

ALASKA LEGISLATURE COMMITTEE FILES 1977-1990 0072

9260 HOUSE LABOR & COMMERCE

1 attempt to collect rent from a tenant of rented or leased real property, or an act
2 conducted as a result of or in pursuit of a contract to manage a unit of leased
3 or rented real property;

4 (C) in community association management, means the collection
5 or attempted collection of dues from a unit owner or an activity conducted as
6 a result of or in pursuit of a contract with a community association to manage
7 the affairs of a community association with respect to property organized under
8 AS 34.08.

9 * Sec. 15. This Act takes effect immediately under AS 01.10.070(c).

3/24/97
adopted as
draft working
document on
motion by Huslon

0-LS0197F
Lauterbach
3/18/97

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

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST 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 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 1. AS 08.88.041 is amended to read:

5 Sec. 08.88.041. Qualifications of commission members. (a) Five members
6 of the commission must be real estate services licensees [BROKERS OR ASSOCIATE
7 BROKERS] who have held an endorsement to practice [BEEN LICENSED] real
8 estate sales, property management, or community association management
9 [BROKERS OR LICENSED ASSOCIATE BROKERS] in Alaska for at least three
10 years before appointment. Two members of the board must be public members in
11 accordance with AS 08.01.025.

12 (b) Of the five members of the commission who must be real estate services
13 licensees [BROKERS OR ASSOCIATE BROKERS],

14 (1) one member shall be from the First Judicial District, one shall be

1 from the Second Judicial District, one shall be from the Third Judicial District, one
2 shall be from the Fourth Judicial District, and one shall be from the state at large;
3 however [. HOWEVER], if no [LICENSED] real estate services licensee [BROKER
4 OR LICENSED ASSOCIATE BROKER] is eligible or available for appointment from
5 the Second Judicial District, then two [LICENSED] real estate services licensees
6 [BROKERS OR LICENSED ASSOCIATE BROKERS] shall be appointed from the
7 state at large; and

8 (2) at least one member shall hold an endorsement to practice
9 property management or community association management.

10 * Sec. 2. AS 08.88.051(c) is amended to read:

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

13 * Sec. 3. AS 08.88.061 is amended to read:

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

16 (1) issue licenses and endorsements to applicants who meet the
17 qualifications for licensure established under this chapter;

18 (2) prepare questions on examinations;

19 (3) administer and [(2)] grade examination;

20 (4) certify courses required under this chapter;

21 (5) approve instructors to teach courses required under this
22 chapter; and

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

25 * Sec. 4. AS 08.88.071 is amended to read:

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

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

30 (2) prepare and grade examinations;

31 (3) after hearing, have the authority to suspend or revoke the license

1 of a licensee or impose other disciplinary sanctions authorized under AS 08.01.075
2 on a licensee who

3 (A) with respect to a real estate transaction

4 (i) made a substantial misrepresentation;

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

7 (iii) in the case of a real estate services broker, pursued
8 a flagrant course of misrepresentation or made a false promise through
9 an agent [, ASSOCIATE REAL ESTATE BROKER,] or another real
10 estate services licensee [SALESMAN];

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

13 (v) violates AS 08.88.391;

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

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

19 (D) knowingly authorizes, directs, connives at or aids in
20 publishing, distributing, or circulating a material false statement or
21 misrepresentation concerning the licensee's business or concerning real estate
22 offered for sale, rent, or lease, or managed in the course of the licensee's
23 business in this or any other state or concerning the management of an
24 association in the course of a licensee's business in this or another state;

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

27 (F) [IF AN ASSOCIATE REAL ESTATE BROKER,] claims
28 to hold a real estate services license status, endorsement, or specialty other
29 than the status, endorsement, or specialty actually held [BE A REAL
30 ESTATE BROKER, OR, IF A REAL ESTATE SALESMAN, CLAIMS TO BE
31 A REAL ESTATE BROKER OR ASSOCIATE REAL ESTATE BROKER];

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

5 (H) if an employed real estate services licensee of a
6 [ASSOCIATE] real estate services broker [OR REAL ESTATE SALESMAN],
7 fails immediately to turn money or other property collected in a real estate
8 sales transaction, a property management transaction, or a community
9 association management transaction over to the employing real estate broker;

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

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

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

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

26 (8) issue a temporary permit to the personal representative of a
27 legally incompetent real estate services broker or to another person designated by
28 the commission with the approval of the personal representative of the broker in
29 order to secure proper administration in temporarily managing the real estate
30 business of the broker;

31 (9) [(7)] establish and periodically revise the form of the seller's

1 property disclosure statement required by AS 34.70.010;

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

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

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

25 * Sec. 5. AS 08.88.081 is amended to read:

26 Sec. 08.88.081. Commission regulations. The commission shall adopt
27 regulations necessary to carry out the purposes of this chapter, including regulations

28 (1) setting ethical standards and minimum standards of professional
29 conduct and proficiency for licensees; and

30 (2) defining terms used in this chapter or in other regulations
31 adopted to implement this chapter.

1 * Sec. 6. 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. 7. 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. 8. 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. 9. 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. 10. AS 08.88.091 is amended by adding a new subsection to read:

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

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

11 (2) courses approved by the commission for computer training that is
12 specially designed to be useful for persons who are performing real estate activities;
13 and

14 (3) courses from, or sponsored by, an accredited college or university
15 as part of a real estate curriculum; a course under this paragraph must be a course that
16 is at least one-half semester in length.

17 * Sec. 11. AS 08.88.161 is amended to read:

18 Sec. 08.88.161. License required. Unless licensed as a real estate services
19 broker, associate [REAL ESTATE] broker, or practitioner with an endorsement to
20 practice real estate sales [REAL ESTATE SALESMAN], a natural person, foreign
21 or domestic corporation, [OR] partnership, [OR] limited partnership, limited liability
22 company, or other entity may not

23 (1) sell, exchange, [RENT, LEASE,] auction, or purchase real estate;

24 (2) list real estate for sale, exchange, [RENT, LEASE,] auction, or
25 purchase;

26 (3) [COLLECT RENT FOR THE USE OF REAL ESTATE;

27 (4)] as a business, buy, sell, or deal in

28 (A) options in real estate; or

29 (B) options in improvements to real estate; or

30 (4) [(5)] assist in or direct the procuring of prospective buyers or the
31 negotiation of a transaction that [WHICH] results or is calculated to result in the sale,

1 exchange, [RENT, LEASE,] auction, or purchase of real estate [;

2 (6) HOLD OUT TO THE PUBLIC AS BEING ENGAGED IN THE
3 BUSINESS OF DOING ANY OF THE THINGS LISTED IN THIS SECTION;

4 (7) ATTEMPT OR OFFER TO DO ANY OF THE THINGS LISTED
5 IN THIS SECTION.

6 (8) REPEALED].

7 * Sec. 12. AS 08.88.161 is amended by adding new subsections to read:

8 (b) Unless licensed as a commercial real estate services broker, a natural
9 person, foreign or domestic corporation, partnership, limited partnership, limited
10 liability company, or other entity may not perform a real estate activity described in
11 (a) of this section that involves real estate with an anticipated market value over
12 \$500,000 unless the real estate is a residential dwelling with its associated real and
13 personal property.

14 (c) Unless licensed as a real estate services broker, associate broker, or
15 practitioner with an endorsement to practice real estate property management, a natural
16 person, foreign or domestic corporation, partnership, limited partnership, limited
17 liability company, or other entity may not

18 (1) rent or lease real estate;

19 (2) list real estate for rent or lease;

20 (3) collect rent for the use of real estate;

21 (4) assist in or direct the procuring of prospective tenants or the
22 negotiation of a transaction that results or is intended to result in the rental or leasing
23 of real estate; or

24 (5) supervise, contract for, or arrange for the physical, administrative,
25 or financial maintenance of real estate.

26 (d) Unless licensed as a real estate services broker, associate broker, or
27 practitioner with an endorsement to practice community association management, a
28 natural person, foreign or domestic corporation, partnership, limited partnership, limited
29 liability company, or other entity may not

30 (1) manage, or negotiate for a contract to manage, a community
31 association; or

1 (2) assist in or direct the management of the affairs of a community
2 association.

3 (e) Unless licensed as a commercial real estate services broker, real estate
4 services broker, associate broker, or practitioner with the appropriate endorsement, a
5 natural person, foreign or domestic corporation, partnership, limited partnership, limited
6 liability company, or other entity may not

7 (1) hold out to the public as being engaged in the business of doing any
8 of the activities listed in this section;

9 (2) attempt or offer to do any of the activities listed in this section; or

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

12 (f) Notwithstanding AS 08.01.075 and in addition to punishment under
13 AS 08.88.401(d), the commission may levy a civil fine of (1) \$5,000, or (2) the
14 amount of gain realized plus \$5,000, whichever is greater, for a violation of this
15 section. An action to levy a civil fine under this subsection may be combined with an
16 action for an injunction under AS 08.88.037.

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

18 Sec. 08.88.163. Civil penalty for unlicensed or unauthorized practice. (a)
19 In addition to penalties prescribed by any other provision of law, if a person engages
20 or offers to engage in an activity for which a license is required under AS 08.88.161
21 without being licensed or authorized to engage in the activity in accordance with the
22 provisions of this chapter, the commission may enter an order levying a civil penalty.

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

29 (c) After providing a person written notice of an order issued under this
30 section, the commission shall grant a 30-day period during which the person may
31 request a hearing on the record.

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

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

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

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

14 * Sec. 14. AS 08.88 is amended by adding a new section to read:

15 Sec. 08.88.168. Endorsements. (a) A natural person is eligible for a real
16 estate services license only by qualifying for one or more specialty endorsements.

17 (b) A real estate services licensee with an endorsement is eligible for an
18 additional endorsement upon meeting the requirements for the additional endorsement.

19 (c) A real estate services licensee may concurrently hold a combination of
20 endorsements in sales, property management, and community association management.

21 (d) An employed real estate services licensee may hold an endorsement to
22 practice a real estate specialty only while employed by a broker endorsed in the same
23 specialty.

24 * Sec. 15. AS 08.88.171 is amended to read:

25 Sec. 08.88.171. Entitlement to license and endorsements. (a) A natural
26 person qualifies [IS ELIGIBLE] for a real estate services broker license if the person
27 passes the [REAL ESTATE] brokers examination for sales, property management,
28 or community association management, [IF THE PERSON] applies for a license
29 with the appropriate endorsement within six months after passing the [PERSON
30 HAS TAKEN THE REAL ESTATE BROKERS] examination, [IF THE PERSON]
31 furnishes satisfactory proof of successful completion of the education requirements of

1 AS 08.88.091, [IF THE PERSON] has had at least 24 months of active and continuous
2 experience as a [LICENSED] real estate services practitioner within the 36 months
3 immediately preceding application for the broker license and endorsement,
4 [SALESMAN, IF THE PERSON] is not under indictment for, or seven years have
5 elapsed since the person has completed a sentence imposed upon conviction of,
6 forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving
7 moral turpitude, and [IF THE PERSON] is an owner of a real estate business or
8 employed by a corporation or partnership as a real estate services broker in the
9 specialty area for which the broker holds an endorsement [BY A CORPORATION
10 OR A PARTNERSHIP,] and [IF] that corporation or partnership does not have an
11 existing [LICENSED] broker in that specialty. Unless the broker fails to renew the
12 real estate services license or the endorsement [PAY THE BIENNIAL RENEWAL
13 FEE] or unless the broker's license is suspended or revoked [UNDER
14 AS 08.88.071(a)(3)], the real estate services broker's license and endorsement
15 continues in effect as [SO] long as the broker is an owner of a real estate business [,]
16 or the broker is employed by a corporation or a partnership as a real estate services
17 broker in the area for which the broker holds an endorsement [BY A
18 CORPORATION OR A PARTNERSHIP]. If the broker stops being an owner of a
19 real estate business [,] or stops being employed by a corporation or partnership as
20 a real estate services broker in the area for which the broker holds an endorsement
21 [BY A CORPORATION OR PARTNERSHIP], the broker's license and endorsement
22 are [IS] suspended from the time the broker stops until

23 (1) the broker again becomes an owner of a real estate business or is
24 again employed as a real estate services broker by a corporation or a partnership in
25 a specialty area for which the broker holds an endorsement; or

26 (2) the broker is employed by another [A LICENSED REAL
27 ESTATE] broker as an associate [REAL ESTATE] broker, in which case the real
28 estate services broker license shall be [IS] returned to the commission by the broker,
29 and the commission shall issue [ISSUES] the broker a real estate services [AN]
30 associate [REAL ESTATE] broker license with the same endorsement formerly held
31 in conjunction with the broker license.

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

27 (1) the associate broker again is employed by a real estate services
28 broker as an associate broker in a specialty for which both the broker and associate
29 broker are endorsed; or

30 (2) the associate broker becomes an owner of a real estate business or
31 is employed as a real estate services broker by a corporation or partnership, in

1 which case the [ASSOCIATE BROKER'S ASSOCIATE] real estate services associate
2 broker license shall be [IS] returned to the commission by the associate broker, and
3 the commission shall issue [ISSUES] the associate broker a real estate services broker
4 license with the same endorsement formerly held in conjunction with the associate
5 broker license.

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

31 (d) A real estate services licensee shall promptly inform the commission of

1 a change in business association that affects the status of the licensee's license or
2 endorsement under this section.

3 * Sec. 16. AS 08.88.171 is amended by adding a new subsection to read:

4 (e) A natural person qualifies for a commercial real estate services broker
5 license if the person passes the brokers examinations for sales and property
6 management, applies for a license with the sales and property management
7 endorsements within six months after passing the examinations, furnishes satisfactory
8 proof of successful completion of the education requirements of AS 08.88.091, has had
9 at least 24 months of active and continuous experience as a real estate services
10 practitioner within the 36 months immediately preceding application for the
11 commercial real estate services broker license and endorsements, is not under
12 indictment for, or seven years have elapsed since the person has completed a sentence
13 imposed upon conviction of, forgery, theft, extortion, conspiracy to defraud creditors,
14 or another felony involving moral turpitude, and is an owner of a real estate business
15 or employed by a corporation or partnership as a commercial real estate services
16 broker in at least one of the specialty areas for which the broker holds an endorsement
17 and that corporation or partnership does not have an existing commercial broker in
18 either of the specialties for which the broker is endorsed. Unless the broker fails to
19 renew the commercial real estate services broker license or one of the endorsements,
20 or unless the broker's license is suspended or revoked, the commercial real estate
21 services broker's license and its two endorsements continue in effect as long as the
22 broker is an owner of a real estate business or the broker is employed by a corporation
23 or a partnership as a commercial real estate services broker in an area for which the
24 broker holds an endorsement. If the broker stops being an owner of a real estate
25 business or stops being employed by a corporation or partnership as a commercial real
26 estate services broker in an area for which the broker holds an endorsement, the
27 broker's commercial real estate services broker license and both endorsements are
28 suspended from the time the broker stops until the broker

29 (1) again becomes an owner of a real estate business or is again
30 employed as a commercial real estate services broker by a corporation or a partnership
31 in at least one of the specialty areas for which the broker holds an endorsement; or

1 (2) is employed by another broker as an associate broker, in which case
2 the commercial real estate services broker license shall be returned to the commission
3 by the broker, and the commission shall issue the broker an associate broker license
4 with endorsements in sales and property management.

5 * Sec. 17. AS 08.88 is amended by adding a new section to read:

6 **Sec. 08.88.173. Insurance requirement.** (a) A real estate services licensee
7 shall, as a condition of obtaining, retaining, or renewing a real estate services license,
8 carry errors and omissions insurance to cover all activities for which the person is
9 licensed, or is to be licensed, under this chapter. If the commission offers an insurance
10 policy under this section for an annual premium of \$200 or less, a licensee under this
11 chapter shall carry the insurance and submit premium payments to the commission to
12 cover the cost of two years' worth of insurance at the time of initial licensure and on
13 subsequent license renewal dates.

14 (b) The commission shall provide to each licensee the opportunity to purchase
15 the insurance required under this section by contracting with an insurance provider for
16 a guaranty of coverage for each licensee. The contract under this subsection is subject
17 to competitive sealed bidding requirements under AS 36.30. The commission shall
18 determine the terms and conditions of coverage required under this section, including
19 the minimum limits of coverage and the permissible deductibles and exemptions. A
20 policy obtained under this subsection shall be available to every real estate services
21 licensee with no right of cancellation of any particular licensee's coverage on the part
22 of the insurance provider except for nonpayment of premium or loss of license or
23 endorsement.

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

28 (d) If the commission is unable to obtain coverage for all licensees who choose
29 to participate in the commission's insurance program at a cost to each licensee of \$200
30 a year or less, the commission shall report that fact to the governor. During the time
31 that insurance is unavailable through the commission as described in this subsection,

1 the provisions of (a) - (c) of this section may not be enforced, but the commission
2 shall continue to attempt to contract for an insurance guaranty that will offer coverage
3 for \$200 a year or less.

4 * Sec. 18. AS 08.88.181 is amended to read:

5 Sec. 08.88.181. Content and purpose of examination. (a) The real estate
6 services examinations [EXAMINATION] may include [, BUT IS NOT
7 NECESSARILY LIMITED TO,] questions on real estate business ethics and
8 standards; arithmetic; elementary principles of land economics and appraisal; the
9 general principles in state statutes relating to deeds, mortgages, real estate contracts,
10 subdivisions, legal descriptions, building restrictions, agency, disclosure requirements,
11 trust accounting requirements, landlord and tenant law, property management
12 ethics and standards, accounting, community association management ethics and
13 standards, nonprofit corporation creation and operation, and brokerage; and the
14 general provisions of this chapter and of the regulations of the commission.

15 (b) The examination for each level of licensure and for each endorsement
16 must include similar questions on basic real estate information, but the precise
17 content and difficulty shall vary so that each examination includes questions
18 directly related to the competencies necessary to practice at a specific level of
19 licensure and for a particular endorsement [REAL ESTATE SALESMAN
20 EXAMINATION COVERS THE SAME SUBJECTS AS THE REAL ESTATE
21 BROKER EXAMINATION, BUT IS LESS DIFFICULT].

22 (c) The only purpose of an examination under this chapter is to disqualify
23 those whose lack of competence [ABILITY] to perform functions required of
24 professionals [PARTICIPATE] in real estate sales, property management, and
25 community association management [TRANSACTIONS] would create a serious risk
26 of [SERIOUS] financial loss to members of the public.

27 * Sec. 19. AS 08.88.191(b) is amended to read:

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

30 (1) the commission or its designee shall review the examination and
31 approve its contents;

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

3 * Sec. 20. AS 08.88.201 is amended to read:

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

7 * Sec. 21. AS 08.88.221 is amended to read:

8 Sec. 08.88.221. Fees. The Department of Commerce and Economic
9 Development shall set fees under AS 08.01.065 for a real estate services [BROKER,
10 ASSOCIATE BROKER, OR SALESMAN] licensee or applicant for the following:

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

23 * Sec. 22. AS 08.88.241 is repealed and reenacted to read:

24 Sec. 08.88.241. Reinstatement of lapsed license. (a) A person whose real
25 estate services license has lapsed 60 days or less is eligible for reinstatement of the
26 license by providing the required application, licensing fees, applicable late fees, and
27 proof of continuing education as required by AS 08.88.091 for the licensing period
28 during which the license was inactive or lapsed.

29 (b) A person whose real estate services license has lapsed more than 60 days
30 and less than 24 months is eligible for reinstatement of the license if the person
31 provides the required application, license and endorsement fees, proof of continuing

1 education as required by AS 08.88.091 for licensing periods during which the license
2 was inactive or lapsed, and an additional penalty in an amount equal to the biennial
3 licensing fee.

4 (c) A real estate services licensee whose license or endorsement has been
5 lapsed for more than 24 months is not eligible for reinstatement of the license or
6 endorsement and is eligible for the license or endorsement only by meeting the
7 qualifications applicable to initial licensure under AS 08.88.168 - 08.88.171.

8 * Sec. 23. AS 08.88.251 is amended to read:

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

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

22 (c) A person who has an [IS] inactive license certificate under (a) of this
23 section may reactivate the license [BECOME ACTIVE] by applying for an active
24 license and paying the required fees. [IN THE APPLICATION FORM THE PERSON
25 SHALL STATE THE DATE ON WHICH THE PERSON INTENDS TO BECOME
26 ACTIVE. THE PERSON'S ACTIVE STATUS BEGINS ON THE DATE STATED.
27 THE COMMISSION SHALL SEND THE PERSON A LICENSE CERTIFICATE.]
28 A person is eligible for change from an inactive to an active status under this
29 subsection only [WITHOUT EXAMINATION] if the person has [NOT] been in
30 inactive status for less [MORE] than 24 months [TWO YEARS]. If the person has
31 been in inactive status for 24 months or for more than 24 months [TWO YEARS],

1 the person is required to meet the requirements for initial licensure in order to be
2 licensed under this chapter again [TAKE AN EXAMINATION].

3 * Sec. 24. AS 08.88 is amended by adding a new section to article 3 to read:

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

9 * Sec. 25. AS 08.88.263 is amended to read:

10 Sec. 08.88.263. License by endorsement. A person who holds a valid active
11 real estate license issued by a [ANOTHER] state or other jurisdiction with which
12 the commission has not negotiated a reciprocal licensing agreement shall be
13 granted an equivalent Alaska real estate license if that person [:]

14 (1) passes the portion of the real estate examination that [WHICH]
15 examines on Alaska law; [AND]

16 (2) meets the requirements of AS 08.88.171 other than the
17 requirement to pass the portions of the real estate examination that do not
18 examine on Alaska law; however, the applicant may demonstrate compliance with
19 the education requirements of AS 08.88.091 by providing proof of comparable
20 education required to renew the applicant's comparable license in another
21 jurisdiction; and

22 (3) provides to the satisfaction of the commission proof of licensure
23 in the other state or jurisdiction.

24 * Sec. 26. AS 08.88.281 is amended to read:

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

29 * Sec. 27. AS 08.88.291 is amended to read:

30 Sec. 08.88.291. Location. A person licensed as a real estate services broker
31 shall, by registering with the commission, inform the commission of the person's

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

13 * Sec. 28. AS 08.88.301 is amended to read:

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

18 * Sec. 29. AS 08.88.311 is amended to read:

19 Sec. 08.88.311. Branch offices. (a) A branch office shall be under the direct
20 supervision of a real estate services associate broker whose principal place of business
21 is that office and who is licensed under this chapter. An associate [REAL ESTATE]
22 broker may serve in the capacity of direct supervisor at only one office [ONLY]. Real
23 estate services licensees registered to a branch office may practice only the
24 specialties for which both they and the office's supervising associate broker are
25 endorsed.

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

29 * Sec. 30. AS 08.88.321 is amended to read:

30 Sec. 08.88.321. Possession and display of license certificates. Employed
31 real [REAL] estate services licensees [SALESMEN OR ASSOCIATE REAL ESTATE

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

8 * Sec. 31. AS 08.88.331 is amended to read:

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

23 * Sec. 32. AS 08.88.341 is amended to read:

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

1 * Sec. 33. AS 08.88.351 is amended to read:

2 Sec. 08.88.351. Record of transaction. A real estate services broker shall

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

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

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

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

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

24 * Sec. 34. AS 08.88.351 is amended by adding new subsections to read:

25 (b) A real estate services licensee

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

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

31 (3) shall make available to the commission, on request, records and

1 other documents that the commission may require to conduct an investigation.

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

5 (1) a listing agreement ends;

6 (2) a sales transaction closes or otherwise ends;

7 (3) a management contract ends; or

8 (4) another contractual or fiduciary obligation ends.

9 * Sec. 35. AS 08.88.361 is amended to read:

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

17 * Sec. 36. AS 08.88.381 is amended to read:

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

28 * Sec. 37. AS 08.88.391 is amended to read:

29 Sec. 08.88.391. Conflict of interest. A [LICENSED] real estate services
30 licensee [BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE
31 SALESMAN] who has a personal financial interest or other conflict of interest

1 relating to [IN] a real estate transaction shall, at the time of initial substantive
2 contact with the principals or agents of the principals, disclose that interest in
3 writing to the principals and agents of the principals [EVERY PERSON] involved
4 in the transaction. In this section,

5 (a) "conflict of interest" is when a licensee

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

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

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

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

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

17 * Sec. 38. AS 08.88.396 is amended to read:

18 Sec. 08.88.396. Disclosure of agency to prospective buyers and sellers. (a)
19 A person licensed [HOLDING A LICENSE] under this chapter shall, when acting as
20 an agent for a prospective seller of real estate,

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

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

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

1 (1) disclose the licensee's [PERSON'S] relationship with the buyer to
2 a prospective seller of real estate, or to the seller's agent, at the time of the initial
3 contact between the licensee [PERSON LICENSED UNDER THIS CHAPTER] and
4 the prospective seller or the seller's agent, and confirm the relationship in writing as
5 soon as possible after the initial contact;

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

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

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

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

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

25 * Sec. 39. AS 08.88.401 is amended to read:

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

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

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

30 (3) be a member of a franchise or other business association; or

31 (4) be certified or endorsed as a specialist.

1 (b) A person licensed under this chapter

2 (1) [WHO IS NOT A REAL ESTATE BROKER LICENSED IN THIS
3 STATE] may not pay [ACCEPT] a fee or a commission for performance of an act for
4 which a license is required by this chapter to a person unless the person is licensed
5 and holds the appropriate endorsement under this chapter, except that a real estate
6 services broker may pay to a person [VALIDLY] licensed in another state [MAY
7 ACCEPT] a fee or commission [OR A PORTION OF A FEE OR COMMISSION] for
8 assisting [A REAL ESTATE BROKER LICENSED IN THIS STATE] in the
9 performance of an act for which a license is required by this chapter;

10 (2) as an associate broker or a practitioner [WHO IS A REAL
11 ESTATE SALESMAN LICENSED IN THIS STATE] may [NOT] accept a fee or
12 commission for performance of an act for which a license is required by this chapter
13 only from [UNLESS ACCEPTANCE IS AUTHORIZED BY] the licensee's
14 employing broker [WHO EMPLOYS THE SALESMAN].

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

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

21 * Sec. 40. AS 08.88.401 is amended by adding a new subsection to read:

22 (e) A person may not

23 (1) use or attempt to use a license or endorsement issued under this
24 chapter that was issued to another person;

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

27 (3) impersonate an applicant under this chapter;

28 (4) knowingly use or attempt to use an expired, suspended, revoked,
29 or nonexistent license or endorsement; or

30 (5) falsely claim to be licensed and authorized to practice under this
31 chapter.

1 * Sec. 41. AS 08.88.450 is amended to read:

2 Sec. 08.88.450. Real estate surety fund. The real estate surety fund is
3 established in the general fund to carry out the purposes of AS 08.88.450 - 08.88.500.
4 The fund is composed of payments made by licensed real estate licensees [BROKERS
5 AND SALESMEN] under AS 08.88.455, [AND] filing fees retained under [IN
6 ACCORDANCE WITH] AS 08.88.460, and fees collected under AS 08.88.091(a).
7 The fund may not exceed \$500,000 and amounts in the fund in excess of \$250,000
8 may be appropriated for real estate educational purposes as provided in AS 08.88.091.

9 * Sec. 42. AS 08.88.455 is amended to read:

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

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

22 * Sec. 43. AS 08.88.460 is amended to read:

23 Sec. 08.88.460. Claim for payment. (a) A person seeking reimbursement for
24 a loss suffered in a real estate transaction as a result of fraud, misrepresentation,
25 deceit, or the conversion of trust funds on the part of a real estate services licensee
26 [BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE
27 SALESMAN LICENSED UNDER THIS CHAPTER] shall make a claim to the
28 commission for reimbursement on a form furnished by the commission. In order to
29 be eligible for reimbursement by the commission, the claim form must be filed
30 within two years after the occurrence of the fraud, misrepresentation, deceit, or
31 conversion of trust funds claimed as the basis for the reimbursement. The form

1 shall be executed under penalty of unsworn falsification [,] and must include the
2 following:

3 (1) the name and address of each [THE] real estate services licensee
4 involved [BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE
5 SALESMAN];

6 (2) the amount of the alleged loss;

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

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

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

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

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

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

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

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if

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

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

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

* Sec. 44. AS 08.88.465(b) is amended to read:

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

* Sec. 45. AS 08.88.465(c) is amended to read:

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

* Sec. 46. AS 08.88.465(d) is amended to read:

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

* Sec. 47. AS 08.88.470 is amended to read:

Sec. 08.88.470. Findings and payment. At the conclusion of the commission's consideration of a claim made under AS 08.88.460, it shall make written findings and conclusions on the evidence. If the commission finds that the claimant

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

8 * Sec. 48. AS 08.88.472(a) is amended to read:

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

17 * Sec. 49. AS 08.88.474 is amended to read:

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

30 * Sec. 50. AS 08.88.475 is amended to read:

31 Sec. 08.88.475. Maximum liability. (a) The maximum liability of the real

1 estate surety fund may not exceed \$50,000 for any one real estate services licensee
2 [BROKER OR SALESMAN].

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

10 * Sec. 51. AS 08.88.490 is amended to read:

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

17 * Sec. 52. AS 08.88.900 is amended to read:

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

20 (1) a person licensed in another profession while performing the
21 duties authorized under the license [WHO IS NOT LICENSED UNDER THIS
22 CHAPTER WHO MAKES A REAL ESTATE TRANSACTION WITH RESPECT TO
23 REAL ESTATE THE PERSON OWNS OR ON THE PERSON'S OWN BEHALF,
24 UNLESS THE TRANSACTION INVOLVES LAND DEFINED IN AS 34.55.044(7)
25 THAT IS NOT IN ALASKA];

26 (2) a bookkeeper performing bookkeeping functions [AN
27 ATTORNEY IN FACT UNDER A POWER OF ATTORNEY AUTHORIZING THE
28 CONSUMMATION OF A SPECIFIC REAL ESTATE TRANSACTION; AN
29 ATTORNEY IN FACT MAY NOT ACT AS SUCH FOR MORE THAN TWO
30 TRANSACTIONS IN A CALENDAR YEAR];

31 (3) tradesmen or vendors of services performing maintenance and

1 repair functions [A LAWYER PERFORMING DUTIES AS A LAWYER];

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

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

5 (6) a person acting under court order;

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

7 (8) an employee of a real estate firm or of a property owner who
8 delivers or accepts a real estate contract or application, or a related amendment,
9 to or from another person [A PERSON DEALING IN MINERAL RIGHTS
10 TRANSACTIONS];

11 (9) an individual assisting in the performance of real estate
12 activities only by carrying out administrative, clerical, or maintenance tasks [A
13 DOMESTIC OR FOREIGN CORPORATION, A GENERAL OR LIMITED
14 PARTNERSHIP, OR A PARTNER OR REGULAR EMPLOYEE OF A DOMESTIC
15 OR FOREIGN CORPORATION OR A GENERAL OR LIMITED PARTNERSHIP,
16 WHEN PERFORMING AN ACT DESCRIBED IN AS 08.88.161 IN THE REGULAR
17 COURSE, OR AS AN INCIDENT TO, THE MANAGEMENT, SALE, OR OTHER
18 DISPOSITION OF REAL ESTATE OWNED BY THE CORPORATION OR
19 PARTNERSHIP; THE EXEMPTION PROVIDED IN THIS PARAGRAPH DOES
20 NOT APPLY TO A PERSON WHO PERFORMS AN ACT DESCRIBED IN
21 AS 08.88.161, UNLESS ALLOWED FOR UNLICENSED PERSONS UNDER
22 AS 08.88.165, EITHER

23 (A) AS A VOCATION; OR

24 (B) FOR COMPENSATION IF THE AMOUNT OF THE
25 COMPENSATION IS DEPENDENT UPON OR DIRECTLY RELATED TO
26 THE VALUE OF THE REAL ESTATE WITH RESPECT TO WHICH THE
27 ACT IS PERFORMED;

28 (10) A RESIDENT MANAGER OF RENTED REAL ESTATE IF THE
29 RESIDENT MANAGER'S DUTIES ARE LIMITED TO THE NEGOTIATION OF
30 LEASES AND RENTAL AGREEMENTS AND THE COLLECTION OF RENT FOR
31 THE USE OF THE REAL ESTATE AND IF THE RESIDENT MANAGER IS

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- (A) EMPLOYED BY THE OWNER OF THE REAL ESTATE;
- OR
- (B) EMPLOYED BY, OR ENGAGED UNDER CONTRACT WITH, A LICENSED REAL ESTATE BROKER].

* Sec. 53. AS 08.88.900 is amended by adding new subsections to read:

(b) The requirements of this chapter for licensure with a sales endorsement do not apply to

(1) a person who is not licensed under this chapter who makes a real estate transaction with respect to real estate the person owns or on the person's own behalf unless the transaction involves subdivided land, as defined in AS 34.55.044, that is not in the state;

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

(3) a person dealing in mineral rights transactions;

(4) 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, when performing an act described in AS 08.88.161 incidental to the regular course of business or as an incident to the sale or other disposition of real estate owned by the corporation or partnership; the exemption under this paragraph does not apply to a person who performs an act described in AS 08.88.161 either

(A) as a vocation; or

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

(c) The requirements of this chapter for licensure with a property management endorsement do not apply to

(1) a person who is not licensed under this chapter who manages real estate the persons owns or who rents or leases property on the person's own behalf;

(2) an attorney in fact under a power of attorney authorizing the consummation of a specific real estate lease or rental transaction; however, an attorney

1 in fact may not act as such for more than two property management transactions in a
2 calendar year;

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

5 (4) a resident manager.

6 (d) The requirements of this chapter for licensure with a community
7 association management endorsement do not apply to

8 (1) an owner of a unit of a self-managed community association
9 managing the community association without remuneration; or

10 (2) a developer of a community association during the period that the
11 developer retains control of the association; however, to be eligible for this exemption,
12 the developer must employ or contract with a real estate services licensee who has a
13 community association management endorsement.

14 * Sec. 54. AS 08.88.990 is amended to read:

15 Sec. 08.88.990. Definitions. In this chapter,

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

18 (2) "lease" means a written or oral contract between a lessor and
19 a lessee that transfers the right to exclusive possession and use of the lessor's real
20 property to the lessee for a specified period of time and for a stated consideration;
21 the term includes a lease that is a part of another transaction;

22 (3) "real estate" means an interest or estate in land, corporeal or
23 incorporeal, except that it does not include a unit in a hotel, motel, boarding house,
24 rooming house, or other transient lodging facility, or a unit in a warehouse, mini-
25 storage facility, or other facility the function of which is limited to warehousing
26 purposes;

27 (4) "resident manager" means a person who resides on rented or leased
28 real property or on contiguous property owned by the same owner, [AND] manages
29 the property [IT] for the benefit of another person, and is either employed by the
30 owner of the real estate or employed by, or under contract with, a real estate
31 services licensee with a property management endorsement.

1 * Sec. 55. AS 08.88.990 is amended by adding new paragraphs to read:

2 (5) "broker" is a real estate services licensee, including a commercial
3 real estate services broker, with an endorsement to practice sales, property
4 management, or community association management who is fully qualified and
5 authorized to own or manage a real estate business; the term includes a person who
6 holds more than one endorsement simultaneously; unless otherwise required in context,
7 this term also includes a real estate services associate broker in charge of a branch
8 office;

9 (6) "commercial real estate services broker" means a person licensed
10 under AS 08.88.171(e);

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

18 (8) "employed" includes being an independent contractor with an
19 employer;

20 (9) "employed real estate services licensee" is a real estate services
21 associate broker or practitioner who is required by this chapter to be employed and
22 supervised by a broker;

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

28 (11) "real estate services licensee" is a person who holds a license
29 under this chapter and one or more of the specialty endorsements identified in
30 AS 08.88.171; the term includes a broker unless the context clearly excludes brokers;

31 (12) "real estate transaction"

1 (A) in sales, means the transfer or attempted transfer of an
2 interest in a unit of real property, an act conducted as a result of or in pursuit
3 of a contract to transfer an interest in a unit of real property, or an act
4 conducted in an attempt to obtain a contract to market real property;

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

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

15 * Sec. 56. AS 18.80.300(1) is amended to read:

16 (1) "blockbusting" means an unlawful discriminatory practice by real
17 estate services licensees [BROKERS, REAL ESTATE SALESMEN,] or employees or
18 agents of a real estate services broker or another individual, corporation, partnership,
19 or organization for the purpose of inducing a real estate transaction from which any
20 such person or its stockholders or members may benefit financially, to represent
21 directly or indirectly that a change has occurred or will or may occur from a
22 composition with respect to race, religion, color, or national origin of the owners or
23 occupants of the block, neighborhood, or area in which the real property is located, and
24 to represent directly or indirectly that this change may or will result in undesirable
25 consequences in the block, neighborhood, or area in which the real property is located,
26 including but not limited to the lowering of property values, an increase in criminal
27 or antisocial behavior, or decline in the quality of the schools or other facilities;

28 * Sec. 57. AS 21.66.310(b) is amended to read:

29 (b) An insured named in a title insurance policy or any other person directly
30 or indirectly connected with the transaction involving the issuance of a title insurance
31 policy, including, but not limited to a mortgage lender, real estate services broker,

1 builder, or attorney, or an officer, employee, agent, representative, or solicitor of a
2 mortgage lender, real estate services broker, builder, attorney, or other person, may not
3 knowingly receive or accept, directly or indirectly, a rebate, reduction, or abatement
4 of a charge or premium or a special favor or advantage, or a monetary consideration
5 or inducement.

6 * Sec. 58. AS 23.20.526(a)(8) is amended to read:

7 (8) service performed by an insurance agent, insurance solicitor, a real
8 estate services licensee [BROKER, A REAL ESTATE SALESMAN], or a securities
9 salesman to the extent the person is compensated by commission, unless the service
10 is required to be covered under the Federal Unemployment Tax Act as amended;

11 * Sec. 59. AS 34.08.600 is amended to read:

12 Sec. 34.08.600. Escrow of deposits. A deposit made in connection with the
13 purchase or reservation of a unit from a person required to deliver a public offering
14 statement under AS 34.08.520(c) must be placed in escrow and held either in this state
15 or in the state where the unit is located in an account designated solely for that
16 purpose by a licensed title insurance company, an attorney, a licensed real estate
17 services broker, an independent bonded escrow company, or an institution whose
18 accounts are insured by a governmental agency or instrumentality until

19 (1) delivered to the declarant at closing;

20 (2) delivered to the declarant because of the purchaser's default under
21 a contract to purchase the unit; or

22 (3) refunded to the purchaser.

23 * Sec. 60. AS 45.63.080(4) is amended to read:

24 (4) by a real estate services licensee [BROKER, ASSOCIATE REAL
25 ESTATE BROKER, OR REAL ESTATE SALESMAN] licensed under AS 08.88 and
26 acting in a capacity covered by the license;

27 * Sec. 61. AS 08.88.091(c) and 08.88.111 are repealed.

28 * Sec. 62. TRANSITIONAL LICENSING. (a) Notwithstanding other provisions of this
29 Act, a natural person who holds an active, inactive, or lapsed real estate license that has not
30 expired is eligible for licensure as follows, without taking an examination and without
31 completing the precicensing education requirements of AS 08.88.091(b), if the person applies

1 after January 31, 1999, and pays the required fees:

2 (1) a person licensed as a real estate broker is eligible for a real estate services
3 broker license with an endorsement in sales or property management, or both;

4 (2) a person licensed as a real estate associate broker is eligible for a real
5 estate services associate broker license with an endorsement in sales or property management,
6 or both;

7 (3) a person licensed as a real estate salesman is eligible for a real estate
8 services practitioner license with an endorsement in sales or property management, or both.

9 (b) Notwithstanding other provisions of this Act, a natural person who meets the
10 requirements of this subsection is eligible for licensure as follows, without taking an
11 examination and without completing the education requirements of AS 08.88.091(b), if the
12 person applies after January 31, 1999, and pays the required fees:

13 (1) a person who demonstrates to the commission's satisfaction that the person
14 is currently engaged as a principal in the practice of community association management, as
15 defined in AS 08.88.990, as amended by this Act, is eligible for a real estate services broker
16 license with a community association management endorsement;

17 (2) a person who demonstrates to the commission's satisfaction that the person
18 is currently qualified to practice as a principal in the practice of community association
19 management, as defined in AS 08.88.990, as amended by this Act, and is currently engaged
20 in the practice of community association management under a supervising principal who is
21 engaged in the practice of community association management is eligible for a real estate
22 services associate broker license with a community association management endorsement;

23 (3) a person who demonstrates to the commission's satisfaction that the person
24 is currently engaged in the practice of community association management, as defined in
25 AS 08.88.990, as amended by this Act, under the supervision of a principal who is engaged
26 in community association management is eligible for a real estate services practitioner license
27 with a community association management endorsement.

28 * Sec. 63. OTHER TRANSITIONAL PROVISIONS. (a) Notwithstanding AS 08.88.041,
29 as amended by sec. 1 of this Act, the members of the Real Estate Commission who hold
30 office on the effective date of this bill section may retain their offices until their terms expire
31 without complying with the requirements of AS 08.88.041.

1 (b) Notwithstanding AS 08.88.041(a), as amended by sec. 1 of this Act, until three
2 years after the effective date of this bill section, a real estate services licensee may be
3 appointed to the commission without having held an endorsement for three years, and a person
4 appointed under this subsection may complete the term of office for which the person was
5 appointed.

6 (c) Notwithstanding AS 08.88.161, as amended by secs. 11 - 12 of this Act, a person
7 who, on January 1, 1999, holds an active license under AS 08.88 is not required to comply
8 with AS 08.88.161, as amended by secs. 11 - 12 of this Act, or AS 08.88.171, as amended
9 by secs. 15 - 16 of this Act, until January 31, 2000.

10 * Sec. 64. AS 08.88.173(a), enacted by sec. 17 of this Act, takes effect 90 days after the
11 effective date of AS 08.88.173(b), enacted by sec. 17 of this Act.

12 * Sec. 65. AS 08.88.161, as amended by secs. 11 - 12 of this Act, and AS 08.88.171, as
13 amended by secs. 15 - 16 of this Act, take effect January 1, 1999.



Alaska State Legislature

Please enter into the record my testimony to the House Labor & Commerce
committee name

committee on HB 33 - real estate, dated March 14, 1997
bill/subject

representing the Kodiak Board
of Realtors I believe that the
classification of real estate
law. With new designation in
place for real estate license
Alaska for property management the
new law needs to reflect this
addition. To the extent that this
is the substance of the issue I would
have no objection to this regulation.

Signed: Craig H. Johnson Craig Johnson
Testifier

KODIAK BOARD OF REALTORS

Representing (Optional)

218 CENTER, STE 200 KODIAK, AK 99615

Address

907 4186 2000

Phone No.

0-LS0197A
Lauterbach
3/11/97

*Rep Cowdery
Adopted*

CS FOR HOUSE BILL NO. 33()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE ROKEBERG BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to real estate licensing and 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 1. AS 08.88.041 is amended to read:

5 Sec. 08.88.041. Qualifications of commission members. (a) Five members
6 of the commission must be real estate services licensees [BROKERS OR ASSOCIATE
7 BROKERS] who have held an endorsement to practice [BEEN LICENSED] real
8 estate sales, property management, or community association management
9 [BROKERS OR LICENSED ASSOCIATE BROKERS] in Alaska for at least three
10 years before appointment. Two members of the board must be public members in
11 accordance with AS 08.01.025.

12 (b) Of the five members of the commission who must be real estate services
13 licensees [BROKERS OR ASSOCIATE BROKERS],

14 (1) one member shall be from the First Judicial District, one shall be

1 from the Second Judicial District, one shall be from the Third Judicial District, one
 2 shall be from the Fourth Judicial District, and one shall be from the state at large;
 3 however [. HOWEVER], if no [LICENSEE] real estate services licensee [BROKER
 4 OR LICENSED ASSOCIATE BROKER] is eligible or available for appointment from
 5 the Second Judicial District, then two [LICENSED] real estate services licensees
 6 [BROKERS OR LICENSED ASSOCIATE BROKERS] shall be appointed from the
 7 state at large; and

8 (2) at least one member shall hold an endorsement to practice
 9 property management or community association management.

10 * Sec. 2. AS 08.88.051(c) is amended to read:

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

13 * Sec. 3. AS 08.88.061 is amended to read:

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

16 (1) issue licenses and endorsements to applicants who meet the
 17 qualifications for licensure established under this chapter;

18 (2) prepare questions on examinations;

19 (3) administer and [(2)] grade examination;

20 (4) certify courses required under this chapter;

21 (5) approve instructors to teach courses required under this
 22 chapter; and

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

25 * Sec. 4. AS 08.88.071 is amended to read:

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

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

30 (2) prepare and grade examinations;

31 (3) after hearing, have the authority to suspend or revoke the license

1 of a licensee or impose other disciplinary sanctions authorized under AS 08.01.075
2 on a licensee who

3 (A) with respect to a real estate transaction

4 (i) made a substantial misrepresentation;

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

7 (iii) in the case of a real estate services broker, pursued
8 a flagrant course of misrepresentation or made a false promise through
9 an agent [, ASSOCIATE REAL ESTATE BROKER,] or another real
10 estate services licensee [SALESMAN];

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

13 (v) violates AS 08.88.391;

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

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

19 (D) knowingly authorizes, directs, connives at or aids in
20 publishing, distributing, or circulating a material false statement or
21 misrepresentation concerning the licensee's business or concerning real estate
22 offered for sale, rent, or lease, or managed in the course of the licensee's
23 business in this or any other state or concerning the management of an
24 association in the course of a licensee's business in this or another state;

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

27 (F) [IF AN ASSOCIATE REAL ESTATE BROKER,] claims
28 to hold a real estate services license status, endorsement, or specialty other
29 than the status, endorsement, or specialty actually held [BE A REAL
30 ESTATE BROKER, OR, IF A REAL ESTATE SALESMAN, CLAIMS TO BE
31 A REAL ESTATE BROKER OR ASSOCIATE REAL ESTATE BROKER];

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

5 (H) if an employed real estate services licensee of a
6 [ASSOCIATE] real estate services broker [OR REAL ESTATE SALESMAN],
7 fails immediately to turn money or other property collected in a real estate
8 sales transaction, a property management transaction, or a community
9 association management transaction over to the employing real estate broker;

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

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

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

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

26 (8) issue a temporary permit to the personal representative of a
27 legally incompetent real estate services broker or to another person designated by
28 the commission with the approval of the personal representative of the broker in
29 order to secure proper administration in temporarily managing the real estate
30 business of the broker;

31 (9) [(7)] establish and periodically revise the form of the seller's

1 property disclosure statement required by AS 34.70.010;

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

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

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

25 * Sec. 5. AS 08.88.081 is amended to read:

26 Sec. 08.88.081. Commission regulations. The commission shall adopt
27 regulations necessary to carry out the purposes of this chapter, including regulations

28 (1) setting ethical standards and minimum standards of professional
29 conduct and proficiency for licensees; and

30 (2) defining terms used in this chapter or in other regulations
31 adopted to implement this chapter.

*This is the
problem with
DEC*

*regulations
define
should be
in statute*

1 * Sec. 6. 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. 7. 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. 8. 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. 9. 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

this is probably no a good idea - may try to limit access to licensees

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

2 * Sec. 10. AS 08.88.091 is amended by adding a new subsection to read:

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

8 (1) courses approved by the National Association of Realtors for
9 various specialties, such as for certified property managers;

10 (2) courses approved by the commission for computer training that is
11 specially designed to be useful for persons who are performing real estate activities;
12 and

13 (3) courses from, or sponsored by, an accredited college or university
14 as part of a real estate curriculum; a course under this paragraph must be a course that
15 is at least one-half semester in length.

16 * Sec. 11. AS 08.88.161 is amended to read:

17 **Sec. 08.88.161. License required.** Unless licensed as a real estate services
18 broker, associate [REAL ESTATE] broker, or practitioner with an endorsement to
19 practice real estate sales [REAL ESTATE SALESMAN], a natural person, foreign
20 or domestic corporation, [OR] partnership, [OR] limited partnership, limited liability
21 company, or other entity may not

22 (1) sell, exchange, [RENT, LEASE,] auction, or purchase real estate;

23 (2) list real estate for sale, exchange, [RENT, LEASE,] auction, or
24 purchase;

25 (3) [COLLECT RENT FOR THE USE OF REAL ESTATE;

26 (4)] as a business, buy, sell, or deal in

27 (A) options in real estate: or

28 (B) options in improvements to real estate; or

29 (4) [(5)] assist in or direct the procuring of prospective buyers or the
30 negotiation of a transaction that [WHICH] results or is calculated to result in the sale,
31 exchange, [RENT, LEASE,] auction, or purchase of real estate [;

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owners of
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1 (6) HOLD OUT TO THE PUBLIC AS BEING ENGAGED IN THE
2 BUSINESS OF DOING ANY OF THE THINGS LISTED IN THIS SECTION;

3 (7) ATTEMPT OR OFFER TO DO ANY OF THE THINGS LISTED
4 IN THIS SECTION.

5 (8) REPEALED].

6 * Sec. 12. AS 08.88.161 is amended by adding new subsections to read:

7 (b) Unless licensed as a real estate services broker, associate broker, or
8 practitioner with an endorsement to practice real estate property management, a natural
9 person, foreign or domestic corporation, partnership, limited partnership, limited
10 liability company, or other entity may not

11 (1) rent or lease real estate;

12 (2) list real estate for rent or lease;

13 (3) collect rent for the use of real estate;

14 (4) assist in or direct the procuring of prospective tenants or the
15 negotiation of a transaction that results or is intended to result in the rental or leasing
16 of real estate; or

17 (5) supervise, contract for, or arrange for the physical, administrative,
18 or financial maintenance of real estate.

19 (c) Unless licensed as a real estate services broker, associate broker, or
20 practitioner with an endorsement to practice community association management, a
21 natural person, foreign or domestic corporation, partnership, limited partnership, limited
22 liability company, or other entity may not

23 (1) manage, or negotiate for a contract to manage, a community
24 association; or

25 (2) assist in or direct the management of the affairs of a community
26 association.

27 (d) Unless licensed as a real estate services broker, associate broker, or
28 practitioner with the appropriate endorsement, a natural person, foreign or domestic
29 corporation, partnership, limited partnership, limited liability company, or other entity
30 may not

31 (1) hold out to the public as being engaged in the business of doing any

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1 of the activities listed in this section;

2 (2) attempt or offer to do any of the activities listed in this section; or

3 (3) accept or pay a fee for the performance of any of the activities
4 listed in this section except as otherwise specifically provided in the chapter.

5 (e) Notwithstanding AS 08.01.075 and in addition to punishment under
6 AS 08.88.401(d), the commission may levy a civil fine of (1) \$5,000, or (2) the
7 amount of gain realized plus \$5,000, whichever is greater, for a violation of this
8 section. An action to levy a civil fine under this subsection may be combined with an
9 action for an injunction under AS 08.88.037.

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

11 Sec. 08.88.168. Endorsements. (a) A natural person is eligible for a real
12 estate services license only by qualifying for one or more specialty endorsements.

13 (b) A real estate services licensee with an endorsement is eligible for an
14 additional endorsement upon meeting the requirements for the additional endorsement.

15 (c) A real estate services licensee may concurrently hold a combination of
16 endorsements in sales, property management, and community association management.

17 (d) An employed real estate services licensee may hold an endorsement to
18 practice a real estate specialty only while employed by a broker endorsed in the same
19 specialty.

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

21 Sec. 08.88.171. Entitlement to license and endorsements. (a) A natural
22 person qualifies [IS ELIGIBLE] for a real estate services broker license if the person
23 passes the [REAL ESTATE] brokers examination for sales, property management,
24 or community association management, [IF THE PERSON] applies for a license
25 with the appropriate endorsement within six months after passing the [PERSON
26 HAS TAKEN THE REAL ESTATE BROKERS] examination. [IF THE PERSON]
27 furnishes satisfactory proof of successful completion of the education requirements of
28 AS 08.88.091, [IF THE PERSON] has had at least 24 months of active and continuous
29 experience as a [LICENSED] real estate services practitioner within the 36 months
30 immediately preceding application for the broker license and endorsement.
31 [SALESMAN, IF THE PERSON] is not under indictment for, or seven years have

AG is not able to respond right now - used original version

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Can they really be objection

1 elapsed since the person has completed a sentence imposed upon conviction of,
2 forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving
3 moral turpitude, and [IF THE PERSON] is an owner of a real estate business or
4 employed by a corporation or partnership as a real estate services broker in the
5 specialty area for which the broker holds an endorsement [BY A CORPORATION
6 OR A PARTNERSHIP,] and [IF] that corporation or partnership does not have an
7 existing [LICENSED] broker in that specialty. Unless the broker fails to renew the
8 real estate services license or the endorsement [PAY THE BIENNIAL RENEWAL
9 FEE] or unless the broker's license is suspended or revoked [UNDER
10 AS 08.88.071(a)(3)], the real estate services broker's license and endorsement
11 continues in effect as [SO] long as the broker is an owner of a real estate business [,]
12 or the broker is employed by a corporation or a partnership as a real estate services
13 broker in the area for which the broker holds an endorsement [BY A
14 CORPORATION OR A PARTNERSHIP]. If the broker stops being an owner of a
15 real estate business [,] or stops being employed by a corporation or partnership as
16 a real estate services broker in the area for which the broker holds an endorsement
17 [BY A CORPORATION OR PARTNERSHIP], the broker's license and endorsement
18 are [IS] suspended from the time the broker stops until

19 (1) the broker again becomes an owner of a real estate business or is
20 again employed as a real estate services broker by a corporation or a partnership in
21 a specialty area for which the broker holds an endorsement; or

22 (2) the broker is employed by another [A LICENSED REAL
23 ESTATE] broker as an associate [REAL ESTATE] broker, in which case the real
24 estate services broker license shall be [IS] returned to the commission by the broker,
25 and the commission shall issue [ISSUES] the broker a real estate services [AN]
26 associate [REAL ESTATE] broker license with the same endorsement formerly held
27 in conjunction with the broker license.

28 (b) A natural person is eligible for a real estate services [AN] associate
29 [REAL ESTATE] broker license if the person passes the real estate brokers
30 examination for sales, property management, or community association
31 management, [IF THE PERSON] applies for the [A] license and endorsement within

1 six months after passing [THE PERSON HAS TAKEN] the examination. [IF THE
2 PERSON] submits satisfactory proof of successful completion of the education
3 requirements of AS 08.88.091, [IF THE PERSON] has had at least 24 months of active
4 and continuous experience as a [LICENSED] real estate services practitioner within
5 the 36 months immediately preceding application for the license and endorsement.
6 [SALESMAN, IF THE PERSON] is not under indictment for, or five years have
7 elapsed since the person has completed a sentence imposed upon conviction of,
8 forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving
9 moral turpitude, and [IF THE PERSON] is employed by a [LICENSED] real estate
10 services broker as a real estate services associate broker in a specialty area for
11 which both the broker and the associate broker are endorsed [AS AN
12 ASSOCIATE REAL ESTATE BROKER]. Unless the associate broker fails to renew
13 the real estate services license and endorsement [PAY THE BIENNIAL RENEWAL
14 FEE] or unless the associate broker's license is suspended or revoked [UNDER
15 AS 08.88.071(a)(3)], the associate [REAL ESTATE] broker's license and
16 endorsement continue [CONTINUES] in effect as [SO] long as the associate broker
17 is employed by a [LICENSED REAL ESTATE] broker as an associate broker in a
18 specialty for which both the broker and the associate broker are endorsed. If the
19 associate broker stops being employed by a real estate services [LICENSED REAL
20 ESTATE] broker in a specialty for which both the broker and associate broker are
21 endorsed, the associate broker's license and endorsement are [IS] suspended from
22 the time the associate broker stops until

23 (1) the associate broker again is employed by a real estate services
24 broker as an associate broker in a specialty for which both the broker and associate
25 broker are endorsed; or

26 (2) the associate broker becomes an owner of a real estate business or
27 is employed as a real estate services broker by a corporation or partnership, in
28 which case the [ASSOCIATE BROKER'S ASSOCIATE] real estate services associate
29 broker license shall be [IS] returned to the commission by the associate broker, and
30 the commission shall issue [ISSUES] the associate broker a real estate services broker
31 license with the same endorsement formerly held in conjunction with the associate

1 broker license.

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

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

30 * Sec. 15. AS 08.88 is amended by adding a new section to read:

31 **Sec. 08.88.173. Insurance requirement.** (a) A real estate services licensee

1 shall, as a condition of obtaining, retaining, or renewing a real estate services license,
 2 carry errors and omissions insurance to cover all activities for which the person is
 3 licensed, or is to be licensed, under this chapter. If the commission offers an insurance
 4 policy under this section for an annual premium of \$200 or less, a licensee under this
 5 chapter shall carry the insurance and submit premium payments to the commission to
 6 cover the cost of two years' worth of insurance at the time of initial licensure and on
 7 subsequent license renewal dates.

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

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

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

29 * Sec. 16. AS 08.88.181 is amended to read:

30 **Sec. 08.88.181. Content and purpose of examination.** (a) The real estate
 31 services examinations [EXAMINATION] may include [, BUT IS NOT

1- NECESSARILY LIMITED TO.] questions on real estate business ethics and
 2 standards; arithmetic; elementary principles of land economics and appraisal; the
 3 general principles in state statutes relating to deeds, mortgages, real estate contracts,
 4 subdivisions, legal descriptions, building restrictions, agency, disclosure requirements,
 5 trust accounting requirements, landlord and tenant law, property management
 6 ethics and standards, accounting, community association management ethics and
 7 standards, nonprofit corporation creation and operation, and brokerage; and the
 8 general provisions of this chapter and of the regulations of the commission.

9 (b) The examination for each level of licensure and for each endorsement
 10 must include similar questions on basic real estate information, but the precise
 11 content and difficulty shall vary so that each examination includes questions
 12 directly related to the competencies necessary to practice at a specific level of
 13 licensure and for a particular endorsement [REAL ESTATE SALESMAN
 14 EXAMINATION COVERS THE SAME SUBJECTS AS THE REAL ESTATE
 15 BROKER EXAMINATION, BUT IS LESS DIFFICULT].

16 (c) The only purpose of an examination under this chapter is to disqualify
 17 those whose lack of competence [ABILITY] to perform functions required of
 18 professionals [PARTICIPATE] in real estate sales, property management, and
 19 community association management [TRANSACTIONS] would create a serious risk
 20 of [SERIOUS] financial loss to members of the public.

21 * Sec. 17. AS 08.88.191(b) is amended to read:

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

24 (1) the commission or its designee shall review the examination and
 25 approve its contents;

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

28 * Sec. 18. AS 08.88.191(c) is amended to read:

29 (c) An applicant who fails the written examination may request that the
 30 examination be reevaluated. The commission shall provide [BY REGULATION] for
 31 a system of reevaluating examinations on request of an applicant who fails the

examination should be provided by the commission or the testing service or by any other person

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1 examination. The system provided by the commission may provide for reevaluation
 2 by the testing service or by any other person.

3 * Sec. 19. AS 08.88.201 is amended to read:

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

7 * Sec. 20. AS 08.88.221 is amended to read:

8 Sec. 08.88.221. Fees. The Department of Commerce and Economic
 9 Development shall set fees under AS 08.01.065 for a real estate services [BROKER,
 10 ASSOCIATE BROKER, OR SALESMAN] licensee or applicant for the following:

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

23 * Sec. 21. AS 08.88.241 is repealed and reenacted to read:

24 Sec. 08.88.241. Reinstatement of lapsed license. (a) A person whose real
 25 estate services license has lapsed [for less than] 60 days ^{re: also} is eligible for reinstatement of
 26 the license by providing the required application. licensing fees, applicable late fees,
 27 and proof of continuing education as required by AS 08.88.091 for the licensing period
 28 during which the license was inactive or lapsed.

29 (b) A person whose real estate services license has lapsed 60 or more days and
 30 less than 24 months is eligible for reinstatement of the license if the person provides
 31 the required application, license and endorsement fees, proof of continuing education

1 as required by AS 08.88.091 for licensing periods during which the license was
2 inactive or lapsed, and an additional penalty in an amount equal to the biennial
3 licensing fee.

4 (c) A real estate services licensee whose license or endorsement has been
5 lapsed for more than 24 months is not eligible for reinstatement of the license or
6 endorsement and is eligible for the license or endorsement only by meeting the
7 qualifications applicable to initial licensure under AS 08.88.168 - 08.88.171.

8 * Sec. 22. AS 08.88.251 is amended to read:

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

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

22 (c) A person who has an [IS] inactive license certificate under (a) of this
23 section may reactivate the license to [BECOME] active status by applying for an
24 active license and paying the required fees. [IN THE APPLICATION FORM THE
25 PERSON SHALL STATE THE DATE ON WHICH THE PERSON INTENDS TO
26 BECOME ACTIVE. THE PERSON'S ACTIVE STATUS BEGINS ON THE DATE
27 STATED. THE COMMISSION SHALL SEND THE PERSON A LICENSE
28 CERTIFICATE.] A person is eligible for change from an inactive to an active status
29 under this subsection only [WITHOUT EXAMINATION] if the person has [NOT]
30 been in inactive status for less [MORE] than 24 months [TWO YEARS]. If the
31 person has been in inactive status for 24 months or for more than 24 months [TWO

1 YEARS], the person is required to meet the requirements for initial licensure in
2 order to be licensed under this chapter again [TAKE AN EXAMINATION].

3 * Sec. 23. AS 08.88 is amended by adding a new section to article 3 to read:

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

9 * Sec. 24. AS 08.88.263 is amended to read:

10 Sec. 08.88.263. License by endorsement. A person who holds a valid active
11 real estate license issued by a [ANOTHER] state or other jurisdiction with which
12 the commission has not negotiated a reciprocal licensing agreement shall be
13 granted an equivalent Alaska real estate license if that person [:]

14 (1) passes the portion of the real estate examination that [WHICH]
15 examines on Alaska law; [AND]

16 (2) meets the requirements of AS 08.88.171 other than the
17 requirement to pass the portions of the real estate examination that do not
18 examine on Alaska law; however, the applicant may demonstrate compliance with
19 the education requirements of AS 08.88.091 by providing proof of comparable
20 education required to renew the applicant's comparable license in another
21 jurisdiction; and

22 (3) provides to the satisfaction of the commission proof of licensure
23 in the other state or jurisdiction.

24 * Sec. 25. AS 08.88.281 is amended to read:

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

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

30 Sec. 08.88.291. Location. A person licensed as a real estate services broker
31 shall, by registering with the commission, inform the commission of the person's

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

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

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

18 * Sec. 28. AS 08.88.311 is amended to read:

19 Sec. 08.88.311. Branch offices. (a) A branch office shall be under the direct
20 supervision of a real estate services associate broker whose principal place of business
21 is that office and who is licensed under this chapter. An associate [REAL ESTATE]
22 broker may serve in the capacity of direct supervisor at only one office [ONLY]. Real
23 estate services licensees registered to a branch office may practice only the
24 specialties for which both they and the office's supervising associate broker are
25 endorsed.

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

29 * Sec. 29. AS 08.88.321 is amended to read:

30 Sec. 08.88.321. Possession and display of license certificates. Employed
31 real [REAL] estate services licensees [SALESMEN OR ASSOCIATE REAL ESTATE

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

8 * Sec. 30. AS 08.88.331 is amended to read:

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

23 * Sec. 31. AS 08.88.341 is amended to read:

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

31 * Sec. 32. AS 08.88.351 is amended to read:

*This area will
probably be
changed*

1 Sec. 08.88.351. Record of transaction. A real estate services broker shall

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

7 (2) provide an [MAKE A CLOSING STATEMENT SHOWING
8 DISBURSEMENTS AND] accounting for all money or other property collected or
9 held in the course of each transaction;

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

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

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

23 * Sec. 33. AS 08.88.351 is amended by adding new subsections to read:

24 (b) A real estate services 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. 34. 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 principal real
11 estate licensee must be based on [IS EARNED WHEN THE REAL ESTATE
12 BROKER FULFILLS] the terms of a written personal services contract. Other than
13 through enforcement of the terms of a written personal services contract, a real
14 estate licensee has no right under law to enforce collection of a commission or
15 other fee for a service that requires a real estate services license.

16 * Sec. 35. AS 08.88.381 is amended to read:

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

27 * Sec. 36. AS 08.88.391 is amended to read:

28 Sec. 08.88.391. Conflict of interest. A [LICENSED] real estate services
29 licensee [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

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contact with the principals or agents of the principals, disclose that interest in writing to the principals and agents of the principals [EVERY PERSON] involved in the transaction. In this section,

(a) "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. 37. AS 08.88 is amended by adding a new section to read:

Sec. 08.88.394. Disclosure of agency information. Before seeking a signature on a contract, a real estate services licensee shall provide to a prospective client or customer a form established by the commission to inform the client or customer about the nature of agency relationships. Licensees shall also disclose to the prospective client or customer the agency relationship that would be established by the proposed contract, the nature of any preexisting agency relationships affecting the proposed contract, and the nature of other relevant potential agency relationships. This disclosure and receipt of the form must be acknowledged in writing by the prospective client or customer before a contract is signed.

* Sec. 38. AS 08.88.396 is amended to read:

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]

1 begins to provide specific assistance to locate or acquire real estate for the buyer, and
2 obtain from each prospective buyer a signed acknowledgement that the buyer is aware
3 of the agency relationship between the licensee [PERSON LICENSED UNDER THIS
4 CHAPTER] and the seller; and

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

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

10 (1) disclose the licensee's [PERSON'S] relationship with the buyer to
11 a prospective seller of real estate, or to the seller's agent, at the time of the initial
12 contact between the licensee [PERSON LICENSED UNDER THIS CHAPTER] and
13 the prospective seller or the seller's agent, and confirm the relationship in writing as
14 soon as possible after the initial contact;

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

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

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

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

28 (d) When a change occurs during a transaction that makes a prior written
29 disclosure required by this section incomplete, misleading, or inaccurate, the licensee
30 [PERSON LICENSED UNDER THIS CHAPTER] shall make a revised disclosure, in
31 writing, to all parties to the transaction as soon as possible. The revised disclosure

1 must include the date of the revision and shall be acknowledged in writing by all the
2 parties.

3 * Sec. 39. AS 08.88.401 is amended to read:

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

- 6 (1) have been awarded a degree or other designation;
- 7 (2) [OR TO] be a member or an affiliate of a professional organization;
- 8 (3) be a member of a franchise or other business association; or
- 9 (4) be certified or endorsed as a specialist.

10 (b) A person licensed under this chapter

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

19 (2) as an associate broker or a practitioner [WHO IS A REAL
20 ESTATE SALESMAN LICENSED IN THIS STATE] may [NOT] accept a fee or
21 commission for performance of an act for which a license is required by this chapter
22 only from [UNLESS ACCEPTANCE IS AUTHORIZED BY] the licensee's
23 employing broker [WHO EMPLOYS THE SALESMAN].

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

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

30 * Sec. 40. AS 08.88.401 is amended by adding a new subsection to read:

31 (e) A person may not

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

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

5 (3) impersonate an applicant under this chapter;

6 (4) knowingly use or attempt to use an expired, suspended, revoked,
7 or nonexistent license or endorsement; or

8 (5) falsely claim to be licensed and authorized to practice under this
9 chapter.

10 * Sec. 41. AS 08.88.450 is amended to read:

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

18 * Sec. 42. AS 08.88.455 is amended to read:

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

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

31 * Sec. 43. AS 08.88.460 is amended to read:

1 Sec. 08.88.460. Claim for payment. (a) A person seeking reimbursement for
 2 a loss suffered in a real estate transaction as a result of fraud, misrepresentation,
 3 deceit, or the conversion of trust funds on the part of a real estate services licensee
 4 [BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE
 5 SALESMAN LICENSED UNDER THIS CHAPTER] shall make a claim to the
 6 commission for reimbursement on a form furnished by the commission. In order to
 7 be eligible for reimbursement by the commission, the claim form must be filed
 8 within two years after the occurrence of the fraud, misrepresentation, deceit, or
 9 conversion of trust funds claimed as the basis for the reimbursement. The form
 10 shall be executed under penalty of unsworn falsification [,] and must include the
 11 following:

12 (1) the name and address of each [THE] real estate services licensee
 13 involved [BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE
 14 SALESMAN];

15 (2) the amount of the alleged loss;

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

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

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

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

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

28 (c) Within seven days after receipt of notice of a claim under (b) of this
 29 section, each [THE] real estate services licensee [BROKER, ASSOCIATE REAL
 30 ESTATE BROKER, OR REAL ESTATE SALESMAN] against whom the claim is
 31 made may elect to defend the claim as a small claims action in district court under

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1 District Court Civil Rules 8 - 22 [,] if the claim does not exceed the small claims
2 jurisdictional limit. An election to defend a claim in district court under the small
3 claims rules may not be revoked by the real estate services licensee [BROKER,
4 ASSOCIATE BROKER, OR SALESMAN] without the consent of the claimant. Upon
5 receipt of a valid written election under this subsection, the commission shall dismiss
6 the claim filed with the commission and notify the claimant that the claim must be
7 brought as a small claims action in the appropriate state court.

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

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

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

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

16 * Sec. 44. AS 08.88.465(b) is amended to read:

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

23 * Sec. 45. AS 08.88.465(c) is amended to read:

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

30 * Sec. 46. AS 08.88.465(d) is amended to read:

31 (d) The claimant bears the burden of proof of establishing that the claimant

1 suffered losses in a real estate transaction as a result of fraud, misrepresentation,
2 deceit, or the conversion of trust funds on the part of a real estate services licensee
3 [BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE
4 SALESMAN] and the extent of those losses. All facts shall be established by a
5 preponderance of the evidence.

6 * Sec. 47. AS 08.88.470 is amended to read:

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

17 * Sec. 48. AS 08.88.472(a) is amended to read:

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

26 * Sec. 49. AS 08.88.474 is amended to read:

27 **Sec. 08.88.474. Payment of small claims judgment.** If a claim originally
28 filed with the commission is dismissed and is heard as a small claims action under
29 AS 08.88.460(c) and the claimant prevails in the small claims action against a [THE]
30 real estate services licensee [BROKER, ASSOCIATE REAL ESTATE BROKER, OR
31 SALESMAN], the commission shall make an award from the fund of any outstanding

1 portion of the small claims judgment on receipt of a copy of the final judgment and
2 an affidavit from the claimant stating that more than 30 days have elapsed since the
3 judgment became final and that the judgment has not yet been satisfied by the
4 licensee determined responsible [BROKER, ASSOCIATE BROKER, OR
5 SALESMAN HAS NOT SATISFIED THE JUDGMENT DURING THAT TIME].
6 After payment of a small claims judgment, the commission is subrogated to the
7 claimant's rights in the judgment under AS 08.88.490.

8 * Sec. 50. AS 08.88.475 is amended to read:

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

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

19 * Sec. 51. AS 08.88.490 is amended to read:

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

26 * Sec. 52. AS 08.88.900 is amended to read:

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

29 (1) a person licensed in another profession while performing the
30 duties authorized under the license [WHO IS NOT LICENSED UNDER THIS
31 CHAPTER WHO MAKES A REAL ESTATE TRANSACTION WITH RESPECT TO

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act - you
are messing
with private
property owners*

1 REAL ESTATE THE PERSON OWNS OR ON THE PERSON'S OWN BEHALF.
 2 UNLESS THE TRANSACTION INVOLVES LAND DEFINED IN AS 34.55.044(7)
 3 THAT IS NOT IN ALASKA];

4 (2) a bookkeeper performing bookkeeping functions [AN
 5 ATTORNEY IN FACT UNDER A POWER OF ATTORNEY AUTHORIZING THE
 6 CONSUMMATION OF A SPECIFIC REAL ESTATE TRANSACTION; AN
 7 ATTORNEY IN FACT MAY NOT ACT AS SUCH FOR MORE THAN TWO
 8 TRANSACTIONS IN A CALENDAR YEAR];

9 (3) tradesmen or vendors of services performing maintenance and
 10 repair functions [A LAWYER PERFORMING DUTIES AS A LAWYER];

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

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

14 (6) a person acting under court order;

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

16 (8) an employee of a real estate firm or of a property owner who
 17 delivers or accepts a real estate contract or application, or a related amendment,
 18 to or from another person [A PERSON DEALING IN MINERAL RIGHTS
 19 TRANSACTIONS];

20 (9) an individual assisting in the performance of real estate
 21 activities only by carrying out administrative, clerical, or maintenance tasks [A
 22 DOMESTIC OR FOREIGN CORPORATION, A GENERAL OR LIMITED
 23 PARTNERSHIP, OR A PARTNER OR REGULAR EMPLOYEE OF A DOMESTIC
 24 OR FOREIGN CORPORATION OR A GENERAL OR LIMITED PARTNERSHIP,
 25 WHEN PERFORMING AN ACT DESCRIBED IN AS 08.88.161 IN THE REGULAR
 26 COURSE, OR AS AN INCIDENT TO, THE MANAGEMENT, SALE, OR OTHER
 27 DISPOSITION OF REAL ESTATE OWNED BY THE CORPORATION OR
 28 PARTNERSHIP; THE EXEMPTION PROVIDED IN THIS PARAGRAPH DOES
 29 NOT APPLY TO A PERSON WHO PERFORMS AN ACT DESCRIBED IN
 30 AS 08.88.161, UNLESS ALLOWED FOR UNLICENSED PERSONS UNDER
 31 AS 08.88.165, EITHER

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1 (A) AS A VOCATION; OR

2 (B) FOR COMPENSATION IF THE AMOUNT OF THE
3 COMPENSATION IS DEPENDENT UPON OR DIRECTLY RELATED TO
4 THE VALUE OF THE REAL ESTATE WITH RESPECT TO WHICH THE
5 ACT IS PERFORMED;

6 (10) A RESIDENT MANAGER OF RENTED REAL ESTATE IF THE
7 RESIDENT MANAGER'S DUTIES ARE LIMITED TO THE NEGOTIATION OF
8 LEASES AND RENTAL AGREEMENTS AND THE COLLECTION OF RENT FOR
9 THE USE OF THE REAL ESTATE AND IF THE RESIDENT MANAGER IS

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

11 OR

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

14 * Sec. 53. AS 08.88.900 is amended by adding new subsections to read:

15 (b) The requirements of this chapter for licensure with a sales endorsement do
16 not apply to

17 (1) a person who is not licensed under this chapter who makes a real
18 estate transaction with respect to real estate the person owns or on the person's own
19 behalf, unless the transaction involves subdivided land, as defined in AS 34.55.044, that
20 is not in the state;

21 (2) an attorney in fact under a power of attorney authorizing the
22 consummation of a specific real estate transaction; however, an attorney in fact may
23 not act as such for more than two sales transactions in a calendar year;

24 (3) a person dealing in mineral rights transactions;

25 (4) a domestic or foreign corporation, a general or limited partnership,
26 or a partner or regular employee of a domestic or foreign corporation or a general or
27 limited partnership, when performing an act described in AS 08.88.161 incidental to
28 the regular course of business or as an incident to the sale or other disposition of real
29 estate owned by the corporation or partnership; the exemption under this paragraph
30 does not apply to a person who performs an act described in AS 08.88.161 either

31 (A) as a vocation; or

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1 (B) for compensation if the amount of the compensation is
 2 dependent upon or related to the value of the real estate with respect to which
 3 the act is performed.

4 (c) The requirements of this chapter for licensure with a property management
 5 endorsement do not apply to

6 (1) a person who is not licensed under this chapter who manages real
 7 estate the persons owns or who rents or leases property on the person's own behalf;

8 (2) an attorney in fact under a power of attorney authorizing the
 9 consummation of a specific real estate lease or rental transaction; however, an attorney
 10 in fact may not act as such for more than two property management transactions in a
 11 calendar year;

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

14 (4) a resident manager.

15 (d) The requirements of this chapter for licensure with a community
 16 association management endorsement do not apply to

17 (1) an owner of a unit of a self-managed community association
 18 managing the community association without remuneration; or

19 (2) a developer of a community association during the period that the
 20 developer retains control of the association; however, to be eligible for this exemption,
 21 the developer must employ or contract with a real estate services licensee who has a
 22 community association management endorsement.

23 * Sec. 54. AS 08.88.990 is amended to read:

24 Sec. 08.88.990. Definitions. In this chapter,

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

27 (2) "lease" means a written or oral contract between a lessor and
 28 a lessee that transfers the right to exclusive possession and use of the lessor's real
 29 property to the lessee for a specified period of time and for a stated consideration;
 30 the term includes a lease that is a part of another transaction;

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

*alot of
people
who houses
trailer or 2
H pleys
etc*

family business

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

10 * Sec. 55. AS 08.88.990 is amended by adding new paragraphs to read:

11 (5) "broker" is a real estate services licensee with an endorsement to
12 practice sales, property management, or community association management who is
13 fully qualified and authorized to own or manage a real estate business; the term
14 includes a person who holds more than one endorsement simultaneously; unless
15 otherwise required in context, this term also includes a real estate services associate
16 broker in charge of a branch office;

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

24 (7) "employed real estate services licensee" is a real estate services
25 associate broker or practitioner who is required by this chapter to be employed and
26 supervised by a broker;

27 (8) "property management" is an activity undertaken for another with
28 regard to real property under an agreement in exchange for a fee, commission, or other
29 valuable consideration, including the following activities: marketing, leasing,
30 contracting for physical, administrative, or financial maintenance, performance of
31 overall management of real property, and the supervision of these actions;

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in a family.*

1 (9) "real estate services licensee" is a person who holds a license under
2 this chapter and one or more of the specialty endorsements identified in AS 08.88.171;
3 the term includes a broker unless the context clearly excludes brokers;

4 (10) "real estate transaction"

5 (A) in sales, means the transfer or attempted transfer of an
6 interest in a unit of real property, an act conducted as a result of or in pursuit
7 of a contract to transfer an interest in a unit of real property, or an act
8 conducted in an attempt to obtain a contract to market real property;

9 (B) in property management, means the lease or rental of a unit
10 of real property including collection of rent from a tenant of a unit of rented
11 or leased real property, an attempt to rent or lease a unit of real property, an
12 attempt to collect rent from a tenant of rented or leased real property, or an act
13 conducted as a result of or in pursuit of a contract to manage a unit of leased
14 or rented real property;

15 (C) in community association management, means the collection
16 or attempted collection of dues from a unit owner or an activity conducted as
17 a result of or in pursuit of a contract with a community association to manage
18 the affairs of a community association.

19 * Sec. 56. AS 18.80.300(1) is amended to read:

20 (1) "blockbusting" means an unlawful discriminatory practice by real
21 estate services licensees [BROKERS, REAL ESTATE SALESMEN,] or employees or
22 agents of a real estate services broker or another individual, corporation, partnership,
23 or organization for the purpose of inducing a real estate transaction from which any
24 such person or its stockholders or members may benefit financially, to represent
25 directly or indirectly that a change has occurred or will or may occur from a
26 composition with respect to race, religion, color, or national origin of the owners or
27 occupants of the block, neighborhood, or area in which the real property is located, and
28 to represent directly or indirectly that this change may or will result in undesirable
29 consequences in the block, neighborhood, or area in which the real property is located,
30 including but not limited to the lowering of property values, an increase in criminal
31 or antisocial behavior, or decline in the quality of the schools or other facilities;

1 * Sec. 57. AS 21.66.310(b) is amended to read:

2 (b) An insured named in a title insurance policy or any other person directly
3 or indirectly connected with the transaction involving the issuance of a title insurance
4 policy, including, but not limited to a mortgage lender, real estate services broker,
5 builder, or attorney, or an officer, employee, agent, representative, or solicitor of a
6 mortgage lender, real estate services broker, builder, attorney, or other person, may not
7 knowingly receive or accept, directly or indirectly, a rebate, reduction, or abatement
8 of a charge or premium or a special favor or advantage, or a monetary consideration
9 or inducement.

10 * Sec. 58. AS 23.20.526(a)(8) is amended to read:

11 (8) service performed by an insurance agent, insurance solicitor, a real
12 estate services licensee [BROKER, A REAL ESTATE SALESMAN], or a securities
13 salesman to the extent the person is compensated by commission, unless the service
14 is required to be covered under the Federal Unemployment Tax Act as amended;

15 * Sec. 59. AS 34.08.600 is amended to read:

16 Sec. 34.08.600. Escrow of deposits. A deposit made in connection with the
17 purchase or reservation of a unit from a person required to deliver a public offering
18 statement under AS 34.08.520(c) must be placed in escrow and held either in this state
19 or in the state where the unit is located in an account designated solely for that
20 purpose by a licensed title insurance company, an attorney, a licensed real estate
21 services broker, an independent bonded escrow company, or an institution whose
22 accounts are insured by a governmental agency or instrumentality until

23 (1) delivered to the declarant at closing;

24 (2) delivered to the declarant because of the purchaser's default under
25 a contract to purchase the unit; or

26 (3) refunded to the purchaser.

27 * Sec. 60. AS 45.63.080(4) is amended to read:

28 (4) by a real estate services licensee [BROKER, ASSOCIATE REAL
29 ESTATE BROKER, OR REAL ESTATE SALESMAN] licensed under AS 08.88 and
30 acting in a capacity covered by the license;

31 * Sec. 61. AS 08.88.091(c) and 08.88.111 are repealed.

1 * Sec. 62. TRANSITIONAL LICENSING. (a) Notwithstanding other provisions of this
2 Act, a natural person who holds an active, inactive, or lapsed real estate license that has not
3 expired is eligible for licensure as follows, without taking an examination and without
4 completing the prelicensing education requirements of AS 08.88.091(b), if the person applies
5 after January 31, 1999, and pays the required fees:

6 (1) a person licensed as a real estate broker is eligible for a real estate services
7 broker license with an endorsement in sales or property management, or both;

8 (2) a person licensed as a real estate associate broker is eligible for a real
9 estate services associate broker license with an endorsement in sales or property management,
10 or both;

11 (3) a person licensed as a real estate salesman is eligible for a real estate
12 services practitioner license with an endorsement in sales or property management, or both.

13 (b) Notwithstanding other provisions of this Act, a natural person who meets the
14 requirements of this subsection is eligible for licensure as follows, without taking an
15 examination and without completing the education requirements of AS 08.88.091(b), if the
16 person applies after January 31, 1999, and pays the required fees:

17 (1) a person who demonstrates to the commission's satisfaction that the person
18 is currently engaged as a principal in the practice of community association management, as
19 defined in AS 08.88.990, as amended by this Act, is eligible for a real estate services broker
20 license with a community association management endorsement;

21 (2) a person who demonstrates to the commission's satisfaction that the person
22 is currently qualified to practice as a principal in the practice of community association
23 management, as defined in AS 08.88.990, as amended by this Act, and is currently engaged
24 in the practice of community association management under a supervising principal who is
25 engaged in the practice of community association management is eligible for a real estate
26 services associate broker license with a community association management endorsement;

27 (3) a person who demonstrates to the commission's satisfaction that the person
28 is currently engaged in the practice of community association management, as defined in
29 AS 08.88.990, as amended by this Act, under the supervision of a principal who is engaged
30 in community association management is eligible for a real estate services practitioner license
31 with a community association management endorsement.

1 * Sec. 63. OTHER TRANSITIONAL PROVISIONS. (a) Notwithstanding AS 08.88.041,
2 as amended by sec. 1 of this Act, the members of the Real Estate Commission who hold
3 office on the effective date of this bill section may retain their offices until their terms expire
4 without complying with the requirements of AS 08.88.041.

5 (b) Notwithstanding AS 08.88.041(a), as amended by sec. 1 of this Act, until three
6 years after the effective date of this bill section, a real estate services licensee may be
7 appointed to the commission without having held an endorsement for three years, and a person
8 appointed under this subsection may complete the term of office for which the person was
9 appointed.

10 (c) Notwithstanding AS 08.88.161, as amended by secs. 11 - 12 of this Act, a person
11 who, on January 1, 1999, holds an active license under AS 08.88 is not required to comply
12 with AS 08.88.161, as amended by secs. 11 - 12 of this Act, or AS 08.88.171, as amended
13 by sec. 14 of this Act until January 31, 2000.

14 * Sec. 64. AS 08.88.173(a), enacted by sec. 15 of this Act, takes effect 90 days after the
15 effective date of AS 08.88.173(b), enacted by sec. 15 of this Act.

16 * Sec. 65. AS 08.88.161, as amended by secs. 11 - 12 of this Act, and AS 08.88.171, as
17 amended by sec. 14 of this Act, take effect January 1, 1999.

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RCW 18.85.090 Broker's license--Requirements--Exception. (1)

The minimum requirements for an individual to receive a broker's license are that the individual:

(a) Is eighteen years of age or older;

(b) Has a high school diploma or its equivalent;

(c) Has had a minimum of two years of actual experience as a full-time real estate salesperson in this state or in another state having comparable requirements within the five years previous to applying for the broker's license examination or is, in the opinion of the director, otherwise and similarly qualified, or is otherwise qualified by reason of practical experience in a business allied with or related to real estate;

(d) Except as provided in RCW 18.85.097, has furnished proof, as the director may require, that the applicant has successfully completed one hundred twenty hours of instruction in real estate. Instruction must include one course in brokerage management, one course in real estate law, one course in business management, and one elective course. Each course must be completed within five years prior to applying for the broker's license examination, be at least thirty clock hours, and be approved by the director. The applicant must pass a course examination, approved by the director for each course used to satisfy the broker's license requirement; and

(e) Has passed the broker's license examination.

(2) Nothing in this section applies to persons who are licensed as brokers under any real estate law in Washington that exists prior to this law's enactment, but only if their license has not been subsequently canceled or revoked. [1994 c 291 § 1; 1985 c 162 § 1; 1972 ex.s. c 139 § 8; 1953 c 235 § 5; 1951 c 222 § 7; 1941 c 252 § 15; Rem. Supp. 1941 § 8340-38.]

NOTES:

Effective date--1994 c 291: "This act shall take effect July 1, 1995." [1994 c 291 § 5.]

RCW 18.85.095 Salespersons--Requirements--Renewal--Exception.

(1) The minimum requirements for an individual to receive a salesperson's license are that the individual:

(a) Is eighteen years of age or older;

(b) Except as provided in *RCW 18.85.087, has furnished proof, as the director may require, that the applicant has successfully completed a sixty clock-hour course, approved by the director, in real estate fundamentals. The applicant must pass a course examination approved by the director. This course must be completed within five years prior to applying for the salesperson's license examination; and

(c) Has passed a salesperson's license examination.

(2) The minimum requirements for a salesperson to be issued the first renewal of a license are that the salesperson:

(a) Has furnished proof, as the director may require, that the salesperson has successfully completed a thirty clock-hour course, from a prescribed curriculum approved by the director, in real estate practices. The salesperson must pass a course examination approved by the director. This course shall be commenced after issuance of a first license; and

(b) Has furnished proof, as the director may require, that the salesperson has completed an additional thirty clock hours of continuing education in compliance with RCW 18.85.165. Courses for continuing education clock-hour credit shall be commenced after issuance of a first license.

(3) Nothing in this section applies to persons who are licensed as salespersons under any real estate law in Washington which exists prior to this law's enactment, but only if their license has not been subsequently canceled or revoked. [1994 c 291 § 2; 1988 c 205 § 3; 1987 c 332 § 3; 1985 c 162 § 2; 1977 ex.s. c 370 § 2; 1972 ex.s. c 139 § 7.]

NOTES:

*Reviser's note: The reference to RCW 18.85.087 appears to be erroneous. RCW 18.85.097 was apparently intended.

Effective date--1994 c 291: See note following RCW 18.85.090.

RCW 18.85.097 Substitution of educational requirements--
Rules. The director may allow for substitution of the clock-hour
requirements in RCW 18.85.090(1)(d) and 18.85.095(1)(b), if the
director makes a determination that the individual is otherwise and
similarly qualified by reason of completion of equivalent
educational coursework in any institution of higher education as
defined in RCW 28B.10.016 or any degree-granting institution as
defined in RCW 28B.85.010 approved by the director. The director
shall establish by rule, guidelines for determining equivalent
educational coursework. [1994 c 291 § 4; 1987 c 332 § 18.]

NOTES:

Effective date--1994 c 291: See note following RCW 18.85.090.

RCW 18.85.100 License required--Prerequisite to suit for commission. It shall be unlawful for any person to act as a real estate broker, associate real estate broker, or real estate salesman without first obtaining a license therefor, and otherwise complying with the provisions of this chapter.

No suit or action shall be brought for the collection of compensation as a real estate broker, associate real estate broker, or real estate salesman, without alleging and proving that the plaintiff was a duly licensed real estate broker, associate real estate broker, or real estate salesman prior to the time of offering to perform any such act or service or procuring any promise or contract for the payment of compensation for any such contemplated act or service. [1972 ex.s. c 139 § 9; 1951 c 222 § 8. Formerly: (i) 1941 c 252 § 6; Rem. Supp. 1941 § 8340-29. (ii) 1941 c 252 § 25; Rem. Supp. 1941 § 8340-48.]