller of real estate,

19 (1) disclose in writing the licensee's [PERSON'S] agency relationship  
 20 with the seller to each prospective buyer at the time that the licensee [PERSON]  
 21 begins to provide specific assistance to locate or acquire real estate for the buyer, and  
 22 obtain from each prospective buyer a signed acknowledgement that the buyer is aware  
 23 of the agency relationship between the licensee [PERSON LICENSED UNDER THIS  
 24 CHAPTER] and the seller; and

25 (2) include in the purchase agreement a statement of the agency  
 26 relationship between the licensee [PERSON LICENSED UNDER THIS CHAPTER]  
 27 and the seller.

28 (b) A person licensed [HOLDING A LICENSE] under this chapter shall, when  
 29 acting as an agent for a prospective buyer of real estate,

30 (1) disclose the licensee's [PERSON'S] relationship with the buyer to  
 31 a prospective seller of real estate, or to the seller's agent, at the time of the initial

1 contact between the licensee [PERSON LICENSED UNDER THIS CHAPTER] and  
2 the prospective seller or the seller's agent, and confirm the relationship in writing as  
3 soon as possible after the initial contact;

4 (2) include in the purchase agreement a statement of the agency  
5 relationship between the licensee [PERSON LICENSED UNDER THIS CHAPTER]  
6 and the buyer;

7 (3) if the prospective seller has an unexpired exclusive listing contract  
8 for a property, present all offers [AN OFFER] to purchase that property through [TO]  
9 the seller's agent; and

10 (4) disclose in writing to all parties to a transaction when the licensee's  
11 [PERSON'S] compensation as agent for the buyer is to be paid by anyone other than  
12 the buyer being represented by the licensee [PERSON].

13 (c) A person licensed under this chapter may [NOT] act as an agent for both  
14 a prospective seller and a prospective buyer of real estate only after [UNLESS] the  
15 licensee [PERSON] informs both the seller and the buyer of the dual agency and  
16 obtains written consent to the dual [JOINT] agency from both principals.

17 (d) When a change occurs during a transaction that makes a prior written  
18 disclosure required by this section incomplete, misleading, or inaccurate, the licensee  
19 [PERSON LICENSED UNDER THIS CHAPTER] shall make a revised disclosure, in  
20 writing, to all parties to the transaction as soon as possible. The revised disclosure  
21 must include the date of the revision and shall be acknowledged in writing by all the  
22 parties.

23 \* Sec. 31. AS 08.88 is amended by adding a new section to read:

24 **Sec. 08.88.397. Licensed assistants.** A licensed real estate salesperson or  
25 licensed associate real estate broker may act as a licensed assistant to a real estate  
26 licensee other than the broker who employs the salesperson or associate broker if

27 (1) the employment arrangement between the licensed assistant and the  
28 other licensee is in writing and conforms to the applicable state and federal regulations  
29 regarding employment;

30 (2) the employment of the licensed assistant is approved in writing by  
31 the broker of the licensee who employs the assistant;

1 (3) the licensee who employs the assistant agrees to be responsible for  
2 paying the licensed assistant's wages and appropriate taxes and completing the  
3 appropriate state and federal tax forms;

4 (4) the broker of the licensee who employs the assistant agrees to be  
5 liable for the actions of the licensed assistant.

6 \* Sec. 32. AS 08.88.401 is amended to read:

7 **Sec. 08.88.401. Prohibited conduct.** (a) A person licensed under this chapter  
8 may not falsely represent to

9 (1) have been awarded a degree or other designation;

10 (2) [OR TO] be a member or an affiliate of a professional organization;

11 or

12 (3) be a member of a franchise or other business association.

13 (b) A person licensed under this chapter

14 (1) [WHO IS NOT A REAL ESTATE BROKER LICENSED IN THIS  
15 STATE] may not pay [ACCEPT] a fee or a commission for performance of an act for  
16 which a license is required by this chapter to a person unless the person is licensed  
17 under this chapter, except that a real estate broker may pay to a person validly  
18 licensed as a broker in another state [MAY ACCEPT] a fee or commission [OR A  
19 PORTION OF A FEE OR COMMISSION] for assisting [A REAL ESTATE BROKER  
20 LICENSED IN THIS STATE] in the performance of an act for which a license is  
21 required by this chapter;

22 (2) as an associate broker or [WHO IS A] real estate salesperson  
23 [SALESMAN LICENSED IN THIS STATE] may [NOT] accept a fee or commission  
24 for performance of an act for which a license is required by this chapter only from  
25 [UNLESS ACCEPTANCE IS AUTHORIZED BY] the licensee's employing broker,  
26 except that the wages of a person who is engaged as a licensed assistant under  
27 AS 08.88.397 may be accepted by the person from the assistant's employer [WHO  
28 EMPLOYS THE SALESMAN].

29 (c) A person licensed under this chapter may not knowingly make, authorize,  
30 direct, or aid in the publication of a false statement or misrepresentation concerning  
31 land or a subdivision or other real estate offered for sale, [OR] lease, or rent or

1 concerning an association being managed.

2 (d) A person who violates [A PROVISION OF] this section, AS 08.88.161,  
3 or 08.88.396 is guilty of a class A misdemeanor.

4 \* Sec. 33. AS 08.88.401 is amended by adding new subsections to read:

5 (e) A person licensed under this chapter may not knowingly pay any part of  
6 a fee, commission, or other compensation received by the licensee in buying, selling,  
7 exchanging, leasing, auctioning, or renting real estate to

8 (1) a person who is not licensed under this chapter, except as provided  
9 in (f) of this section;

10 (2) another licensee, except through the licensee's responsible broker;  
11 or

12 (3) another licensee knowing that the other licensee intends to pay all  
13 or a portion of that which is received to a person who is not licensed under this  
14 chapter.

15 (f) The prohibition of (e)(1) of this section does not prohibit payments by a  
16 licensee to a person licensed to perform real estate activities in another jurisdiction if  
17 the other person has assisted the licensee in the performance of an act for which a  
18 license is required by this chapter. *insert (2) + (3) amend # 14*

19 (g) A person may not

20 (1) use or attempt to use a license issued under this chapter that was  
21 issued to another person;

22 (2) give false or forged evidence to the commission or to a  
23 representative of the commission in an attempt to obtain a license;

24 (3) impersonate an applicant under this chapter;

25 (4) knowingly use or attempt to use an expired, suspended, revoked,  
26 or nonexistent license; or

27 (5) falsely claim to be licensed and authorized to practice under this  
28 chapter. *insert new bill section amend # 13 Prep of Document*

29 \* Sec. 34. AS 08.88.450 is amended to read:

30 **Sec. 08.88.450. Real estate surety fund.** The real estate surety fund is  
31 established in the general fund to carry out the purposes of AS 08.88.450 - 08.88.500.

1 The fund is composed of payments made by [LICENSED] real estate licensees  
 2 [BROKERS AND SALESMEN] under AS 08.88.455 and filing fees retained under  
 3 [IN ACCORDANCE WITH] AS 08.88.460. The fund may not exceed \$500,000 and  
 4 amounts in the fund in excess of \$250,000 may be appropriated for real estate  
 5 educational purposes as provided in AS 08.88.091.

6 \* Sec. 35. AS 08.88.455 is amended to read:

7 **Sec. 08.88.455. Payments by real estate licensees [BROKERS AND**  
 8 **SALESMEN].** (a) A [LICENSED] real estate licensee, [BROKER, ASSOCIATE  
 9 BROKER, OR SALESMAN] when applying for [OBTAINING] or renewing a real  
 10 estate license, in lieu of obtaining a corporate surety bond, shall pay to the commission  
 11 in addition to the license fee, a surety fund fee not to exceed \$125. After the fund  
 12 reaches \$250,000, the commission shall by regulation adjust the surety fund fees so  
 13 that, taking into account anticipated expenditures for claims against the fund and real  
 14 estate educational purposes, the fund is maintained at a level not less than \$250,000.

15 (b) All fees collected under this section shall be paid at least once a month by  
 16 the department [COMMISSION] into the general fund. These payments shall be  
 17 credited to the real estate surety fund.

18 \* Sec. 36. AS 08.88.460 is amended to read:

19 **Sec. 08.88.460. Claim for payment.** (a) Subject to (e) of this section, a [A]  
 20 person seeking reimbursement for a loss suffered in a real estate transaction as a result  
 21 of fraud, misrepresentation, deceit, or the conversion of trust funds, <sup>invest or not for</sup> on the part of a real  
 22 estate licensee [BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL  
 23 ESTATE SALESMAN LICENSED UNDER THIS CHAPTER] shall make a claim to  
 24 the commission for reimbursement on a form furnished by the commission. **In order**  
 25 **to be eligible for reimbursement by the commission, the claim form must be filed**  
 26 **within two years after the occurrence of the fraud, misrepresentation, deceit, or**  
 27 **conversion of trust funds,** <sup>invest</sup> **claimed as the basis for the reimbursement.** The form  
 28 shall be executed under penalty of unsworn falsification [,] and must include the  
 29 following:

30 (1) the name and address of each [THE] real estate licensee involved  
 31 [BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE

1 SALESMAN];

2 (2) the amount of the alleged loss;

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

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

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

6 (6) a general statement of facts relative to the claim.

7 (b) A copy of a claim filed with the commission under (a) of this section shall  
8 be sent to each [THE] real estate licensee [BROKER, ASSOCIATE REAL ESTATE  
9 BROKER, OR REAL ESTATE SALESMAN] alleged to have committed the  
10 misconduct resulting in losses, to the principal [AS WELL AS A] real estate broker  
11 employing a licensee [AN ASSOCIATE REAL ESTATE BROKER OR REAL  
12 ESTATE SALESMAN] alleged to have committed the conduct resulting in losses, and  
13 to any other real estate licensee involved in the transaction at least 20 days before  
14 any hearing held on the claim by the commission.

15 (c) Within seven days after receipt of notice of a claim under (b) of this  
16 section, each [THE] real estate licensee [BROKER, ASSOCIATE REAL ESTATE  
17 BROKER, OR REAL ESTATE SALESMAN] against whom the claim is made may  
18 elect to defend the claim as a small claims action in district court under District Court  
19 Civil Rules 8 - 22 [,] if the claim does not exceed the small claims jurisdictional limit.  
20 An election to defend a claim in district court under the small claims rules may not  
21 be revoked by the real estate licensee [BROKER, ASSOCIATE BROKER, OR  
22 SALESMAN] without the consent of the claimant. Upon receipt of a valid written  
23 election under this subsection, the commission shall dismiss the claim filed with the  
24 commission and notify the claimant that the claim must be brought as a small claims  
25 action in the appropriate state court.

26 (d) A claimant under this section shall pay a filing fee of \$250 to the  
27 commission at the time the claim is filed. The filing fee shall be refunded [ONLY]  
28 if

29 (1) the commission makes an award to the claimant from the real estate  
30 surety fund;

31 (2) the claim is dismissed under (c) of this section; or

1 (3) the claim is withdrawn by the claimant before the commission holds  
2 a hearing on the claim.

3 \* Sec. 37. AS 08.88.460 is amended by adding a new subsection to read:

4 (e) If the claim is for a loss incurred as a result of acts or omissions occurring  
5 in the course of the licensee's practice of community association management, only the  
6 owners' association for which the real estate licensee practices community association  
7 management may file a claim under this section.

8 \* Sec. 38. AS 08.88.465(b) is amended to read:

9 (b) A certified or authenticated copy of a record, including a transcript of  
10 testimony, of a hearing held under AS 08.88.071(a)(3) in which fraud,  
11 misrepresentation, deceit, or conversion of trust funds, <sup>insert word #11</sup> on the part of a [LICENSED  
12 BROKER, ASSOCIATE BROKER, OR] real estate licensee [SALESMAN] is  
13 established [,] may constitute sufficient evidence to support a finding that a claim  
14 should be paid.

15 \* Sec. 39. AS 08.88.465(c) is amended to read:

16 (c) Before the commission finds that payment should be made from the real  
17 estate surety fund, each [THE] real estate licensee against whom the claim is made  
18 [BROKER, ASSOCIATE BROKER, OR REAL ESTATE SALESMAN] shall be  
19 afforded an opportunity to file with the commission, within 10 days after receipt of  
20 notification of the claim under AS 08.88.460(b), either a written statement in  
21 opposition to the claim or an application for the presentation of additional evidence.

22 \* Sec. 40. AS 08.88.465(d) is amended to read:

23 (d) The claimant bears the burden of proof of establishing that the claimant  
24 suffered losses in a real estate transaction as a result of fraud, misrepresentation,  
25 deceit, or the conversion of trust funds, <sup>insert word #11</sup> on the part of a real estate licensee [BROKER,  
26 ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE SALESMAN] and the  
27 extent of those losses. All facts shall be established by a preponderance of the  
28 evidence.

29 \* Sec. 41. AS 08.88.470 is amended to read:

30 Sec. 08.88.470. Findings and payment. At the conclusion of the  
31 commission's consideration of a claim made under AS 08.88.460, it shall make written

1 findings and conclusions on the evidence. If the commission finds that the claimant  
2 has suffered a loss in a real estate transaction as a result of fraud, misrepresentation,  
3 deceit, or the conversion of trust funds <sup>went to (line 1)</sup> on the part of a real estate licensee [BROKER,  
4 ASSOCIATE BROKER, OR SALESMAN], the commission may award a claimant  
5 reimbursement from [OUT OF] the real estate surety fund for the claimant's loss up  
6 to \$10,000. Not [HOWEVER, NOT] more than \$10,000 may be paid for each  
7 transaction regardless of the number of persons injured or the number of parcels of real  
8 estate involved in the transaction.

9 \* Sec. 42. AS 08.88.472(a) is amended to read:

10 (a) The [WHEN AN AWARD IS MADE FROM THE REAL ESTATE  
11 SURETY FUND UNDER AS 08.88.470, THE] commission may charge to the real  
12 estate surety fund the costs of a hearing on a claim for reimbursement held under  
13 AS 08.88.465. The commission shall deposit into the real estate surety fund  
14 amounts [AS 08.88.071 OR 08.88.465. AMOUNTS SUBSEQUENTLY] recovered  
15 [BY THE COMMISSION] for these costs from the licensee under AS 08.88.071(b) or  
16 from other parties under AS 08.88.490 [SHALL BE DEPOSITED TO THE REAL  
17 ESTATE SURETY FUND].

18 \* Sec. 43. AS 08.88.474 is amended to read:

19 Sec. 08.88.474. Payment of small claims judgment. If a claim originally  
20 filed with the commission is dismissed and is heard as a small claims action under  
21 AS 08.88.460(c) and the claimant prevails in the small claims action against a [THE]  
22 real estate licensee [BROKER, ASSOCIATE REAL ESTATE BROKER, OR  
23 SALESMAN], the commission shall make an award from the fund of any outstanding  
24 portion of the small claims judgment on receipt of a copy of the final judgment and  
25 an affidavit from the claimant stating that more than 30 days have elapsed since the  
26 judgment became final and that the judgment has not yet been satisfied by the  
27 licensee determined responsible [BROKER, ASSOCIATE BROKER, OR  
28 SALESMAN HAS NOT SATISFIED THE JUDGMENT DURING THAT TIME].  
29 After payment of a small claims judgment, the commission is subrogated to the  
30 claimant's rights in the judgment under AS 08.88.490.

31 \* Sec. 44. AS 08.88.475 is amended to read:

1           **Sec. 08.88.475. Maximum liability.** (a) The maximum liability of the real  
2 estate surety fund may not exceed \$50,000 for any one real estate licensee [BROKER  
3 OR SALESMAN].

4           (b) If the \$50,000 liability of the fund as provided in (a) of this section is  
5 insufficient to pay in full the valid claims of all persons who have filed claims against  
6 an individual licensee [ONE BROKER OR SALESMAN], the \$50,000 shall be  
7 distributed among the claimants in the ratio that their individual claims bear to the  
8 aggregate of valid claims, or in another manner that the commission considers  
9 equitable. Distribution shall be among the persons entitled to share in the recovery [,]  
10 without regard to the order [OF PRIORITY] in which their claims were filed.

11 \* **Sec. 45.** AS 08.88.490 is amended to read:

12           **Sec. 08.88.490. Right to subrogation.** When the commission has paid to a  
13 claimant from the real estate surety fund the sum awarded by the commission, the  
14 commission shall be subrogated to all of the rights of the claimant to the amount paid,  
15 and the claimant shall assign all right, title, and interest in that portion of the claim to  
16 the commission. Money collected [AMOUNTS SUBSEQUENTLY REALIZED] by  
17 the commission on the claim shall be deposited to the real estate surety fund.

18 \* **Sec. 46.** AS 08.88.900 is amended to read:

19           **Sec. 08.88.900. Exceptions.** The provisions of this [THIS] chapter that  
20 require licensure do [DOES] not apply to *What about partnerships FSBO*

21           (1) a natural person who is not licensed under this chapter who  
22 manages or makes a real estate transaction with respect to real estate the person owns  
23 or on the person's own behalf [, UNLESS THE TRANSACTION INVOLVES LAND  
24 DEFINED IN AS 34.55.044(7) THAT IS NOT IN ALASKA];

25           (2) an attorney in fact under a power of attorney authorizing the  
26 consummation of a specific real estate transaction; an attorney in fact may not act as  
27 such under this paragraph for more than two transactions in a calendar year;

28           (3) a lawyer performing duties as a lawyer;

29           (4) a public official in the conduct of official duties;

30           (5) a person acting as receiver, trustee, administrator, executor, or  
31 guardian;

- 1 (6) a person acting under court order;
- 2 (7) a person acting under the authority of a will or trust instrument;
- 3 (8) a person dealing in mineral rights transactions;
- 4 (9) an [A DOMESTIC OR FOREIGN CORPORATION, A GENERAL
- 5 OR LIMITED PARTNERSHIP, OR A PARTNER OR REGULAR] employee of a
- 6 domestic or foreign corporation, [OR A] general or limited partnership, or limited
- 7 liability company when performing an act described in AS 08.88.161 incidental to
- 8 [IN] the regular course of business [, OR AS AN INCIDENT TO, THE
- 9 MANAGEMENT, SALE, OR OTHER DISPOSITION OF REAL ESTATE OWNED
- 10 BY THE CORPORATION OR PARTNERSHIP]; the exemption under [PROVIDED
- 11 IN] this paragraph does not apply to a person employed by a foreign or domestic
- 12 corporation, partnership, limited partnership, or limited liability company who
- 13 performs an act described in AS 08.88.161 [, UNLESS ALLOWED FOR
- 14 UNLICENSED PERSONS UNDER AS 08.88.165,] either
- 15 (A) as a vocation; or
- 16 (B) for compensation if the amount of the compensation is
- 17 dependent upon or directly related to the value of the real estate with respect
- 18 to which the act is performed;
- 19 (10) a resident manager;
- 20 (11) a bookkeeper or accountant performing bookkeeping or
- 21 accounting functions;
- 22 (12) a secretary or receptionist in a real estate office who accepts
- 23 rent or association fees and provides a written receipt for the rent or fees when
- 24 a tenant or community association member delivers the rent or fees to the real
- 25 estate office;
- 26 (13) tradesmen or vendors of services performing maintenance and
- 27 repair functions;
- 28 (14) an employee of a real estate firm or of a property owner who
- 29 delivers or accepts a real estate contract or application, or a related amendment,
- 30 to or from another person;
- 31 (15) an individual assisting in the performance of real estate

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activities only by carrying out administrative, clerical, or maintenance tasks;

(16) a person who manages a total of four or fewer residential units for other persons;

(17) [an] owner of a unit in property organized under AS 34.07 or AS 34.08 who is a member of a self-managed community association [who manages the community association without remuneration other than the reimbursement of expenses;

(18) a developer of a community association during the period that the developer retains control of at least 51 percent of the association: [or]

(19) an attorney in fact who, for a relative, acts under a power of attorney that authorizes the consummation of a specific real estate transaction; in this paragraph, "relative" means a spouse or a great grandparent, grandparent, parent, uncle, aunt, sibling, child, nephew, niece, grandchild, or great grandchild by the whole or half blood or by marriage but does not include a relative who is only related through a step relationship, such as a stepbrother or the child of a stepbrother, except that "relative" includes a stepchild [OF RENTED REAL ESTATE IF THE RESIDENT MANAGER'S DUTIES ARE LIMITED TO THE NEGOTIATION OF LEASES AND RENTAL AGREEMENTS AND THE COLLECTION OF RENT FOR THE USE OF THE REAL ESTATE AND IF THE RESIDENT MANAGER IS

(A) EMPLOYED BY THE OWNER OF THE REAL ESTATE;

OR

(B) EMPLOYED BY, OR ENGAGED UNDER CONTRACT WITH, A LICENSED REAL ESTATE BROKER].

\* Sec. 47. AS 08.88.990(1) is amended to read:

(1) "commission" means the Real Estate Commission except where the context indicates that "commission" refers to a fee paid for personal services;

\* Sec. 48. AS 08.88.990(3) is amended to read:

(3) "real estate" means an interest or estate in land, corporeal or incorporeal, except that it does not include a unit in a hotel, motel, boarding house, rooming house, or other transient lodging facility, or a unit in a warehouse, mini-

*amend #13*  
*amend #13*  
*(20)*  
*insert*  
*insert*

1 storage facility, or other facility the function of which is limited to warehousing  
2 purposes:

3 \* Sec. 49. AS 08.88.990(4) is amended to read:

4 (4) "resident manager" means a person who resides on rented or leased  
5 real property or on contiguous property owned by the same owner, [AND] manages  
6 the property [IT] for the benefit of another person, and is either employed by the  
7 owner of the real estate or employed by, or under contract with, a real estate  
8 licensee.

9 \* Sec. 50. AS 08.88.990 is amended by adding new paragraphs to read:

10 (5) "community association management" means an activity undertaken  
11 for an owners' association with regard to property organized under either AS 34.07 or  
12 AS 34.08 under an agreement in exchange for a fee, commission, or other valuable  
13 consideration, including the following activities: preparing budgets and other financial  
14 documents, collecting, controlling, or disbursing funds, obtaining insurance for the  
15 association, contracting for maintenance and repair to association property, and  
16 supervising the day-to-day operations of the association under the direction of the  
17 association's board of directors;

*amend H to insert new def.*

18 (6) ["employed" includes being an independent contractor with an  
19 employer; ]

20 (7) "knowingly" has the meaning given in AS 11.81.900(a);

*insert new paragraph (8)*

21 (8) "property management" is an activity undertaken for another with  
22 regard to *insert a mobile home or* real property under an agreement in exchange for a fee, commission, or other  
23 valuable consideration, including the following activities: marketing, leasing,  
24 contracting for physical, administrative, or financial maintenance, performance of  
25 overall management of *insert mobile homes or* real property, and the supervision of these actions;

26 (9) "real estate licensee" is a person who holds a license under this  
27 chapter; the term includes a broker unless the context clearly excludes brokers;

28 (10) "real estate transaction"

29 (A) in sales, *insert a mobile home or* means the transfer or attempted transfer of an  
30 interest in a unit of real property, an act conducted as a result of or in pursuit  
31 of a contract to transfer an interest in a unit of real property, or an act

*a mobile home*

1 conducted in an attempt to obtain a contract to market ~~real~~ real property;

2 (B) in property management, means the lease or rental of a unit  
3 of real property including collection of rent from a tenant of a unit of rented  
4 or leased real property *as mobile home* an attempt to rent or lease a unit of real property *rule* an  
5 attempt to collect rent from a tenant of rented or leased real property *rule* or an act  
6 conducted as a result of or in pursuit of a contract to manage a unit of leased  
7 or rented real property *rule*

8 (C) in community association management, means the collection  
9 or attempted collection of dues from a unit owner or an activity conducted as  
10 a result of or in pursuit of a contract with a community association to manage  
11 the affairs of a community association.

12 \* Sec. 51. AS 08.88.111 is repealed.

13 \* Sec. 52. TRANSITIONAL PROVISION. Notwithstanding AS 08.88.161(6), a person  
14 may practice, or negotiate a contract to practice, community association management *insert on end #4* without  
15 a license issued under AS 08.88 until January 1, 1999.

16 \* Sec. 53. REVISOR'S INSTRUCTION. Wherever in the Alaska Statutes and the Alaska  
17 Administrative Code the term "salesman" is used in a context relating to real estate salesmen  
18 licensed under AS 08.88, it shall be read as "salesperson" when to do so would be consistent  
19 with changes made by this Act. Under AS 01.05.031, the revisor of statutes shall implement  
20 this section in the statutes, and, under AS 44.62.125, the regulations attorney shall implement  
21 this section in the administrative code.

22 \* Sec. 54. AS 08.88.091(f) and (g), added by sec. 6 of this Act, take effect January 31,  
23 1999.

24 \* Sec. 55. Except as provided in sec. 54 of this Act, this Act takes effect immediately  
25 under AS 01.10.070(c).

*insert #12*

*Janet's Matched Up copy* 10/22/97 1:50pm

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CS FOR HOUSE BILL NO. 33(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE ROKEBERG BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to real estate licensing; and providing for an effective date."

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

3 \* Section 1. AS 08.88.051(c) is amended to read:

4 (c) The commission shall elect its officers at the first meeting of each fiscal  
5 year.

6 \* Sec. 2. AS 08.88.061 is amended to read:

7 Sec. 08.88.061. Assistants. Notwithstanding contrary provisions of  
8 AS 08.01.050, the [THE] commission may assign or designate [USE] assistants to

9 (1) issue licenses to applicants who meet the qualifications for  
10 licensure established under this chapter;

11 (2) prepare questions on examinations;

12 (3) administer and [(2)] grade examinations;

13 (4) certify courses required under this chapter;

14 (5) approve instructors to teach courses required under this  
15 chapter; and

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(6) negotiate terms of payment of fines and other money due under this chapter

\* Sec. 3. AS 08.88.071 is amended to read:

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

(1) determine whether [PASS ON QUALIFICATIONS OF] applicants meet requirements for licenses under this chapter and issue licenses to those who qualify;

(2) prepare and grade examinations;

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

(A) with respect to a real estate transaction

(i) made a substantial misrepresentation;

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

(iii) in the case of a real estate broker, pursued a flagrant course of misrepresentation or made a false promise through ~~an~~ **A licensee** ~~agent~~ [ASSOCIATE REAL ESTATE BROKER.] or another real estate licensee [SALESMAN];

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

(v) violates AS 08.88.391;

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

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

(D) knowingly authorizes, directs, connives, at or aids in publishing, distributing, or circulating a material false statement or misrepresentation concerning the licensee's business or concerning real estate offered for sale, rent, or lease, or managed in the course of the licensee's

1 business in this or any other state or concerning the management of an  
2 association in the course of a licensee's business in this or another state:

3 (E) if a real estate broker, wilfully violates AS 08.88.171(d) or  
4 08.88.291;

5 (F) [IF AN ASSOCIATE REAL ESTATE BROKER,] claims  
6 to hold a real estate license status or specialty other than the status or  
7 specialty actually held [BE A REAL ESTATE BROKER, OR, IF A REAL  
8 ESTATE SALESMAN, CLAIMS TO BE A REAL ESTATE BROKER OR  
9 ASSOCIATE REAL ESTATE BROKER];

10 (G) if a real estate broker, employs an unlicensed person to  
11 perform activities for which a real estate license is required [ASSOCIATE  
12 REAL ESTATE BROKER OR REAL ESTATE SALESMAN];

13 (H) if an employed real estate licensee of a [ASSOCIATE]  
14 real estate broker [OR REAL ESTATE SALESMAN], fails immediately to turn  
15 money or other property collected in a real estate transaction over to the  
16 employing real estate broker;

17 (4) prosecute, through the Department of Commerce and Economic  
18 Development [LAW], violations of [THE PROVISIONS OF] this chapter or lawful  
19 regulations adopted under this chapter;

20 (5) release for publication [PUBLISH, ON THREE CONSECUTIVE  
21 WEEKENDS] in a newspaper of general circulation in the locale of the offending  
22 person's principal office registered with the commission, notice of [LICENSED  
23 UNDER THIS CHAPTER,] disciplinary action taken by the commission against a  
24 person licensed under this chapter;

25 (6) publish in the commission's newsletter a summary of  
26 disciplinary action taken by the commission against a person licensed under this  
27 chapter;

28 (7) issue a temporary permit to the personal representative of the estate  
29 of a deceased real estate broker or to another [SOME OTHER] person designated by  
30 the commission with the approval of the personal representative of the estate in order  
31 to secure proper administration in concluding the affairs of the decedent broker's real

1 estate business:

2 (8) issue a temporary permit to the personal representative of a  
3 legally incompetent real estate broker or to another person designated by the  
4 commission with the approval of the personal representative of the broker in  
5 order to secure proper administration in temporarily managing the real estate  
6 business of the broker;

7 (9) [(7)] establish and periodically revise the form of the seller's  
8 property disclosure statement required by AS 34.70.010;

9 (10) have the authority to levy civil fines as established in this  
10 chapter.

11 (b) When an award is made from the real estate surety fund under this chapter  
12 [IN REIMBURSEMENT OF LOSSES SUFFERED BY A CLAIMANT AS A  
13 RESULT OF FRAUD, MISREPRESENTATION, DECEIT, OR CONVERSION OF  
14 TRUST FUNDS ON THE PART OF A LICENSED BROKER, ASSOCIATE  
15 BROKER, OR SALESMAN], the commission shall suspend [MAY CONSIDER THE  
16 HEARING ON THE CLAIM TO BE A HEARING ON THE SUSPENSION OF] the  
17 license of the real estate licensee whose actions formed the basis of the award  
18 [BROKER, ASSOCIATE BROKER, OR SALESMAN, AND MAY SUSPEND THE  
19 LICENSE OF THE BROKER, ASSOCIATE BROKER, OR SALESMAN]. A  
20 suspension ordered under this subsection shall be lifted if the licensee [BROKER,  
21 ASSOCIATE BROKER, OR SALESMAN] reaches an agreement with the commission  
22 on terms and conditions for the repayment to the real estate surety fund of the money  
23 awarded to the claimant and the costs of hearing the claim under AS 08.88.465. The  
24 suspension shall be reimposed if the licensee [BROKER, ASSOCIATE BROKER, OR  
25 SALESMAN] violates the terms of a repayment agreement entered into under this  
26 subsection.

27 (c) For the purposes of (a)(3) of this section, the conduct of an employee is  
28 [NOT] attributable to a real estate broker if [UNLESS] the real estate broker has actual  
29 knowledge that the employee is going to engage in the conduct and agrees to the  
30 conduct, either actively or by remaining silent, or ratifies the conduct after it is  
31 engaged in.

1 \* Sec. 4. AS 08.88.091(a) is amended to read:

2 (a) The commission may conduct and assist in conducting real estate clinics,  
3 meetings, courses, or institutes for the general public, licensees, and commission  
4 members and staff. The commission also may

5 (1) assist libraries and educational institutions in sponsoring studies and  
6 programs; [AND]

7 (2) publish informational materials for the purpose of raising the  
8 standards of the real estate business, increasing [AND] the competency of licensees,  
9 and informing the general public and commission members and staff about real  
10 estate related topics;

11 (3) provide instructor training for the enhancement of real estate  
12 education programs; and

13 (4) recover all or a portion of the expenses incurred under this  
14 subsection by charging fees for participation in educational programs and for  
15 publications of the commission; these fees shall be deposited in the real estate  
16 surety fund.

17 \* Sec. 5. AS 08.88.091(b) is amended to read:

18 (b) An applicant for licensure under AS 08.88.171 [AS 08.88.171(c)] must  
19 complete the applicable [20 HOURS OF] education requirements adopted  
20 [APPROVED] by the commission under its regulations before the person may be  
21 licensed under that section [SUBSECTION].

22 \* Sec. 6. AS 08.88.091(d) is amended to read:

23 (d) A person who is licensed under this chapter must complete the applicable  
24 [20 HOURS OF] continuing education requirements adopted [APPROVED] by the  
25 commission under its regulations before the person's license may be renewed.

26 \* Sec. 7. AS 08.88.091(e) is amended to read:

27 (e) In order for an educational course to be recognized for credit under  
28 this section, [THE COMMISSION MAY NOT APPROVE AN EDUCATION OR  
29 CONTINUING EDUCATION COURSE REQUIRED UNDER THIS SECTION  
30 UNLESS THE COMMISSION CERTIFIES] the course outline and [APPROVES] the  
31 instructor of the course must have been approved by the commission or the

1 commission's designee before the course was [IS] conducted.

2 \* Sec. 8. AS 08.88.091 is amended by adding new subsections to read:

3 (f) The commission shall establish by regulation the educational and continuing  
4 educational requirements for each type of license issued by the commission. The  
5 regulations for continuing education requirements must allow the following types of  
6 courses to qualify for the appropriate number of credit hours, as determined by the  
7 commission: *that are developed by national organizations, which shall be*

8 *identified in regulations, and provided no courses are delivered by nationally*  
9 *certified instructors, and*

10 (1) ~~courses required to earn professional designations, sponsored by the~~  
11 ~~National Association of Realtors, the Building Owners and Managers Association, or~~  
12 ~~other recognized national organizations;~~

13 *in specialized area licensed real estate practice*  
14 (2) *technology directly related to real estate practice and*  
15 ~~courses approved by the commission for computer training that is~~  
16 ~~specially designed to be useful for persons who are performing real estate activities;~~  
17 *estate practitioners*  
18 and

19 (3) ~~courses from, or sponsored by, an accredited college or university~~  
20 ~~as part of a real estate curriculum;~~ *and available for a maximum of 1 quarter hour or 1/2 semester hour of academic credit*  
21 ~~a course under this paragraph must be a course that~~  
22 ~~is at least one-half semester in length.~~

23 (g) The commission shall establish ~~four eight-hour~~ core curricula for  
24 continuing education in the following areas: real estate sales, property management,  
25 community association management, and commercial sales. A licensee shall complete  
26 at least one of the four core curricula during each biennial licensing period as part of  
27 the licensee's continuing education.

28 \* Sec. 9. AS 08.88.161 is amended to read:

29 **Sec. 08.88.161. License required.** Unless licensed as a real estate broker,  
30 associate real estate broker, or real estate salesman, a natural person, foreign or  
31 ~~domestic corporation, [OR] partnership, [OR] limited partnership,~~ limited liability  
company, or other entity may not

- 32 (1) sell, exchange, rent, lease, ~~auction~~, or purchase real estate;
- 33 (2) list real estate for sale, exchange, rent, lease, ~~auction~~, or purchase;
- 34 (3) collect rent for the use of real estate, *or fees for the management of real estate or community associations*
- 35 (4) as a business, buy, sell, or deal in
- 36 (A) options in real estate; or

1 (B) options in improvements to real estate;

2 (5) assist in or direct the procuring of prospective buyers or the  
3 negotiation of a transaction that [WHICH] results or is calculated to result in the sale,  
4 exchange, rent, lease, ~~auction~~, or purchase of real estate;

5 (6) supervise, contract for, or arrange for the physical,  
6 administrative, or financial maintenance of real estate;

7 (7) practice, or negotiate for a contract to practice, community  
8 association management or property management;

9 (8) assist in or direct the management of the affairs of a community  
10 association for property organized under AS 34.08;

11 (9) accept or pay a fee for the performance of any of the activities  
12 listed in this section except as otherwise specifically provided in this chapter;

13 (10) hold out to the public as being engaged in the business of doing  
14 any of the things listed in this section; or

15 (11) [(7)] attempt or offer to do any of the things listed in this section  
16 [.

17 (8) REPEALED].

18 \* Sec. 10. AS 08.88 is amended by adding a new section to read:

19 **Sec. 08.88.163. Civil penalty for unlicensed or unauthorized practice. (a)**

20 In addition to penalties prescribed by any other provision of law, if a person engages  
21 or offers to engage in an activity for which a license is required under AS 08.88.161  
22 without being licensed or authorized to engage in the activity in accordance with the  
23 provisions of this chapter, the commission may enter an order levying a civil penalty.

24 (b) A civil penalty levied under this section may not exceed \$5,000, or the  
25 amount of gain realized plus \$5,000, whichever is greater, for each offense. In levying  
26 a civil penalty, the commission shall set the amount of the penalty imposed under this  
27 section after taking into account the seriousness of the violation, the economic benefit  
28 resulting from the violation, the history of violations, and other facts the commission  
29 considers relevant.

30 (c) Before entering an order under (a) of this section, the commission shall  
31 send the person written notice of the proposed order that grants the person a 30-day

1 period during which the person may request a hearing on the record.

2 (d) In connection with proceedings under (a) - (c) of this section, the  
3 commission may issue subpoenas to compel the attendance and testimony of witnesses  
4 and the disclosure of evidence and may request the department to bring an action to  
5 enforce a subpoena.

6 (e) A person aggrieved by the levy of a civil penalty under this section may  
7 file an appeal with the superior court for judicial review of the penalty under  
8 AS 44.62.560.

9 (f) If a person fails to pay a civil penalty within 30 days after entry of an order  
10 under (a) of this section, or within 10 days after the court enters a final judgment in  
11 favor of the commission of an order stayed pending an appeal under (e) of this section,  
12 the commission may initiate other action to recover the amount of the penalty.

13 (g) An action to enforce an order under this section may be combined with an  
14 action for an injunction under AS 08.88.037.

15 \* Sec. 11. AS 08.88.171 is amended to read:

16 Sec. 08.88.171. Entitlement to license. (a) A natural person qualifies [IS  
17 ELIGIBLE] for a real estate broker license if the person passes the [REAL ESTATE]  
18 broker's examination, [IF THE PERSON] applies for a license within six months after  
19 passing the [PERSON HAS TAKEN THE REAL ESTATE BROKERS] examination,  
20 [IF THE PERSON] furnishes satisfactory proof of successful completion of the  
21 education requirements of AS 08.88.091, [IF THE PERSON] has had at least 24  
22 months of active and continuous experience as a licensed real estate <sup>sales person</sup> ~~salesman~~ within  
23 the 36 months immediately preceding application for the broker license, [IF THE  
24 PERSON] is not under indictment for, or seven years have elapsed since the person  
25 has completed a sentence imposed upon conviction of, forgery, theft, extortion,  
26 conspiracy to defraud creditors, or any other felony involving moral turpitude, and [IF  
27 THE PERSON] is an owner of a real estate business or employed as a real estate  
28 broker by a <sup>foreign or domestic</sup> corporation or a partnership, <sup>limited partnership, or limited liability company</sup> ~~and [IF]~~ ~~that corporation or partnership does~~  
29 ~~not have an existing licensed broker. Unless the broker fails to renew the license~~  
30 ~~[PAY THE BIENNIAL RENEWAL FEE] or unless the broker's license is suspended~~  
31 ~~or revoked [UNDER AS 08.88.071(a)(3)], the real estate broker's license continues in~~

1 effect ~~as~~ [SO] long as the broker is an owner of a real estate business [,] or the broker  
 2 is employed as a real estate broker by a corporation or a partnership. If the broker  
 3 stops being an owner of a real estate business [,] or stops being employed as a real  
 4 estate broker by a <sup>foreign or domestic</sup> corporation, <sup>limited partnership or limited liability</sup> partnership, the broker's license is suspended from <sup>company</sup>  
 5 the time the broker stops until

6 (1) the broker again becomes an owner of a real estate business or is  
 7 again employed as a real estate broker by a <sup>foreign or domestic</sup> corporation or a <sup>limited partnership or limited liability</sup> partnership, or <sup>company</sup>

8 (2) the broker is employed by another [A LICENSED REAL  
 9 ESTATE] broker as an associate [REAL ESTATE] broker, in which case the real  
 10 estate broker license shall be [IS] returned to the commission by the broker, and the  
 11 commission shall issue [ISSUES] the broker an associate real estate broker license.

12 (b) A natural person <sup>qualifies</sup> is eligible for an <sup>real estate</sup> associate real estate broker license if  
 13 the person passes the ~~real estate~~ brokers examination, [IF THE PERSON] applies for  
 14 <sup>a</sup> the [A] license within six months after passing [THE PERSON HAS TAKEN] the  
 15 examination, [IF THE PERSON] submits satisfactory proof of successful completion  
 16 of the education requirements of AS 08.88.091, [IF THE PERSON] has had at least  
 17 24 months of active and continuous experience as a licensed real estate <sup>salesperson</sup> ~~salesman~~  
 18 within the 36 months immediately preceding application for the license. [IF THE  
 19 PERSON] is not under indictment for, or five years have elapsed since the person has  
 20 completed a sentence imposed upon conviction of, forgery, theft, extortion, conspiracy  
 21 to defraud creditors, or any other felony involving moral turpitude, and [IF THE  
 22 PERSON] is employed by a licensed real estate broker as an associate real estate  
 23 broker. Unless the associate broker fails to renew the license [PAY THE BIENNIAL  
 24 RENEWAL FEE] or unless the associate broker's license is suspended or revoked  
 25 [UNDER AS 08.88.071(a)(3)], the associate [REAL ESTATE] broker's license  
 26 continues in effect as [SO] long as the associate broker is employed by a licensed real  
 27 estate broker as an associate broker. If the associate broker stops being employed by  
 28 a licensed real estate broker, the associate broker's license is suspended from the time  
 29 the associate broker stops until

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

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(2) the associate broker becomes an owner of a real estate business or <sup>foreign or domestic</sup> is employed as a real estate broker by a corporation or partnership, <sup>limited liability company</sup> in which case the associate broker's [ASSOCIATE REAL ESTATE BROKER] license shall be [IS] returned to the commission by the associate broker, and the commission shall issue [ISSUES] the <sup>licensee</sup> ~~associate broker~~ a ~~real estate~~ broker's license.

(c) A natural person is eligible for a real estate salesman license if the person passes the real estate salesman examination. [IF THE PERSON] applies for the [A] license within six months after passing [THE PERSON HAS TAKEN] the examination, [IF THE PERSON] submits satisfactory proof of successful completion of the education requirements of AS 08.88.091, [IF THE PERSON] is at least 19 years old, [IF THE PERSON] is not under indictment for forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving moral turpitude, or, if convicted of such an offense, the person has completed the sentence imposed upon conviction, and [IF THE PERSON] is employed by a real estate broker. Unless the salesman fails to renew the license [PAY THE BIENNIAL RENEWAL FEE] or unless the real estate salesman's license is suspended or revoked under AS 08.88.071(a)(3), a real estate salesman's license continues in effect as [SO] long as the salesman is employed as a salesman by a licensed real estate broker. If the salesman stops being employed as a real estate salesman, the real estate salesman's license is suspended from the time the salesman stops until the salesman again is employed as a real estate salesman by a licensed real estate broker.

(d) A real estate licensee shall promptly inform the commission of a change in business association that affects the status of the licensee's license under this section.

\* **Sec. 12.** AS 08.88 is amended by adding a new section to read:

*Deleted*

~~Sec. 08.88.173. Insurance requirement. (a) A real estate licensee shall, as a condition of obtaining, retaining, or renewing a real estate license, carry errors and omissions insurance to cover all activities for which the person is licensed, or is to be licensed, under this chapter. If the commission offers an insurance policy under this section for an annual premium of \$200 or less, a licensee under this chapter shall carry the insurance and submit premium payments to the commission to cover the cost of~~

1 two years' worth of insurance at the time of initial licensure and on subsequent license  
2 renewal dates.

3 (b) The commission shall provide to each licensee the opportunity to purchase  
4 the insurance required under this section by contracting with an insurance provider for  
5 a guaranty of coverage for each licensee. The contract under this subsection is subject  
6 to competitive sealed bidding requirements under AS 36.30. The commission shall  
7 determine the terms and conditions of coverage required under this section, including  
8 the minimum limits of coverage and the permissible deductibles and exemptions. A  
9 policy obtained under this subsection shall be available to every real estate licensee  
10 with no right of cancellation of any particular licensee's coverage on the part of the  
11 insurance provider except for nonpayment of premium or loss of license.

12 (c) A licensee may obtain additional errors and omissions insurance that  
13 exceeds the minimum requirements established by the commission in regulations. A  
14 licensee who obtains insurance coverage under this subsection shall file with the  
15 commission a certificate of the additional coverage.

16 (d) If the commission is unable to obtain coverage for all licensees who choose  
17 to participate in the commission's insurance program at a cost to each licensee of \$200  
18 a year or less, the commission shall report that fact to the governor. During the time  
19 that insurance is unavailable through the commission as described in this subsection,  
20 the provisions of (a) - (c) of this section may not be enforced, but the commission  
21 shall continue to attempt to contract for an insurance guaranty that will offer coverage  
22 for \$200 a year or less.

23 \* Sec. 13. AS 08.88.181(a) is amended to read:

24 (a) The real estate examinations [EXAMINATION] may include [, BUT IS  
25 NOT NECESSARILY LIMITED TO,] questions on real estate business ethics and  
26 standards; arithmetic; elementary principles of land economics and appraisal; the  
27 general principles in state statutes relating to deeds, mortgages, real estate contracts,  
28 subdivisions, legal descriptions, building restrictions, agency, disclosure requirements,  
29 trust accounting requirements, landlord and tenant law, property management  
30 ethics and standards, accounting, community association management ethics and  
31 standards, nonprofit corporation creation and operation, and brokerage; and the

1 general provisions of this chapter and of the regulations of the commission.

2 \* Sec. 14. AS 08.88.191(b) is amended to read:

3 (b) If the commission authorizes the department to contract with a national  
4 testing service to prepare, administer, and grade examinations,

5 (1) the commission or its designee shall review the examination and  
6 approve its contents;

7 (2) application for <sup>an</sup> ~~the~~ examination, ~~accompanied by the proper filing~~  
8 ~~fee.~~ may be transmitted by the applicant directly to the national testing service. *Payment of exam*

9 \* Sec. 15. AS 08.88.201 is amended to read: *fee shall be directly to the national testing service's designated representative person taking the exam.*

10 Sec. 08.88.201. **Reexamination.** A person who fails an examination may  
11 apply for a subsequent examination, but shall pay the application fee with [FOR] each  
12 application.

13 \* Sec. 16. AS 08.88.221 is amended to read:

14 Sec. 08.88.221. **Fees.** The Department of Commerce and Economic  
15 Development shall set fees under AS 08.01.065 for a real estate broker, associate  
16 broker, or salesman licensee or applicant for the following:

- 17 (1) examination;
- 18 (2) reciprocal licensing [RECIPROCITY];
- 19 (3) initial license;
- 20 (4) renewal of an active license;
- 21 (5) renewal of an inactive license;
- 22 (6) amending or transferring a license;
- 23 (7) publications offered by the commission;
- 24 (8) courses and seminars offered by the commission;
- 25 (9) reinstatement of a lapsed license;
- 26 (10) changes to registered office information;
- 27 (11) course certification and recertification; and
- 28 (12) instructor approval and renewal of approval.

29 \* Sec. 17. AS 08.88.241 is repealed and reenacted to read:

30 Sec. 08.88.241. **Reinstatement of lapsed license.** (a) A person whose real  
31 estate license has lapsed 60 days or less is eligible for reinstatement of the license by

1 providing the required application, licensing fees, applicable late fees, and proof of  
2 continuing education as required by AS 08.88.091 for the licensing period during  
3 which the license was inactive or lapsed.

4 (b) A person whose real estate license has lapsed more than 60 days and less  
5 than 24 months is eligible for reinstatement of the license if the person provides the  
6 required application, license fees, proof of continuing education as required by  
7 AS 08.88.091 for licensing periods during which the license was inactive or lapsed,  
8 and an additional penalty in an amount equal to the biennial licensing fee.

9 (c) A real estate licensee whose license has been lapsed for more than 24  
10 months is not eligible for reinstatement of the license and is eligible for the license  
11 only by meeting the qualifications applicable to initial licensure under AS 08.88.171.

12 \* Sec. 18. AS 08.88.251 is amended to read:

13 **Sec. 08.88.251. Inactive license.** (a) A real estate licensee who intends to  
14 [PERSON LICENSED BY THE COMMISSION MAY] become inactive shall return  
15 [BY RETURNING] to the commission the person's license certificate and a completed  
16 inactivation form provided by the commission along with any applicable fees. [IN  
17 THE FORM, THE PERSON SHALL STATE THE DATE ON WHICH THE PERSON  
18 INTENDS TO BECOME INACTIVE. THE PERSON'S INACTIVE STATUS  
19 BEGINS ON THE DATE STATED.] The commission shall issue the person an  
20 inactive license certificate.

21 (b) An inactive licensee may not attempt or offer to do any of the activities  
22 listed in AS 08.88.161, but may receive commissions or other payments from the  
23 licensee's former employer for services performed while actively licensed  
24 [EXCEPT AS OTHERWISE ALLOWED FOR UNLICENSED PERSONS UNDER  
25 AS 08.88.165].

26 (c) A person who has an [IS] inactive license certificate under (a) of this  
27 section may reactivate the license [BECOME ACTIVE] by applying for an active  
28 license and paying the required fees. [IN THE APPLICATION FORM THE PERSON  
29 SHALL STATE THE DATE ON WHICH THE PERSON INTENDS TO BECOME  
30 ACTIVE. THE PERSON'S ACTIVE STATUS BEGINS ON THE DATE STATED.  
31 THE COMMISSION SHALL SEND THE PERSON A LICENSE CERTIFICATE.]

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A person is eligible for change from an inactive to an active status under this subsection only [WITHOUT EXAMINATION] if the person has [NOT] been in inactive status for less [MORE] than 24 months [TWO YEARS]. If the person has been in inactive status for 24 months or for more than 24 months [TWO YEARS], the person is required to meet the requirements for initial licensure in order to be licensed under this chapter again [TAKE AN EXAMINATION].

\* Sec. 19. AS 08.88 is amended by adding a new section to article 3 to read:

**Sec. 08.88.262. Reciprocal licensing.** A person who holds a valid active real estate license issued by a state or other jurisdiction with which the commission has negotiated a reciprocal licensing agreement shall be granted an equivalent real estate license in this state if the person applies to the commission and pays the required fees.

\* Sec. 20. AS 08.88 is amended by adding a new section to read:

**Sec. 08.88.285. Bonding requirement.** (a) Notwithstanding the provision of AS 08.88.455(a) that provides that participation in the real estate surety fund is in lieu of obtaining a corporate bond, a real estate licensee who collects, controls, or disburses money in the course of practicing community association management shall file with the commission, on an annual basis, evidence of coverage by a bond in the amount of at least \$1,000,000 running to the association being managed by the licensee conditioned on the licensee's proper performance of fiduciary duties relating to the collection, control, and disbursement of the association's money or money intended by the payor to be the association's money.

*Deleted*

(b) The commission shall suspend or revoke the license of a person who fails to comply with this section.

(c) Notwithstanding AS 08.88.460, a person may not seek reimbursement from the real estate surety fund for a claim arising from improper performance of a real estate licensee's duties relating to the collection, control, or disbursement of money in the course of practicing community association management.

(d) The commission may, by regulation, increase or decrease the amount of the bond required under this section and may establish additional terms and conditions that must be met by the bond.

\* Sec. 21. AS 08.88.291 is amended to read:

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**Sec. 08.88.291. Location.** A person licensed as a real estate broker shall, by registering with the commission, inform the commission of the person's [BROKER'S] principal office and of any branch offices of the person's real estate business and include in the information the names of the real estate licensees who are employed at each office. A [BROKER HAS. THE BROKER AND THE ASSOCIATE] real estate licensee [BROKERS AND REAL ESTATE SALESMEN THE BROKER EMPLOYS] may do real estate business only through a [IN OR OUT OF THE BROKER'S] principal office or from a [AND THE BROKER'S] branch office registered by the broker by whom the licensee is employed [OFFICES]. Failure of a real estate broker to maintain a place of business or to inform the commission of its location and the names and addresses of all real estate licensees employed at each location by the broker is [UNDER THE BROKER'S JURISDICTION AT THE LOCATION ARE] grounds for the suspension or revocation of the broker's license.

\* Sec. 22. AS 08.88.301 is amended to read:

**Sec. 08.88.301. Change of location.** Before [IF] a real estate broker changes the location of the broker's principal office or of a branch office, the broker shall [IMMEDIATELY] notify the commission of the new address and any other office changes on a form provided by the commission and pay the applicable fees.

\* Sec. 23. AS 08.88.311 is amended to read:

**Sec. 08.88.311. Branch offices.** (a) A branch office shall be under the direct supervision of a real estate associate broker whose principal place of business is that office and who is licensed under this chapter. An associate [REAL ESTATE] broker may serve in the capacity of direct supervisor at only one office [ONLY].

(b) A [ALL] branch office [OFFICES] shall bear and be advertised only in the name of the principal office but may also indicate that it is a [THEY ARE] branch [OFFICES OF THE PRINCIPAL] office.

\* Sec. 24. AS 08.88.321 is amended to read:

*replace w/ language on back ->*

**Sec. 08.88.321. Possession and display of license certificates.** Employed real [REAL] estate licensees [SALESMEN OR ASSOCIATE/ REAL ESTATE BROKERS] shall turn their license certificates over to the real estate broker who

1 employs them. The employing [REAL ESTATE] broker shall display the  
 2 [EMPLOYING REAL ESTATE] broker's own license certificate [IN THE  
 3 EMPLOYING REAL ESTATE BROKER'S PRINCIPAL OFFICE] and the license  
 4 certificates of employed licensees [EMPLOYEES] in the office indicated as the office  
 5 of the licensees' employment in the registration required under AS 08.88.291  
 6 [WHERE THEY DO MOST OF THEIR WORK].

7 \* Sec. 25. AS 08.88.331 is amended to read:

8       Sec. 08.88.331. Making of transactions. An employed [A] real estate  
 9 licensee [SALESMAN OR ASSOCIATE REAL ESTATE BROKER] may perform  
 10 activities for which a real estate license is required [MAKE A REAL ESTATE  
 11 TRANSACTION] only through the real estate broker who employs the licensee [REAL  
 12 ESTATE SALESMAN OR ASSOCIATE REAL ESTATE BROKER]. All money or  
 13 other proceeds collected in trust and related to a real estate transaction [ON  
 14 BEHALF OF THE BROKER] shall immediately be turned over to the broker or the  
 15 broker's authorized agent. [ALL TRANSACTIONS IN REAL ESTATE BY A REAL  
 16 ESTATE SALESMAN OR ASSOCIATE REAL ESTATE BROKER SHALL BE  
 17 PROCESSED THROUGH THE REAL ESTATE SALESMAN'S OR THE  
 18 ASSOCIATE REAL ESTATE BROKER'S EMPLOYING REAL ESTATE  
 19 BROKER'S OFFICE, WHETHER THE TRANSACTIONS ARE FOR THE REAL  
 20 ESTATE SALESMAN'S OR ASSOCIATE REAL ESTATE BROKER'S OWN USE  
 21 OR THE USE OF A CLIENT.]

22 \* Sec. 26. AS 08.88.341 is amended to read:

23       Sec. 08.88.341. <sup>Real estate employment contract</sup> ~~Personal service contract~~: [LISTINGS]. All real estate  
 24 <sup>employment</sup> ~~personal service contracts~~ [LISTINGS] must be in writing and must be signed by the  
 25 <sup>employed licensee of the broker and by the client</sup> ~~broker~~ [SELLER] or by an authorized agent of the broker as well as by the client  
 26 <sup>representative</sup> or an authorized agent of the client for whose benefit the real estate licensee will  
 27 act [SELLER]. All real estate <sup>employment contracts</sup> ~~personal service contracts~~ [EXCLUSIVE LISTINGS]  
 28 must have a definite expiration date that may be renewed or extended only by a  
 29 written agreement signed by the client or the client's authorized agent.

30 \* Sec. 27. AS 08.88.351 is amended to read:

31       Sec. 08.88.351. Record of transaction. A real estate broker shall

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

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1           **Sec. 08.88.291. Location.** A person licensed as a real estate broker shall, by  
 2           registering with the commission, inform the commission of the person's  
 3           [BROKER'S] principal office and of any branch offices of the person's real estate  
 4           business and include in the information the names of the real estate licensees who  
 5           are employed at each office. A [BROKER HAS. THE BROKER AND THE  
 6           ASSOCIATE] real estate licensee [BROKERS AND REAL ESTATE SALESMEN  
 7           THE BROKER EMPLOYS] may do real estate business only through a [IN OR OUT  
 8           OF THE BROKER'S] principal office or from a [AND THE BROKER'S] branch  
 9           office registered by the broker by whom the licensee is employed [OFFICES].  
 10          Failure of a real estate broker to maintain a place of business or to inform the  
 11          commission of its location and the names and addresses of all real estate licensees  
 12          employed at each location by the broker is [UNDER THE BROKER'S  
 13          JURISDICTION AT THE LOCATION ARE] grounds for the suspension or revocation  
 14          of the broker's license.

15          \* Sec. 22. AS 08.88.301 is amended to read:

16                 **Sec. 08.88.301. Change of location.** Before [IF] a real estate broker changes  
 17                 the location of the broker's principal office or of a branch office, the broker shall  
 18                 [IMMEDIATELY] notify the commission of the new address and any other office  
 19                 changes on a form provided by the commission and pay the applicable fees.

20          \* Sec. 23. AS 08.88.311 is amended to read:

21                 **Sec. 08.88.311. Branch offices.** (a) A branch office shall be under the direct  
 22                 supervision of a real estate associate broker whose principal place of business is that  
 23                 office and who is licensed under this chapter. An associate [REAL ESTATE] broker  
 24                 may serve in the capacity of direct supervisor at only one office [ONLY].

25                 (b) A [ALL] branch office [OFFICES] shall bear and be advertised only in the  
 26                 name of the principal office but may also indicate that it is a [THEY ARE] branch  
 27                 [OFFICES OF THE PRINCIPAL] office.

28          \* Sec. 24. AS 08.88.321 is amended to read:

29                 **Sec. 08.88.321. Possession and display of license certificates.** Employed  
 30                 real [REAL] /estate /licensees [SALESMEN OR ASSOCIATE/ REAL ESTATE  
 31                 BROKERS] /shall turn their license certificates over to the real estate broker who

Possession + display of license certificates. (a) The license certificate of a real estate broker shall be displayed in the broker's principal office.

(b) The license certificates of all licenses working in the broker's main office shall be displayed in that office.

(c) The license certificate of the designated associate broker in charge of a branch office and the certificates of all licenses working in a branch office shall be displayed in the branch office where they are registered with the Commission.

(d) Licenses must be displayed when they are available for public clients and customers to verify the current, active status of the licenses working in an office.

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1 employs them. The employing [REAL ESTATE] broker shall display the  
 2 [EMPLOYING REAL ESTATE] broker's own license certificate [IN THE  
 3 EMPLOYING REAL ESTATE BROKER'S PRINCIPAL OFFICE] and the license  
 4 certificates of employed licensees [EMPLOYEES] in the office indicated as the office  
 5 of the licensees' employment in the registration required under AS 08.88.291  
 6 [WHERE THEY DO MOST OF THEIR WORK].

7 \* Sec. 25. AS 08.88.331 is amended to read:

8 **Sec. 08.88.331. Making of transactions.** An employed [A] real estate  
 9 licensee [SALESMAN OR ASSOCIATE REAL ESTATE BROKER] may perform  
 10 activities for which a real estate license is required [MAKE A REAL ESTATE  
 11 TRANSACTION] only through the real estate broker who employs the licensee [REAL  
 12 ESTATE SALESMAN OR ASSOCIATE REAL ESTATE BROKER]. All money or  
 13 other proceeds collected in trust and related to a real estate transaction [ON  
 14 BEHALF OF THE BROKER] shall immediately be turned over to the broker or the  
 15 broker's authorized agent. [ALL TRANSACTIONS IN REAL ESTATE BY A REAL  
 16 ESTATE SALESMAN OR ASSOCIATE REAL ESTATE BROKER SHALL BE  
 17 PROCESSED THROUGH THE REAL ESTATE SALESMAN'S OR THE  
 18 ASSOCIATE REAL ESTATE BROKER'S EMPLOYING REAL ESTATE  
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 20 ESTATE SALESMAN'S OR ASSOCIATE REAL ESTATE BROKER'S OWN USE  
 21 OR THE USE OF A CLIENT.]

22 \* Sec. 26. AS 08.88.341 is amended to read:

23 **Sec. 08.88.341.** *Real estate employment contracts*  
 24 personal service contracts [LISTINGS] must be in writing and must be signed by the  
 25 broker [SELLER] or by an authorized agent of the broker as well as by the client  
 26 or an authorized agent of the client for whose benefit the real estate licensees will  
 27 act [SELLER]. All real estate *employment contracts* ~~personal service contracts~~ [EXCLUSIVE LISTINGS]  
 28 must have a definite expiration date that may be renewed or extended only by a  
 29 written agreement signed by the client or the client's authorized agent.

30 \* Sec. 27. AS 08.88.351 is amended to read:

31 **Sec. 08.88.351. Record of transaction.** A real estate broker shall

1 (1) keep a complete record, [OF ALL REAL ESTATE  
2 TRANSACTIONS MADE BY THE BROKER OR EMPLOYEES OF THE BROKER]  
3 for at least three years, of all real estate transactions in which the broker or  
4 employed licensees of the broker engaged;

5 (2) provide upon request to any principal in a transaction an  
6 [MAKE A CLOSING STATEMENT SHOWING DISBURSEMENTS AND]  
7 accounting for all money or other property collected or held in the course of each  
8 transaction;

9 (3) keep a separate trust account in a bank [,] into which the broker  
10 shall deposit all earnest money deposits, [AND] purchase money, security deposits,  
11 contingency funds, community association fees, collected rental money, rental  
12 receipts, or other money collected in trust until it is appropriate [PROPER] for the  
13 broker to distribute the money to the proper persons;

14 (4) make available to the commission, on request, trust account  
15 records and all other documents [RELATING TO TRANSACTIONS UNDER (3) OF  
16 THIS SECTION] that the commission may require in order to conduct an  
17 investigation or to [A COMPLETE] audit a [OF] trust account;

18 (5) if records are delivered to a partnership, corporation, or  
19 business entity other than another licensed broker upon termination of  
20 employment, ensure by contract the maintenance and availability of those records  
21 for a minimum of three years in accordance with this section [ACCOUNTS].

22 \* Sec. 28. AS 08.88.351 is amended by adding new subsections to read:

23 (b) A real estate licensee

24 (1) shall keep, for a minimum of three years, a complete record of all  
25 real estate transactions in which the licensee was a principal;

26 (2) who maintains records concerning management or sale of the  
27 licensee's own properties or the licensee's client properties separate from the broker's  
28 file, shall retain those records for a minimum of three years;

29 (3) shall make available to the commission, on request, records and  
30 other documents that the commission may require to conduct an investigation.

31 (c) For the purposes of this section, the three-year requirement for records

1 maintenance begins at the initiation of a transaction and continues, as applicable, until  
2 three years after the date

- 3 (1) a listing agreement ends;
- 4 (2) a sales transaction closes or otherwise ends;
- 5 (3) a management contract ends; or
- 6 (4) another contractual or fiduciary obligation ends.

7 \* Sec. 29. AS 08.88.361 is amended to read:

8 Sec. 08.88.361. When commission or other fee is earned. An obligation to  
 9 pay a [A] commission, management fee, or other compensation to a principal real  
 10 estate ~~licensee~~ <sup>broker</sup> must be based on [IS EARNED WHEN THE REAL ESTATE  
 11 BROKER FULFILLS] the terms of a written <sup>real estate employment</sup> personal services contract. Other than  
 12 through enforcement of the terms of a written <sup>real estate employment</sup> personal services contract, a real  
 13 estate licensee has no right under law to enforce collection of a commission or  
 14 other fee for a service that requires a real estate license.

15 \* Sec. 30. AS 08.88.381 is amended to read:

16 Sec. 08.88.381. Signs. A [LICENSED] real estate broker shall maintain a sign  
 17 at each of the [REAL ESTATE] broker's registered real estate offices [,] prominently  
 18 showing the name of the real estate [BROKER'S] business as being registered with  
 19 the commission. The required size, content, and location of signs under this  
 20 section may be determined by the commission under regulations. <sup>however, the</sup> The regulations  
 21 must require signs in offices located in or on premises with other sign  
 22 requirements to meet the other requirements if the requirements are more  
 23 restrictive than would otherwise be applicable under the commission's regulations  
 24 and the licensee submits a copy of the premise's sign regulations to the  
 25 commission.

*Sign regulations must allow offices located on premises with more restrictive sign requirements than those adopted by the commission to comply by meeting the individual premise/building requirements and 2) submitting a copy of the premise requirements to the commission.*

26 \* Sec. 31. AS 08.88.391 is amended to read:

27 Sec. 08.88.391. Conflict of interest. A [LICENSED] real estate licensee  
 28 [BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE  
 29 SALESMAN] who has a personal financial interest or other conflict of interest  
 30 relating to [IN] a real estate transaction shall, at the time of initial substantive  
 31 contact with the principals or agents of the principals, disclose that interest in

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writing to the principals and agents of the principals [EVERY PERSON] involved in the transaction. In this section, "conflict of interest" is when a licensee

(1) has a present or anticipated personal interest in the property that is the subject of a transaction;

(2) is whole or part owner of a business interest in the property being marketed or considered for purchase or lease;

(3) represents a person with whom the licensee has a material relationship or who has a present or anticipated material interest in the property being marketed or considered for purchase or lease;

(4) represents more than one party in a transaction without giving disclosure notification as required by law;

(5) receives compensation from someone other than a party to the contract or another party having a financial interest in the transaction.

\* Sec. 32. AS 08.88.396 is amended to read:

*replace with →*

Sec. 08.88.396. Disclosure of agency to prospective buyers and sellers. (a)

A person licensed [HOLDING A LICENSE] under this chapter shall, when acting as an agent for a prospective seller of real estate,

(1) disclose in writing the licensee's [PERSON'S] agency relationship with the seller to each prospective buyer at the time that the licensee [PERSON] begins to provide specific assistance to locate or acquire real estate for the buyer, and obtain from each prospective buyer a signed acknowledgement that the buyer is aware of the agency relationship between the licensee [PERSON LICENSED UNDER THIS CHAPTER] and the seller; and

(2) include in the purchase agreement a statement of the agency relationship between the licensee [PERSON LICENSED UNDER THIS CHAPTER] and the seller.

(b) A person licensed [HOLDING A LICENSE] under this chapter shall, when acting as an agent for a prospective buyer of real estate,

(1) disclose the licensee's [PERSON'S] relationship with the buyer to a prospective seller of real estate, or to the seller's agent, at the time of the initial contact between the licensee [PERSON LICENSED UNDER THIS CHAPTER] and

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the prospective seller or the seller's agent, and confirm the relationship in writing as soon as possible after the initial contact:

(2) include in the purchase agreement a statement of the agency relationship between the licensee [PERSON LICENSED UNDER THIS CHAPTER] and the buyer;

(3) if the prospective seller has an unexpired exclusive listing contract for a property, present all offers [AN OFFER] to purchase that property through [TO] the seller's agent; and

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

(c) A person licensed under this chapter may [NOT] act as an agent for both a prospective seller and a prospective buyer of real estate only after [UNLESS] the licensee [PERSON] informs both the seller and the buyer of the dual agency and obtains written consent to the dual [JOINT] agency from both principals.

(d) When a change occurs during a transaction that makes a prior written disclosure required by this section incomplete, misleading, or inaccurate, the licensee [PERSON LICENSED UNDER THIS CHAPTER] shall make a revised disclosure, in writing, to all parties to the transaction as soon as possible. The revised disclosure must include the date of the revision and shall be acknowledged in writing by all the parties.

\* Sec. 33. AS 08.88 is amended by adding a new section to read:

**Sec. 08.88.397. Licensed assistants.** A licensed real estate salesman or licensed associate real estate broker may act as a licensed assistant to a real estate licensee other than the broker who employs the salesman or associate broker if

(1) the employment arrangement between the licensed assistant and the other licensee is in writing and conforms to the applicable state and federal regulations regarding employment;

(2) the employment of the licensed assistant is approved in writing by the broker of the licensee who employs the assistant;

(3) the licensee who employs the assistant agrees to be responsible for

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1 writing to the principals and agents of the principals [EVERY PERSON] involved  
2 in the transaction. In this section, "conflict of interest" is when a licensee

3 (1) has a present or anticipated personal interest in the property  
4 that is the subject of a transaction;

5 (2) is whole or part owner of a business interest in the property  
6 being marketed or considered for purchase or lease;

7 (3) represents a person with whom the licensee has a material  
8 relationship or who has a present or anticipated material interest in the property  
9 being marketed or considered for purchase or lease;

10 (4) represents more than one party in a transaction without giving  
11 disclosure notification as required by law;

12 (5) receives compensation from someone other than a party to the  
13 contract or another party having a financial interest in the transaction.

14 \* Sec. 32. AS 08.88.396 is amended to read:

15 Sec. 08.88.396. Disclosure of agency to prospective buyers and sellers. (a) *update with →*

16 A person licensed [HOLDING A LICENSE] under this chapter shall, when acting as  
17 an agent for a prospective seller of real estate,

18 (1) disclose in writing the licensee's [PERSON'S] agency relationship  
19 with the seller to each prospective buyer at the time that the licensee [PERSON]  
20 begins to provide specific assistance to locate or acquire real estate for the buyer, and  
21 obtain from each prospective buyer a signed acknowledgement that the buyer is aware  
22 of the agency relationship between the licensee [PERSON LICENSED UNDER THIS  
23 CHAPTER] and the seller; and

24 (2) include in the purchase agreement a statement of the agency  
25 relationship between the licensee [PERSON LICENSED UNDER THIS CHAPTER]  
26 and the seller.

27 (b) A person licensed [HOLDING A LICENSE] under this chapter shall, when  
28 acting as an agent for a prospective buyer of real estate,

29 (1) disclose the licensee's [PERSON'S] relationship with the buyer to  
30 a prospective seller of real estate, or to the seller's agent, at the time of the initial  
31 contact between the licensee [PERSON LICENSED UNDER THIS CHAPTER] and

Replace current 08.88.396 with the following:

**Sec. 08.88.396. Disclosure of agency to prospective buyers and sellers.** (a) When acting as an agent for a prospective seller, a person licensed under this chapter shall

(1) disclose the licensee's agency relationship with the seller to each prospective buyer at the time that the licensee begins to provide specific assistance to locate or acquire real estate for the buyer, and

(2) include in the purchase agreement a statement confirming the agency relationship between the seller and the licensee.

(b) When acting as an agent for a prospective buyer of real estate, a person licensed under this chapter shall

(1) disclose the licensee's relationship with the buyer to a prospective seller of real estate, or the seller's agent, at the time of the initial contact between the licensee and the prospective seller, and

(2) include in the purchase agreement a statement confirming the agency relationship between the buyer and licensee.

(c) When acting as an agent for more than one principal with adverse interests in the same transaction, a licensee:

(1) must first inform all principals of the dual agency status and obtain the written consent of all parties to the dual representation;

(2) must disclose all material facts that could affect, either beneficially or adversely, either principal party's decision about a real property transaction;

(3) must obtain written authorization from the appropriate principal before disclosing any confidential information regarding price, terms or motivation to buy or sell;

(4) must work diligently to consummate the transaction without representing the interest of one principal party in the transaction to the detriment of any other principal party.

**ADD DEFINITION OF DUAL AGENT TO 08.88.900 AS FOLLOWS:**

"dual agent" means a licensee representing two or more principals whose interests are adverse in the same real estate transaction with the knowledge and informed consent of the principals.

1 the prospective seller or the seller's agent, and confirm the relationship in writing as  
2 soon as possible after the initial contact:

3 (2) include in the purchase agreement a statement of the agency  
4 relationship between the licensee [PERSON LICENSED UNDER THIS CHAPTER]  
5 and the buyer;

6 (3) if the prospective seller has an unexpired exclusive listing contract  
7 for a property, present all offers [AN OFFER] to purchase that property through [TO]  
8 the seller's agent; and

9 (4) disclose in writing to all parties to a transaction when the licensee's  
10 [PERSON'S] compensation as agent for the buyer is to be paid by anyone other than  
11 the buyer being represented by the licensee [PERSON].

12 (c) A person licensed under this chapter may [NOT] act as an agent for both  
13 a prospective seller and a prospective buyer of real estate only after [UNLESS] the  
14 licensee [PERSON] informs both the seller and the buyer of the dual agency and  
15 obtains written consent to the dual [JOINT] agency from both principals.

16 (d) When a change occurs during a transaction that makes a prior written  
17 disclosure required by this section incomplete, misleading, or inaccurate, the licensee  
18 [PERSON LICENSED UNDER THIS CHAPTER] shall make a revised disclosure, in  
19 writing, to all parties to the transaction as soon as possible. The revised disclosure  
20 must include the date of the revision and shall be acknowledged in writing by all the  
21 parties.

22 \* Sec. 33. AS 08.88 is amended by adding a new section to read:

23 Sec. 08.88.397. Licensed assistants. A licensed real estate salesman or  
24 licensed associate real estate broker may act as a licensed assistant to a real estate  
25 licensee other than the broker who employs the salesman or associate broker if

26 (1) the employment arrangement between the licensed assistant and the  
27 other licensee is in writing and conforms to the applicable state and federal regulations  
28 regarding employment;

29 (2) the employment of the licensed assistant is approved in writing by  
30 the broker of the licensee who employs the assistant;

31 (3) the licensee who employs the assistant agrees to be responsible for

1 paying the licensed assistant's wages and appropriate taxes and completing the  
2 appropriate state and federal tax forms:

3 (4) the broker of the licensee who employs the assistant agrees to be  
4 liable for the actions of the licensed assistant.

5 \* Sec. 34. AS 08.88.401 is amended to read:

6 Sec. 08.88.401. Prohibited conduct. (a) A person licensed under this chapter  
7 may not falsely represent to

8 (1) have been awarded a degree or other designation;

9 (2) [OR TO] be a member or an affiliate of a professional organization;

10 or

11 (3) be a member of a franchise or other business association.

12 (b) A person licensed under this chapter

13 (1) [WHO IS NOT A REAL ESTATE BROKER LICENSED IN THIS  
14 STATE] may not pay [ACCEPT] a fee or a commission for performance of an act for  
15 which a license is required by this chapter to a person unless the person is licensed  
16 under this chapter, except that a real estate broker may pay to a person [VALIDLY]  
17 licensed in another state [MAY ACCEPT] a fee or commission [OR A PORTION OF  
18 A FEE OR COMMISSION] for assisting [A REAL ESTATE BROKER LICENSED  
19 IN THIS STATE] in the performance of an act for which a license is required by this  
20 chapter;

21 (2) as an associate broker or [WHO IS A] real estate salesman  
22 [LICENSED IN THIS STATE] may [NOT] accept a fee or commission for  
23 performance of an act for which a license is required by this chapter only from  
24 [UNLESS ACCEPTANCE IS AUTHORIZED BY] the licensee's employing broker,  
25 except that the wages of a person who is engaged as a licensed assistant under  
26 AS 08.88.397 may be accepted by the person from the assistant's employer [WHO  
27 EMPLOYS THE SALESMAN].

28 (c) A person licensed under this chapter may not knowingly make, authorize,  
29 direct, or aid in the publication of a false statement or misrepresentation concerning  
30 land or a subdivision or other real estate offered for sale, [OR] lease, or rent or  
31 concerning an association being managed.

1 (d) A person who violates [A PROVISION OF] this section, AS 08.88.161,  
2 or 08.88.396 [AS 08.88.396] is guilty of a class A misdemeanor.

3 \* Sec. 35. AS 08.88.401 is amended by adding a new subsection to read:

- 4 (e) A person may not
  - 5 (1) use or attempt to use a license issued under this chapter that was
  - 6 issued to another person:
  - 7 (2) give false or forged evidence to the commission or to a
  - 8 representative of the commission in an attempt to obtain a license;
  - 9 (3) impersonate an applicant under this chapter;
  - 10 (4) knowingly use or attempt to use an expired, suspended, revoked,
  - 11 or nonexistent license; or
  - 12 (5) falsely claim to be licensed and authorized to practice under this
  - 13 chapter.

14 \* Sec. 36. AS 08.88.460(a) is amended to read:

15 (a) Except as provided in AS 08.88.285(c), a [A] person seeking  
16 reimbursement for a loss suffered in a transaction as a result of fraud,  
17 misrepresentation, deceit, or the conversion of trust funds on the part of a real estate  
18 broker, associate real estate broker, or real estate salesman licensed under this chapter  
19 shall make a claim to the commission for reimbursement on a form furnished by the  
20 commission. The form shall be executed under penalty of unsworn falsification, and  
21 must include the following:

- 22 (1) the name and address of the real estate broker, associate real estate
- 23 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 occurred;
- 26 (4) the date upon which the alleged loss was discovered;
- 27 (5) the name and address of the claimant; and
- 28 (6) a general statement of facts relative to the claim.

29 \* Sec. 37. AS 08.88.900 is amended to read:

30 Sec. 08.88.900. Exceptions. The provisions of this [THIS] chapter that  
31 require licensure do [DOES] not apply to

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(1) <sup>person</sup> a person who is not licensed under this chapter who manages or makes a real estate transaction with respect to real estate the person owns or on the person's own behalf [, UNLESS THE TRANSACTION INVOLVES LAND DEFINED IN AS 34.55.044(7) THAT IS NOT IN ALASKA];

(2) an attorney in fact under a power of attorney authorizing the consummation of a specific real estate transaction; an attorney in fact may not act as such under this paragraph for more than two transactions in a calendar year;

(3) a person licensed in another profession while [LAWYER] performing the duties authorized under the license [AS A LAWYER];

(4) a public official in the conduct of official duties;

(5) a person acting as receiver, trustee, administrator, executor, or guardian;

(6) a person acting under court order;

(7) a person acting under the authority of a will or trust instrument;

(8) a person dealing in mineral rights transactions;

(9) ~~a domestic or foreign corporation, a general or limited partnership, or a partner or regular employee of a domestic or foreign corporation or a general or limited partnership,~~ <sup>an</sup> when performing an act described in AS 08.88.161 incidental to

[IN] the regular course of business, or as an incident to [,] the management, sale, or other disposition of real estate owned by the corporation or partnership, <sup>or a limited liability company</sup> under [PROVIDED IN] this paragraph does not apply to a person, <sup>employed by a foreign or domestic corp partnership, limited or partner of llc</sup> who performs an

act described in AS 08.88.161 [, UNLESS ALLOWED FOR UNLICENSED PERSONS UNDER AS 08.88.165,] either

(A) as a vocation; or

(B) for compensation if the amount of the compensation is dependent upon or directly related to the value of the real estate with respect to which the act is performed;

(10) a resident manager;

(11) a bookkeeper performing bookkeeping functions;

(12) tradesmen or vendors of services performing maintenance and repair functions;

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(13) an employee of a real estate firm or of a property owner who delivers or accepts a real estate contract or application, or a related amendment, to or from another person;

(14) an individual assisting in the performance of real estate activities only by carrying out administrative, clerical, or maintenance tasks;

(15) a person who manages a total of four or fewer residential units for another;

(16) an owner of a unit of a self-managed community association managing the community association without remuneration;

(17) a developer of a community association during the period that the developer retains control of at least 51 percent of the association;

(18) a resident manager; or

(19) an attorney in fact who, for a relative, acts under a power of attorney that authorizes the consummation of a specific real estate transaction; in this paragraph, "relative" means a spouse or a great grandparent, grandparent, parent, uncle, aunt, sibling, child, nephew, niece, grandchild, or great grandchild by the whole or half blood or by marriage but does not include relatives who are only related through a step relationship, such as a stepbrother or the child of a stepbrother [OF RENTED REAL ESTATE IF THE RESIDENT MANAGER'S DUTIES ARE LIMITED TO THE NEGOTIATION OF LEASES AND RENTAL AGREEMENTS AND THE COLLECTION OF RENT FOR THE USE OF THE REAL ESTATE AND IF THE RESIDENT MANAGER IS

(A) EMPLOYED BY THE OWNER OF THE REAL ESTATE;

OR

(B) EMPLOYED BY, OR ENGAGED UNDER CONTRACT WITH, A LICENSED REAL ESTATE BROKER].

\* Sec. 38. AS 08.88.990(1) is amended to read:

(1) "commission" means the Real Estate Commission except where the context indicates that "commission" refers to a fee paid for personal services;

\* Sec. 39. AS 08.88.990(3) is amended to read:

(3) "real estate" means an interest or estate in land, corporeal or

*see (20)*

(20) An unlicensed secretary or receptionist in a real estate office who accepts rent or association fees and provides a written receipt for it when the money is delivered to the real estate office by a tenant or community association member.

1        incorporeal, except that it does not include a unit in a hotel, motel, boarding house,  
 2        rooming house, or other transient lodging facility, or a unit in a warehouse, mini-  
 3        storage facility, or other facility the function of which is limited to warehousing  
 4        purposes;

5        \* Sec. 40. AS 08.88.990(4) is amended to read:

6                (4) "resident manager" means a person who resides on rented or leased  
 7        real property or on contiguous property owned by the same owner, [AND] manages  
 8        the property [IT] for the benefit of another person, and is either employed by the  
 9        owner of the real estate or employed by, or under contract with, a real estate  
 10        licensee.

11        \* Sec. 41. AS 08.88.990 is amended by adding new paragraphs to read:

12                (5) "community association management" means an activity undertaken  
 13        *of Homeowners Association*  
 14        ~~for others~~ with regard to a property organized under AS 34.08 under an agreement in  
 15        exchange for a fee, commission, or other valuable consideration, including the  
 16        following activities: preparing budgets and other financial documents, collecting,  
 17        controlling, or disbursing funds, obtaining insurance for the association, contracting for  
 18        maintenance and repair to association property, and supervising the day-to-day  
 19        operations of an association under the direction of the association's board of directors;

20                (6) "employed" includes being an independent contractor with an  
 21        employer;

22                (7) "property management" is an activity undertaken for another with  
 23        regard to real property under an agreement in exchange for a fee, commission, or other  
 24        valuable consideration, including the following activities: marketing, leasing,  
 25        contracting for physical, administrative, or financial maintenance, performance of  
 26        overall management of real property, and the supervision of these actions;

27                (8) "real estate licensee" is a person who holds a license under this  
 28        chapter; the term includes a broker unless the context clearly excludes brokers;

29                (9) "real estate transaction"

30                        (A) in sales, means the transfer or attempted transfer of an  
 31        interest in a unit of real property, an act conducted as a result of or in pursuit  
       of a contract to transfer an interest in a unit of real property, or an act

"Community association" means an organization  
of unit owners required by AS 34.08.310 to be  
responsible for the business affairs of a common  
interest community

1 conducted in an attempt to obtain a contract to market real property;

2 (B) in property management, means the lease or rental of a unit  
3 of real property including collection of rent from a tenant of a unit of rented  
4 or leased real property, an attempt to rent or lease a unit of real property, an  
5 attempt to collect rent from a tenant of rented or leased real property, or an act  
6 conducted as a result of or in pursuit of a contract to manage a unit of leased  
7 or rented real property;

8 (C) in community association management, means the collection  
9 or attempted collection of dues from a unit owner or an activity conducted as  
10 a result of or in pursuit of a contract with a community association to manage  
11 the affairs of a community association.

12 \* Sec. 42. AS 08.88.111 is repealed.

13 \* Sec. 43. TRANSITIONAL PROVISIONS. (a) Notwithstanding AS 08.88.161(7), a  
14 person may practice, or negotiate a contract to practice, community association management  
15 without a license issued under AS 08.88 until one year after the effective date of sec. 1 of this  
16 Act.

17 (b) Notwithstanding other provisions of this Act, a natural person who meets the  
18 requirements of this subsection is eligible for licensure as follows, without completing the  
19 education requirements of AS 08.88.091(b), if the person applies by one year after the  
20 effective date of sec. 1 of this Act and pays the required fees:

21 (1) a person who demonstrates to the commission's satisfaction that the person  
22 is currently engaged as a principal in the practice of community association management, as  
23 defined in AS 08.88.990, as amended by this Act, and has passed the broker's examination,  
24 is eligible for a real estate broker license;

25 (2) a person who demonstrates to the commission's satisfaction that the person  
26 is currently qualified to practice as a principal in the practice of community association  
27 management, as defined in AS 08.88.990, as amended by this Act, has passed the associate  
28 broker examination, and is currently engaged in the practice of community association  
29 management under a supervising principal who is engaged in the practice of community  
30 association management is eligible for a real estate associate broker license;

31 (3) a person who has passed the salesman examination and who demonstrates

1 to the commission's satisfaction that the person is currently engaged in the practice of  
2 community association management, as defined in AS 08.88.990, as amended by this Act,  
3 under the supervision of a principal who is engaged in community association management  
4 is eligible for a real estate salesman license.

5 \* Sec. 44. AS 08.88.173(a), enacted by sec. 12 of this Act, takes effect 90 days after the  
6 effective date of AS 08.88.173(b), enacted by sec. 12 of this Act.

7 \* Sec. 45. Except as provided in sec. 44 of this Act, this Act takes effect immediately  
8 under AS 01.10.070(c).

**DRAFT**

**DRAFT**

**HOUSE BILL NO.**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - SECOND SESSION**

**BY REPRESENTATIVE ROKEBERG**

Introduced:

Referred:

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to the real estate surety fund and fees charged by the Real  
2 Estate Commission; and providing for an effective date."

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

4 \* Section 1. AS 08.88.091(a) is amended to read:

5 (a) The commission may conduct and assist in conducting real estate clinics,  
6 meetings, courses, or institutes. The commission also may

7 (1) assist libraries and educational institutions in sponsoring studies and  
8 programs; [AND]

9 (2) publish informational materials for the purpose of raising the  
10 standards of the real estate business and the competency of licensees; and

11 (3) recover all or a portion of the expenses incurred under this  
12 subsection by charging fees for participation in educational programs and for  
13 publications of the commission; these fees shall be deposited in the real estate  
14 surety fund.

1 \* Sec. 2. AS 08.88.281 is amended to read:

2 Sec. 08.88.281. Real estate surety fund. Before issuing a license to an  
3 applicant under this chapter, the commission shall ensure [DETERMINE] that the  
4 applicant has complied with the provisions of AS 08.88.455 and is covered by the real  
5 estate surety fund established in AS 08.88.450.

6 \* Sec. 3. AS 08.88.450 is amended to read:

7 Sec. 08.88.450. Real estate surety fund. The real estate surety fund is  
8 established in the general fund to carry out the purposes of AS 08.88.450 - 08.88.500.  
9 The fund is composed of payments made by [LICENSED] real estate licensees  
10 [BROKERS AND SALESMEN] under AS 08.88.455, [AND] filing fees retained  
11 under [IN ACCORDANCE WITH] AS 08.88.460, and fees collected under  
12 AS 08.88.091(a). The fund may not exceed \$500,000 and amounts in the fund in  
13 excess of \$250,000 may be appropriated for ~~real estate educational purposes as~~ <sup>to the commission to cover the expenses of</sup>  
14 ~~provided in AS 08.88.091.~~

15 \* Sec. 4. AS 08.88.455 is amended to read:

16 Sec. 08.88.455. Payments by real estate licensees [BROKERS AND  
17 SALESMEN]. (a) A [LICENSED] real estate licensee, [BROKER, ASSOCIATE  
18 BROKER, OR SALESMAN] when applying for [OBTAINING] or renewing a real  
19 estate license, in lieu of obtaining a corporate surety bond, shall pay to the commission  
20 in addition to the license fee, a surety fund fee not to exceed \$125. After the fund  
21 reaches \$250,000, the commission shall by regulation adjust the surety fund fees so  
22 that, taking into account anticipated <sup>income to the fund and</sup> expenditures for claims against the fund and <sup>for</sup> real  
23 estate educational purposes, <sup>authorized under an appropriation made by law</sup> the fund is maintained at a level not less than \$250,000 <sup>fund</sup>  
24 <sup>Subsequent to \$500,000</sup> (b) All fees collected under this section shall be paid at least once a month by  
25 the department [COMMISSION] into the general fund. These payments shall be  
26 credited to the real estate surety fund.

27 \* Sec. 5. AS 08.88.460 is amended to read:

28 Sec. 08.88.460. Claim for payment. (a) A person seeking reimbursement for  
29 a loss suffered in a real estate transaction as a result of fraud, misrepresentation,  
30 deceit, or the conversion of trust funds on the part of a real estate licensee [BROKER,  
31 ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE SALESMAN

providing tuition-free courses, seminars, or clinics that  
will satisfy the education requirements for licenses  
who are governed by AS 08.88.091. Money in or from  
the fund may not be expended by the commission  
for other operating expenses unless authorized in an  
appropriation made by law.

1 LICENSED UNDER THIS CHAPTER] shall make a claim to the commission for  
2 reimbursement on a form furnished by the commission. In order to be eligible for  
3 reimbursement by the commission, the claim form must be filed within two years  
4 after the occurrence of the fraud, misrepresentation, deceit, or conversion of trust  
5 funds claimed as the basis for the reimbursement. The form shall be executed  
6 under penalty of unsworn falsification [,] and must include the following:

7 (1) the name and address of each [THE] real estate licensee involved  
8 [BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE  
9 SALESMAN];

10 (2) the amount of the alleged loss;

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

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

13 (5) the name and address of the claimant; and

14 (6) a general statement of facts relative to the claim.

15 (b) A copy of a claim filed with the commission under (a) of this section shall  
16 be sent to each [THE] real estate licensee [BROKER, ASSOCIATE REAL ESTATE  
17 BROKER, OR REAL ESTATE SALESMAN] alleged to have committed the  
18 misconduct resulting in losses, to the principal [AS WELL AS A] real estate broker  
19 employing a licensee [AN ASSOCIATE REAL ESTATE BROKER OR REAL  
20 ESTATE SALESMAN] alleged to have committed the conduct resulting in losses, and  
21 to any other real estate licensee involved in the transaction at least 20 days before  
22 any hearing held on the claim by the commission.

23 (c) Within seven days after receipt of notice of a claim under (b) of this  
24 section, each [THE] real estate licensee [BROKER, ASSOCIATE REAL ESTATE  
25 BROKER, OR REAL ESTATE SALESMAN] against whom the claim is made may  
26 elect to defend the claim as a small claims action in district court under District Court  
27 Civil Rules 8 - 22 [,] if the claim does not exceed the small claims jurisdictional limit.  
28 An election to defend a claim in district court under the small claims rules may not  
29 be revoked by the real estate licensee [BROKER, ASSOCIATE BROKER, OR  
30 SALESMAN] without the consent of the claimant. Upon receipt of a valid written  
31 election under this subsection, the commission shall dismiss the claim filed with the

1 commission and notify the claimant that the claim must be brought as a small claims  
2 action in the appropriate state court.

3 (d) A claimant under this section shall pay a filing fee of \$250 to the  
4 commission at the time the claim is filed. The filing fee shall be refunded [ONLY]  
5 if

6 (1) the commission makes an award to the claimant from the real estate  
7 surety fund;

8 (2) the claim is dismissed under (c) of this section; or

9 (3) the claim is withdrawn by the claimant before the commission holds  
10 a hearing on the claim.

11 \* Sec. 6. AS 08.88.465(b) is amended to read:

12 (b) A certified or authenticated copy of a record, including a transcript of  
13 testimony, of a hearing held under AS 08.88.071(a)(3) in which fraud,  
14 misrepresentation, deceit, or conversion of trust funds on the part of a [LICENSED  
15 BROKER, ASSOCIATE BROKER, OR] real estate licensee [SALESMAN] is  
16 established [,] may constitute sufficient evidence to support a finding that a claim  
17 should be paid.

18 \* Sec. 7. AS 08.88.465(c) is amended to read:

19 (c) Before the commission finds that payment should be made from the real  
20 estate surety fund, each [THE] real estate licensee against whom the claim is made  
21 [BROKER, ASSOCIATE BROKER, OR REAL ESTATE SALESMAN] shall be  
22 afforded an opportunity to file with the commission, within 10 days after receipt of  
23 notification of the claim under AS 08.88.460(b), either a written statement in  
24 opposition to the claim or an application for the presentation of additional evidence.

25 \* Sec. 8. AS 08.88.465(d) is amended to read:

26 (d) The claimant bears the burden of proof of establishing that the claimant  
27 suffered losses in a real estate transaction as a result of fraud, misrepresentation,  
28 deceit, or the conversion of trust funds on the part of a real estate licensee [BROKER,  
29 ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE SALESMAN] and the  
30 extent of those losses. All facts shall be established by a preponderance of the  
31 evidence.

1 \* Sec. 9. AS 08.88.470 is amended to read:

2           **Sec. 08.88.470. Findings and payment.** At the conclusion of the  
3 commission's consideration of a claim made under AS 08.88.460, it shall make written  
4 findings and conclusions on the evidence. If the commission finds that the claimant  
5 has suffered a loss in a real estate transaction as a result of fraud, misrepresentation,  
6 deceit, or the conversion of trust funds on the part of a real estate licensee [BROKER,  
7 ASSOCIATE BROKER, OR SALESMAN], the commission may award a claimant  
8 reimbursement from [OUT OF] the real estate surety fund for the claimant's loss up  
9 to \$10,000. Not [HOWEVER, NOT] more than \$10,000 may be paid for each  
10 transaction regardless of the number of persons injured or the number of parcels of real  
11 estate involved in the transaction.

12 \* Sec. 10. AS 08.88.472(a) is amended to read:

13           (a) The [WHEN AN AWARD IS MADE FROM THE REAL ESTATE  
14 SURETY FUND UNDER AS 08.88.470, THE] commission may charge to the real  
15 estate surety fund the costs of a hearing on a claim for reimbursement held under  
16 AS 08.88.465. The commission shall deposit into the real estate surety fund  
17 amounts [AS 08.88.071 OR 08.88.465. AMOUNTS SUBSEQUENTLY] recovered  
18 [BY THE COMMISSION] for these costs from the licensee under AS 08.88.071(b) or  
19 from other parties under AS 08.88.490 [SHALL BE DEPOSITED TO THE REAL  
20 ESTATE SURETY FUND].

21 \* Sec. 11. AS 08.88.474 is amended to read:

22           **Sec. 08.88.474. Payment of small claims judgment.** If a claim originally  
23 filed with the commission is dismissed and is heard as a small claims action under  
24 AS 08.88.460(c) and the claimant prevails in the small claims action against a [THE]  
25 real estate licensee [BROKER, ASSOCIATE REAL ESTATE BROKER, OR  
26 SALESMAN], the commission shall make an award from the fund of any outstanding  
27 portion of the small claims judgment on receipt of a copy of the final judgment and  
28 an affidavit from the claimant stating that more than 30 days have elapsed since the  
29 judgment became final and that the judgment has not yet been satisfied by the  
30 licensee determined responsible [BROKER, ASSOCIATE BROKER, OR  
31 SALESMAN HAS NOT SATISFIED THE JUDGMENT DURING THAT TIME].

1 After payment of a small claims judgment, the commission is subrogated to the  
2 claimant's rights in the judgment under AS 08.88.490.

3 \* Sec. 12. AS 08.88.475 is amended to read:

4 **Sec. 08.88.475. Maximum liability.** (a) The maximum liability of the real  
5 estate surety fund may not exceed \$50,000 for any one real estate licensee [BROKER  
6 OR SALESMAN].

7 (b) If the \$50,000 liability of the fund as provided in (a) of this section is  
8 insufficient to pay in full the valid claims of all persons who have filed claims against  
9 an individual licensee [ONE BROKER OR SALESMAN], the \$50,000 shall be  
10 distributed among the claimants in the ratio that their individual claims bear to the  
11 aggregate of valid claims, or in another manner that the commission considers  
12 equitable. Distribution shall be among the persons entitled to share in the recovery [,]  
13 without regard to the order [OF PRIORITY] in which their claims were filed.

14 \* Sec. 13. AS 08.88.490 is amended to read:

15 **Sec. 08.88.490. Right to subrogation.** When the commission has paid to a  
16 claimant from the real estate surety fund the sum awarded by the commission, the  
17 commission shall be subrogated to all of the rights of the claimant to the amount paid,  
18 and the claimant shall assign all right, title, and interest in that portion of the claim to  
19 the commission. Money collected [AMOUNTS SUBSEQUENTLY REALIZED] by  
20 the commission on the claim shall be deposited to the real estate surety fund.

21 \* Sec. 14. AS 08.88.990 is amended by adding new paragraphs to read:

22 (5) "real estate licensee" is a person who holds a license under this  
23 chapter; the term includes a broker unless the context clearly excludes brokers;

24 (6) "real estate transaction"

25 (A) in sales, means the transfer or attempted transfer of an  
26 interest in a unit of real property, an act conducted as a result of or in pursuit  
27 of a contract to transfer an interest in a unit of real property, or an act  
28 conducted in an attempt to obtain a contract to market real property;

29 (B) in property management, means the lease or rental of a unit  
30 of real property including collection of rent from a tenant of a unit of rented  
31 or leased real property, an attempt to rent or lease a unit of real property, an