

ALABAMA LEGISLATURE COMMITTEE FILED 1997-1998 86/2

9262 HOUSE LABOR & COMMERCE

# Hardcastle-Davies Insurance

100 Main Street, Ketchikan, Alaska 99901  
Phone (907) 225-2176 Fax (907) 225-1639

October 28, 1997

Northway Realty, Inc.  
DBA. Re/Max of Ketchikan  
2506 First Avenue  
Ketchikan, AK 99901

Re: Mobile Home Bond

Dear Bill

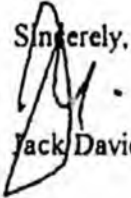
I have been in contact with CNA in Seattle regarding the bonding requirements for sellers of mobile homes. CNA is a large writer of surety and fidelity bonds in the state. They advise that, to date, they have not written any of these bonds, but they have had some inquiries.

The indicated cost of the bond would be \$1,000.00 per year @ \$50,000.00. That is a pretty high rate and paying for this bond would probably take all of the fun out of selling mobile homes. Each individual bond would have to be separately underwritten since the regulation would appear to apply to each real estate agent in each office (i.e., a separate bond would have to be written for each agent).

The more I think about this, the more ridiculous it seems to be. The whole issue seems to turn on the definition of who is a "dealer". It is a stretch, for me at least, to reach the conclusion that real estate agents are "in the business of... selling new or used mobile homes". Real estate agents are in the business of marketing real estate. They don't actually sell real estate, in the true sense of the word, since you can't sell something you don't own.

If I can be of additional help, please let me know. I would be happy to talk to someone on the Real Estate Board if it would help.

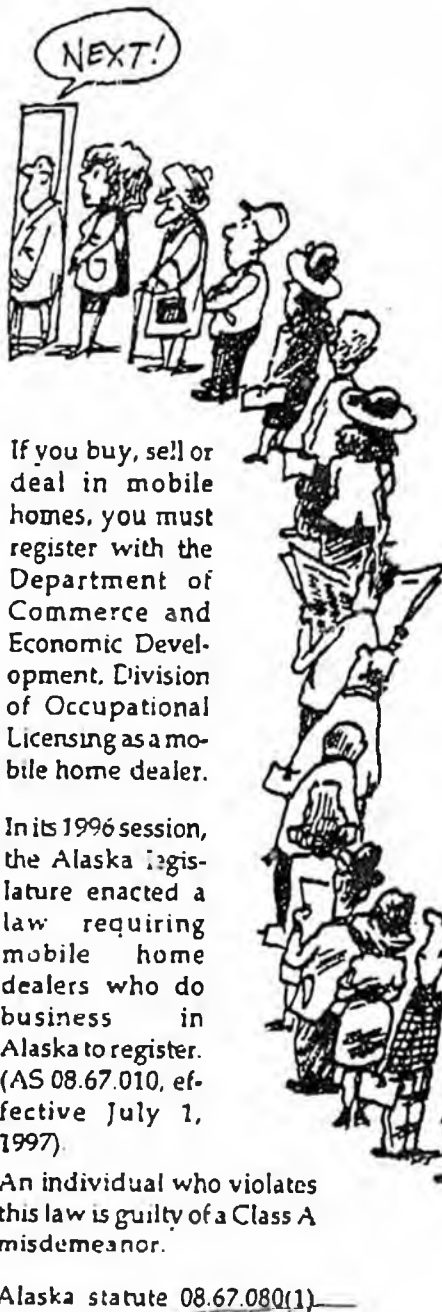
Sincerely,

  
Jack Davies

225-8546  
TO Pete

To Bill Williams

# Alaska mobile home dealers must register with Division



If you buy, sell or deal in mobile homes, you must register with the Department of Commerce and Economic Development, Division of Occupational Licensing as a mobile home dealer.

In its 1996 session, the Alaska legislature enacted a law requiring mobile home dealers who do business in Alaska to register. (AS 08.67.010, effective July 1, 1997).

An individual who violates this law is guilty of a Class A misdemeanor.

Alaska statute 08.67.080(1) defines a mobile home

dealer as "a person who is engaged in the business of buying, selling or dealing in new or used mobile homes."

Mobile home is defined as "a vehicle designed and equipped for human habitation, and that may only be moved by another motor vehicle when authorized by permit".

Real estate licensees who buy, sell or ~~deal~~ in mobile homes are required to register as mobile home dealers under this law.

If you deal in mobile homes, you must register as a mobile home dealer even if you are already licensed to practice real estate.

Under Alaska law, mobile homes are personal property, not

real estate. They are not covered by the real estate licensing statutes.

To register as a mobile home dealer, you must file with the Division of Occupational Licensing:

- an application,
- proof of a \$50,000 bond in favor of the state, and
- any other information required by the Division in administration of this program.

Fees proposed by the Division are:

- a \$50 nonrefundable application fee for initial registration,
- a \$510 registration fee for all or part of the initial biennial registration period renewal, and
- a \$510 biennial registration renewal fee.

If you have questions about mobile home dealer registration or if you need forms to register, contact Teresa Abella, Licensing Examiner, at 465-3811 in the Division's Juneau office.

AMENDMENT # 8

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSHB 33(L&C); Draft version "P"

- 1 Page 11, line 19:  
2 Delete "a new section"  
3 Insert "new sections"
- 4 Page 11, following line 31:  
5 Insert a new section to read:  
6 "Sec. 08.88.175. Limitations on community association managers. A  
7 licensee may not, within the practice of community association management, exercise  
8 control over the  
9 (1) reserves or investment accounts of a community association;  
10 (2) operating account of a community association unless  
11 (A) allowed under a contract that has been approved by the  
12 association's board of directors; and  
13 (B) duplicate financial statements concerning the account are  
14 sent by the institution holding the account to the licensee and the association's  
15 board of directors at separate addresses."

AMENDMENT #9

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSHB 33 (L&C); Draft Version "P"

Page 6, line 16

After "Unless licensed" insert "in the State of Alaska"

Page 6, line 27

After "assist in" insert "or communicate with"

After "prospective buyers" insert "sellers,"

AMENDMENT #10

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSHB 33 (L&C); Draft Version "P"

Page 18, line 12

Page 18, line 14

Delete "real estate employment"

Insert: "listings and management"

NOTE: This is to conform with amendment #2 adopted by the House Labor & Commerce Committee on January 26, 1998.

A M E N D M E N T # 11

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSHB 33(L&C); Draft version "P"

- 1 Page 11, line 29:
- 2 Delete "(b)"
- 3 Delete "section"
- 4 Insert "subsection"
  
- 5 Page 11, following line 31:
- 6 Insert a new subsection to read:
- 7 "(b) If a loss covered by the fidelity bond required under this section is also
- 8 reimbursable from the real estate surety fund, the <sup>owners' association</sup> ~~person~~ who suffered the loss may
- 9 not recover under the bond until the person has filed a claim for reimbursement under
- 10 AS 08.88.460 and proceedings relating to the claim are concluded."
  
- 11 Page 23, line 21, following "funds":
- 12 Insert "or community association accounts"
  
- 13 Page 23, line 27, following "funds":
- 14 Insert "or community association accounts"
  
- 15 Page 25, line 11, following "funds":
- 16 Insert "or community association accounts"
  
- 17 Page 25, line 25, following "funds":
- 18 Insert "or community association accounts"
  
- 19 Page 26, line 3, following "funds":

1      Insert "or community association accounts"

1/28/98

AMENDMENT

*Concededly  
Mended:  
No objections  
adopted*

OFFERED IN HOUSE LABOR AND COMMERCE COMMITTEE

OFFERED FOR: DCED *& Law*

TO: HB 33 (L&C) Version P dated 1/16/98

PAGE 3, lines 17 thru 18, after "(4)":

Delete the proposed changes and insert current law. This section should now read:

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

PAGE 13, line 11, after "license.":

Delete: All material on lines 11 through 15.

PAGE 13, line 16 after "lapsed":

Delete: "more than 60 days and"

Renumber bill sections accordingly.

PAGE 27, lines 19 thru 20, after "Exceptions.":

Delete the proposed changes and insert current law. This section should read:

"This chapter does not apply to"

*HR  
08.88.109  
not amended*

PAGE 31, line 26, add a new bill section:

"Sec. 56. Notwithstanding Section 54 the Real Estate Commission may begin the process to adopt regulations to implement 08.88.091 (f) and (g). "

(Plus any additional language LAA Legal determines necessary to activate this section)

R. number bill sections accordingly.

AMENDMENT 13

OFFERED IN THE HOUSE

TO: CSHB 33(L&C); Draft version "P"

1 Page 1, line 1:

2 Delete "licensing"

3 Insert "licensees"

4 Page 1, line 4, following "Section 1.":

5 Insert "AS 08.67.010 is amended to read:

6 Sec. 08.67.010. Registration of mobile home dealers. A mobile home dealer  
7 may not do business in the state unless the dealer is registered with the department.

8 However, a person licensed under AS 08.88 may, without registering under this  
9 chapter, perform the same activities with respect to mobile homes as are  
10 authorized for that person to perform under AS 08.88 with respect to real estate.

11 \* Sec. 2."

12 Renumber the following bill sections accordingly.

13 Page 22, following line 28:

14 Insert a new bill section to read:

15 "\* Sec. 35. AS 08.88.405 is amended to read:

16 Sec. 08.88.405. Preparation of documents. Notwithstanding AS 08.08, a  
17 person licensed as a real estate broker, associate real estate broker, or real estate  
18 salesperson under this chapter may prepare real property contracts, mobile home  
19 contracts, earnest money agreements, leases, and other documents related to real  
20 property or mobile homes if the documents are prepared by the person in the course  
21 of the person's work as a licensed real estate broker, associate real estate broker, or  
22 real estate salesperson under this chapter."

1 Renumber the following bill sections accordingly.

2 Page 29, line 9:

3 Delete "or"

4 Page 29, line 16, following "stepchild":

5 Insert ": or

6 (20) a mobile home dealer licensed under AS 08.67 performing  
7 within the scope of the dealer's license"

8 Page 29, line 29, following "means":

9 Insert "an interest in a mobile home or"

10 Page 30, following line 20:

11 Insert a new paragraph to read:

12 "(8) "mobile home" has the meaning given in AS 08.67.080;"

13 Renumber the following paragraphs accordingly.

14 Page 30, line 22, following "to":

15 Insert "a mobile home or"

16 Page 30, line 25, following the first "of":

17 Insert "mobile homes or"

18 Page 30, line 30, following the first "in":

19 Insert "a mobile home or"

20 Page 30, line 31, following "in":

21 Insert "a mobile home or"

22 Page 31, line 1, following "market":

- 1           Insert "a mobile home or"
  
- 2   Page 31, line 3, following "property":
- 3           Insert "or a mobile home,"
  
- 4   Page 31, line 4, following each occurrence of "property":
- 5           Insert "or a mobile home"
  
- 6   Page 31, line 5, following "property":
- 7           Insert "or a mobile home"
  
- 8   Page 31, line 7, following "property":
- 9           Insert "or a mobile home"
  
- 10   Renumber internal references to bill sections in accordance with this amendment. Internal
- 11   bill section references occur at the following places:
  
- 12           Page 31, lines 22 and 24

LAW OFFICES OF STANLEY AND SCHADT, P.C.

ATTORNEYS AT LAW  
 3003 Minnesota Drive, Suite 200  
 Anchorage, Alaska 99503  
 TELEPHONE: (907) 276-4979  
 FACSIMILE: (907) 278-5722

GORDON F. SCHADT  
 JAMES T. STANLEY

LILLI FREDRICKSON, Principal  
 MARILYN REED, Principal  
 GINGER SWANSON, Legal Assistant

ST. AND. MACC. Of Council  
 TH. ASY A. TILLION, Of Council

January 26, 1998

Alaska Association of Realtors  
 Legislative Committee  
 c/o Bill Brady  
 RE/MAX  
 2600 Cordova, Suite 100  
 Anchorage, Alaska 99503

*Writing for amendment  
 from LAA Legal.  
 This is backup.*

Re: House Bill 33

Dear Bill:

Per the legislative committee's request I have reviewed the issues related to the payment of fees to unlicensed persons including affinity groups and the sellers or buyers of property. I have also set forth later in this letter proposed revisions to two sections of the draft House Bill 33. In my consideration of these issues, I have reviewed the following:

1. Drafts L and P of HB-33
2. Current statutes and regulations related to the issues set forth in drafts of HB-33.
3. Jeff Feldman's letter of December 1, 1997 to the Real Estate Commission.
4. Gayle Horetski's letter of December 18, 1997 to Representative Rokeberg.
5. Tamara Brandt Cook's memorandum of October 23, 1997 to Representative Rokeberg.
6. Transcript of the Real Estate Commission's meeting with Gayle Horetski regarding payment of fees to unlicensed persons and affinity and relocation companies.
7. The Opinion and Order in the case of PHH Real Estate Service Corporation vs. Mississippi Real Estate Commission from the United States District Court for the Southern District of Mississippi Jackson Division; Civil Action No. 3:96-CV-667BN
8. Other materials regarding broker's compensation and payment to unlicensed persons.

Alaska Association of Realtors  
Legislative Committee  
January 26, 1998  
Page 2

As a result of my review, it appears to me that the approach of the proposed HB-33 of prohibiting licensees from making payment of a portion of the commission money to unlicensed persons is sound and relatively well set forth. However, as pointed out by Assistant Attorney General Horvatski, an argument can be made that the owner exception set forth in AS 08.88.900(1) allows payments to them from relocation companies, affinity groups, or similar organizations.

To address the owner's exception issue I propose the following additions to the draft of HB-33:

Sec. 08.88.900(1) A natural person who is not licensed under this chapter who manages or makes a real estate transaction with respect to real estate the person owns or on the person's own behalf so long as the compensation they receive does not include any portion of the commission or other compensation paid to a real estate licensee in the transaction.

Sec. 08.88.401(f) The prohibition of (e)(1) of this section does not prohibit:

(1) payments by a licensee to a person licensed to perform real estate activities in another jurisdiction if the other person has assisted the licensee in the performance of an act for which a license is required by this chapter; or

(2) negotiations between licensee and principals of the amount of commissions or other compensation; or

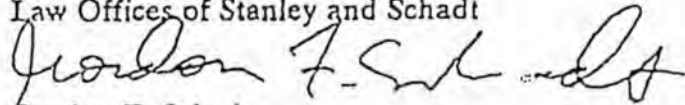
(3) payments from real estate licensees to principals as part of the resolution of disputes regarding the terms of the transaction or the property transferred.

The added language is intended to make it clear that the ability of non-licensed individuals to sell or buy on their own account does not allow them to receive a portion of the commission from a licensee. I believe that this is consistent with the other draft changes in the statute related to this issue.

I would be glad to discuss the proposed language or suggestions the committee might have in relation to these issues as may be desired.

Best regards,

Law Offices of Stanley and Schadt

  
Gordon F. Schadt

GFS:hs  
cc: Dea Turner  
Art Clark

CONCEPTUAL AMENDMENT 8

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSHB 33 (L&C); Draft "P" Version

Reserve and investment accounts are not to be placed in control of a community association manager. A community association manager may not sign on reserve and/or investment accounts of a community.

By contract agreement, with the approval of the association's board, the community association manager may be a signer on the operating account of a community association.

The community association may establish other accounts.

If a community association manager may sign on an account, the community association board or the manager, shall request the financial institution to send one statement to the community association board and one statement to the community association manager. The addresses of the manager and the board may not be the same.

*take up a clarifying amendment  
for accounts -*

A M E N D M E N T #14

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSHB 33(L&C); Draft version "P"

1 Page 22, line 15, following "prohibit":

2 Insert "(1)"

3 Page 22, line 18, following "chapter":

4 Insert ";

5 (2) negotiations between a licensee and a principal in a real estate  
6 transaction concerning the amount of a commission or other compensation; or

7 (3) payments from a real estate licensee to a principal as part of the  
8 resolution of a dispute regarding the terms of a transaction or regarding the property  
9 transferred"

10 Page 29, following line 24:

11 Insert a new bill section to read:

12 "\* Sec. 47. AS 08.88.900 is amended by adding a new subsection to read:

13 (b) Notwithstanding that a person is exempt from licensure under this section,  
14 the prohibition in AS 08.88.401(e)(1) is applicable to that person."

15 Renumber the following bill sections accordingly.

16 Renumber internal references to bill sections in accordance with this amendment. Internal  
17 bill section references occur in the following places:

18 Page 31, line 24

AMENDMENT #15

OFFERED IN THE HOUSE BY REPRESENTATIVE ROKEBERG

TO: CSHB 33 (L&C); Draft Version "P"

Page 27, line 21

Delete "natural"

Page 27, line 23

Delete: "the person's own behalf"

Insert "is seeking to own so long as the compensation the person receives does not include any portion of the commission or other compensation paid to a real estate licensee in the transaction."

March 20, 1997

Norman and Shirley:

My quick review:

Differences between Version F, 3/18/97, and Version B, 3/11/97, HB 33

1. Page 7, line 9, version F: adds "the building Owners and Managers Association, or other recognized national organizations;" in place of previous language.
2. Page 8, lines 8-13. (b) is new language regarding commercial real estate services broker.
3. Page 9, line 3 (e) "Unless licensed as a commercial real estate services broker," is new language.
4. Page 9, line 17, new Section 13 - Civil penalty for unlicensed or unauthorized practice. Language from the AELS statutes as adopted in amendment 4(b). Goes to Page 10, line 13.
5. Page 16, Section 16 is new language regarding commercial real estate services broker license.
6. Page 17, 08.88.191(c), page 14 of version B, is deleted as per amendment.
7. Page 17, line 25 now reads "60 days or less"  
Page 17, line 29 now reads "more than 60"  
Per amendment adopted by committee
8. Page 18, line 23, now reads "may reactive the license" . . . "by applying for an active" as per the amendment.
9. Page 21, line 28, drops "exclusive" before "real estate personal services contracts" as per amendment.
10. Page 22, lines 3-6, restates (1) with deletion of duplicative "for at least three years" language. Ms. Lauterbach constructed the deletion to delete the added "for at least three years".
11. Page 22, line 8, adds after "provide" "upon request to any principal in a transaction" per amendment.
12. Page 24, Section 37 of B deleted per amendment (agency disclosure section).

13. Page 35, lines 2-3, adds after "licensee", "including a commercial real estate services broker".
14. Page 35, lines 9-10, adds new (6) re "commercial real estate services broker"
15. Page 35, lines 18-19, adds "(8) "employed" includes being an independent contractor with an employer".

Janet

ALASKA STATE LEGISLATURE  
House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE COMMITTEE, CHAIRMAN  
SPECIAL COMMITTEE ON OIL & GAS, MEMBER  
JUDICIARY COMMITTEE, MEMBER  
CORRECTIONS BUDGET SUBCOMMITTEE, MEMBER  
ADMINISTRATION BUDGET SUBCOMMITTEE, MEMBER  
HESS BUDGET SUBCOMMITTEE, MEMBER



INTERIM:  
716 WEST 4TH AVENUE, SUITE 640  
ANCHORAGE, AK 99501  
PHONE: (907) 258-8191  
FAX: (907) 258-2916

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

Representative Norman Rokeberg

JUST THE FAX

Date: 1/29/98

TO: LAA Legal / Teri Lasterbeck

FAX: \_\_\_\_\_ Telephone: 2450

FROM: Representative Norman Rokeberg / Shirley LLC Com

FAX: (907) 465-2040 Telephone: (907) 465-4968

Number of Pages: \_\_\_\_\_ (including this page)

Comments: Here on the amendments  
1-16 to HB 33 Verse P.

HB-33 passed out of Sabraed  
Commed 1/28/98-

Please prepare a House LLC  
CS for HB 33

Shirley  
Shirley K

Have a Nice Day

*Condensed  
No objections  
adopted*

Revised P.2

AMENDMENT /

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSHB 33 (L&C); Draft version "P"

Page 14, line 4:

Delete "licensee's former employer"

Insert "broker who previously contracted with or employed the licensee"

*Has to do with  
the concept of  
employee*

Page 16, line 4:

Delete "employed"

Insert "active"

Page 16, line 5:

Delete "licensee"

Insert "salesperson or associate real estate broker"

Page 16, line 7, following "employs"

Insert "or contracts with"

*Condensed  
moved  
no objections  
adopted*

0-LS0197AP.3  
Lauterbach  
1/21/98

AMENDMENT 2

OFFERED IN THE HOUSE BY REPRESENTATIVE ROKEBERG  
TO: CSHB 33(L&C); Draft version "P"

- 1 Page 4, line 18:
- 2 Delete "shall suspend [MAY"
- 3 Insert "may suspend ["
  
- 4 Page 16, lines 19 - 26:
- 5 Delete all material and insert:
- 6 "Sec. 08.88.341. Listings and management contracts. All real estate listings
- 7 and management contracts must be in writing and must be signed by the broker
- 8 [SELLER] or associated licensee [BY AN AGENT] of the broker and by the client
- 9 or an authorized representative of the client for whose benefit the real estate
- 10 licensee will act [SELLER]. All real estate exclusive listings and management
- 11 contracts must have a definite expiration date that may be renewed or extended
- 12 only by a written agreement signed by the client or the client's authorized
- 13 representative."
  
- 14 Page 19, line 4:
- 15 Delete "or anticipated"
  
- 16 Page 19, line 8:
- 17 Delete "material"
- 18 Insert "financial"
  
- 19 Page 19, line 9:
- 20 Delete "or anticipated material"
- 21 Insert "financial"

*Changing  
M. 112  
Price objected  
with new objection  
adopted*

Revised P.4

**AMENDMENT 3**

OFFERED IN THE HOUSE BY REPRESENTATIVE ROKEBERG

TO: CSHB 33 (L&C); Draft version "P"

Page 5, line 19, following "approval.":

Insert "The Real Estate Commission shall approve each submitted contact hour of a course outline as one credit hour of continuing education. The fee for continuing education course certification under AS 08.88.221 shall be based on the hours approved for credit not hours submitted."

*requested by an individual  
active member real estate ad  
vocate -*

*Commission has to recertify  
courses every 2 years -  
fee \$5 to \$25 -*

*Dept:  
Someone is going to pay <sup>over</sup> if it is not  
the person who applied for the course,  
but by the rest of the licensees.*

*Amendment  
moved  
no objection  
adopted*

O-LS0197AP.5  
Lauterbach  
1/21/98

AMENDMENT<sup>4</sup>

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSHB 33 (L&C); Draft version "P"

1 Page 6, line 23:

2 Delete "or community association management"

3 Page 6, line 24, following "(4)":

4 Insert "practice, or negotiate for a contract to practice, property management:

5 (5) collect fees for community association management:

6 (6) practice, or negotiate for a contract to practice, community

7 association management:

8 (7)"

9 Page 6, line 27:

10 Delete "(5)"

11 Insert "(8) [(5)]"

12 Page 6, line 30, through page 7, line 2:

13 Delete all material.

14 Page 7, line 3:

15 Delete "(8)"

16 Insert "(9)"

17 Page 7, line 5:

18 Delete "(9)"

19 Insert "(10) [(6)]"

1 Page 7, line 7:

2 Delete "(10)"

3 Insert "(11)"

4 Page 11, line 18:

5 Delete "AS 08.88.165(2)"

6 Insert "AS 08.88.161(1) - (4), (7), or (8) or 08.88.165(2)"

7 Page 31, line 13:

8 Delete "AS 08.88.161(6)"

9 Insert "AS 08.88.161(5) and (6)"

10 Page 31, line 14, following "management":

11 insert "and may collect fees for community association management"

*Consider  
M. Reed  
Rokeberg  
moved adopted  
amend #5* *no objection  
adopted*  
AMENDMENT 5 as amended

OFFERED IN THE HOUSE BY REPRESENTATIVE ROKEBERG

TO: CSHB 33(L&C); Draft version "P"

Page 11, line 15, after "chapter."

Insert A person issued a limited license to practice community association management under this section may not use the terms "broker" or "associate broker" for any business purpose.

*amend to  
|| amend  
|| 5*

AMENDMENT #6

*Condensed  
must  
no objections  
adopted*

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSHB 33 (L&C); Draft Version "P"

Page 30, lines 18-19:

Delete current language

Insert as new (6) "employ", "employing", "employs", "employed",  
"employee", "employees", "employment" include being an independent  
contractor with an employer.

AMENDMENT

#7

*(Pending  
Mand  
no objection  
adopted  
(DEED)*

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSHB 33 (L&C); Draft "P" Version

Page 5, Line 18:

After "which" insert "complete"

Page 11, Line 31:

After "bond" insert "and the granting of exemptions"

Page 12, Line 8:

After "community association management" insert "operations and"

Page 13, Line 19:

After "lapsed"

Delete " ,"

Insert " ."

Page 13, Line 20:

Delete entire line.

Page 29, Line 4:

After "(17)", delete "an"

Insert "a resident"

Page 29, Line 5:

After "community association" insert " ;" and delete remainder of line 5 and lines 6-7

*see amend #12*

*Moved by  
Crowder  
adopted.  
No objection*

0-LS0197P.7  
Lauterbach  
1/28/98

AMENDMENT # 8

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSHB 33(L&C); Draft version "P"

1 Page 11, line 19:

2 Delete "a new section"

3 Insert "new sections"

4 Page 11, following line 31:

5 Insert a new section to read:

6 "Sec. 08.88.175. Limitations on community association managers. A  
7 licensee may not, within the practice of community association management, exercise  
8 control over the

9 (1) reserves or investment accounts of a community association;

10 (2) operating account of a community association unless

11 (A) allowed under a contract that has been approved by the  
12 association's board of directors; and

13 (B) duplicate financial statements concerning the account are  
14 sent by the institution holding the account to the licensee and the association's  
15 board of directors at separate addresses."

*Amendment #9  
as amended  
no objection  
adopted*

AMENDMENT #9

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSHB 33 (L&C); Draft Version "P"

Page 6, line 16

After "Unless licensed" insert "in the State of Alaska"

*amend!  
to amend 9*

Page 6, line 27

After "assist in" insert "or communicate with"

After "prospective buyers" insert "and  
sellers,"

*technical  
amend*

*Crowder  
moved  
# 10  
no objection  
adopted*

AMENDMENT #10

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSHB 33 (L&C); Draft Version "P"

Page 18, line 12

Page 18, line 14

13\*

Delete "real estate employment"

Insert: "listings and management"

NOTE: This is to conform with amendment #2 adopted by the House Labor & Commerce Committee on January 26, 1998.

*Moved  
by Crowley  
no objection  
adopted  
# 11 amended*

AMENDMENT

*Rokeberg  
amend #1  
to amend #11*

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSHB 33(L&C); Draft version "P"

1 Page 11, line 29:

2 Delete "(b)"

3 Delete "section"

4 Insert "subsection"

5 Page 11, following line 31:

6 Insert a new subsection to read:

7 "(b) If a loss covered by the fidelity bond required under this section is also  
8 reimbursable from the real estate surety fund, the <sup>owners' association</sup> ~~person~~ who suffered the loss may  
9 not recover under the bond until the person has filed a claim for reimbursement under  
10 AS 08.88.460 and proceedings relating to the claim are concluded."

11 Page 23, line 21, following "funds":

12 Insert "or community association accounts"

*community  
assoc  
manager*

*under the control*

13 Page 23, line 27, following "funds":

14 Insert "or community association accounts"

*//*

15 Page 25, line 11, following "funds":

16 Insert "or community association accounts"

*//*

17 Page 25, line 25, following "funds":

18 Insert "or community association accounts"

*//*

19 Page 26, line 3, following "funds":



1

Insert "or community association accounts"

11

AMENDMENT

#12

*Condon  
M need  
no objection  
adopted  
1/28/98*

OFFERED IN HOUSE LABOR AND COMMERCE COMMITTEE

OFFERED FOR: DCED *or Law*

TO: HB 33 (L&C) Version P dated 1/16/98

PAGE 3, lines 17 thru 18, after "(4)":

Delete the proposed changes and insert current law. This section should now read:

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

PAGE 13, line 11, after "license.":

Delete: All material on lines 11 through 15.

PAGE 13, line 16 after "lapsed":

Delete: "more than 60 days and"

Renumber bill sections accordingly.

PAGE 27, lines 19 thru 20, after "Exceptions.":

Delete the proposed changes and insert current law. This section should read:

"This chapter does not apply to"

PAGE 31, line 26, add a new bill section:

"Sec. 56. Notwithstanding Section 54 the Real Estate Commission may begin the process to adopt regulations to implement 08.88.091 (f) and (g). "

(Plus any additional language LAA Legal determines necessary to activate this section)

Renumber bill sections accordingly.

*see amend 7*

*Conrad  
moved  
adopted*

AMENDMENT (13)

OFFERED IN THE HOUSE

TO: CSHB 33(L&C); Draft version "P"

1 Page 1, line 1:

2 Delete "licensing"

3 Insert "licensees"

4 Page 1, line 4, following "Section 1.":

5 Insert "AS 08.67.010 is amended to read:

6 **Sec. 08.67.010. Registration of mobile home dealers.** A mobile home dealer  
7 may not do business in the state unless the dealer is registered with the department.  
8 However, a person licensed under AS 08.88 may, without registering under this  
9 chapter, perform the same activities with respect to mobile homes as are  
10 authorized for that person to perform under AS 08.88 with respect to real estate.

11 \* Sec. 2."

12 Renumber the following bill sections accordingly.

13 Page 22, following line 28:

14 Insert a new bill section to read:

15 **\*\* Sec. 35.** AS 08.88.405 is amended to read:

16 **Sec. 08.88.405. Preparation of documents.** Notwithstanding AS 08.08, a  
17 person licensed as a real estate broker, associate real estate broker, or real estate  
18 salesperson under this chapter may prepare real property contracts, mobile home  
19 contracts, earnest money agreements, leases, and other documents related to real  
20 property or mobile homes if the documents are prepared by the person in the course  
21 of the person's work as a licensed real estate broker, associate real estate broker, or  
22 real estate salesperson under this chapter."

- 1 Renumber the following bill sections accordingly.
  
- 2 Page 29, line 9:
  - 3 Delete "or"
  
- 4 Page 29, line 16, following "stepchild":
  - 5 Insert "; or"
  - 6 (20) a mobile home dealer licensed under AS 08.67 performing
  - 7 within the scope of the dealer's license"
  
- 8 Page 29, line 29, following "means":
  - 9 Insert "an interest in a mobile home or"
  
- 10 Page 30, following line 20:
  - 11 Insert a new paragraph to read:
  - 12 "(8) "mobile home" has the meaning given in AS 08.67.080;"
  
- 13 Renumber the following paragraphs accordingly.
  
- 14 Page 30, line 22, following "to":
  - 15 Insert "a mobile home or"
  
- 16 Page 30, line 25, following the first "of":
  - 17 Insert "mobile homes or"
  
- 18 Page 30, line 30, following the first "in":
  - 19 Insert "a mobile home or"
  
- 20 Page 30, line 31, following "in":
  - 21 Insert "a mobile home or"
  
- 22 Page 31, line 1, following "market":

- 1           Insert "a mobile home or"
  
- 2   Page 31, line 3, following "property":
- 3           Insert "or a mobile home,"
  
- 4   Page 31, line 4, following each occurrence of "property":
- 5           Insert "or a mobile home"
  
- 6   Page 31, line 5, following "property":
- 7           Insert "or a mobile home"
  
- 8   Page 31, line 7, following "property":
- 9           Insert "or a mobile home"
  
- 10   Renumber internal references to bill sections in accordance with this amendment. Internal
- 11   bill section references occur at the following places:
  
- 12           Page 31, lines 22 and 24

*Corrodey  
moved  
adopted*

0-LS0197P.10  
Lauterbach  
1/28/98

AMENDMENT #14

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSHB 33(L&C); Draft version "P"

1 Page 22, line 15, following "prohibit":

2 Insert "(1)"

3 Page 22, line 18, following "chapter":

4 Insert ";

5 (2) negotiations between a licensee and a principal in a real estate  
6 transaction concerning the amount of a commission or other compensation; or

7 (3) payments from a real estate licensee to a principal as part of the  
8 resolution of a dispute regarding the terms of a transaction or regarding the property  
9 transferred"

10 Page 29, following line 24:

11 Insert a new bill section to read:

12 "\*\* Sec. 47. AS 08.88.900 is amended by adding a new subsection to read:

13 (b) Notwithstanding that a person is exempt from licensure under this section,  
14 the prohibition in AS 08.88.401(e)(1) is applicable to that person."

15 Renumber the following bill sections accordingly.

16 Renumber internal references to bill sections in accordance with this amendment. Internal  
17 bill section references occur in the following places:

18 Page 31, line 24

AMENDMENT #15

*Moved by  
Crowley  
Adopted*

OFFERED IN THE HOUSE BY REPRESENTATIVE ROKEBERG  
TO: CSHB 33 (L&C); Draft Version "P"

Page 27, line 21

Delete "natural"

Page 27, line 23

Delete: <sup>own</sup> "the person's own behalf"

Insert "is seeking to own so long as the compensation the person receives  
does not include any portion of the commission or other compensation paid to a  
real estate licensee in the transaction."

*Technical  
Change*

AMENDMENT #16

OFFERED IN THE L & COMMITTEE

BY REP RYAN

TO: CSHB 33 (L&C); Draft Version "P"

Page 13, line 5:

Delete "(7) courses and"

Renumber section accordingly.

Ryan Amendment

Conceptual Amendment - 16

thinks the fees are burdensome  
and very high - the cost to do  
business is very high -  
adding 5 other things for  
fee

Delete: (7), (8), (9), (10), (11) - all language

Withdraw Amendment 16 Ryan

New  
Ryan

Amendment 16

Delete (7) "courses and"  
and renumber accordingly

**HB**

**33**

**File 2**

*Statutes and Regulations*

# Real Estate

November 1995

# **ALASKA**

**DEPARTMENT OF COMMERCE  
AND ECONOMIC DEVELOPMENT**

DIVISION OF OCCUPATIONAL LICENSING

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State of Alaska  
Department of Commerce  
and Economic Development  
Division of Occupational Licensing  
Real Estate Commission  
P.O. Box 110806  
Juneau, Alaska 99811-0806

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**12 AAC 02.940. EFFECTIVE DATE OF RENEWED LICENSES.** (a) Except as provided in (b) of this section, the effective date of a renewed license will be the date a complete renewal application is filed with the division as determined by 12 AAC 02.920. A complete application includes

- (1) a completed renewal form;
- (2) any applicable renewal fees required by this chapter; and
- (3) documentation of fulfillment of all applicable prerequisites to license renewal, such as continuing competency, recent experience, insurance coverage, or other requirements.

(b) The division will, in its discretion, show a retroactive effective date on a licensee's renewed license if the licensee

- (1) holds a license that has been lapsed less than 60 days;
- (2) requests in writing that the division issue a renewed license showing an effective date that is earlier than the date the renewed license was issued;

(3) documents that the licensee was in substantial compliance with the renewal requirements in (a) of this section as of the requested effective date; and

(4) establishes to the satisfaction of the division that the licensee made a good faith effort to strictly comply with the renewal requirements.

(c) The division will not issue a renewed license with an effective date that is earlier than the postmark date of the licensee's first written attempt to renew the licensee's license. "Written attempt to renew" means an effort by the licensee to submit the proper documentation to comply with the license renewal requirements. A request for a renewal application form alone does not constitute a "written attempt to renew."

**12 AAC 02.990. DEFINITIONS.** As used in this chapter

- (1) "department" means the Department of Commerce and Economic Development;
- (2) "division" means the division of occupational licensing, Department of Commerce and Economic Development;
- (3) "license" means a license, certificate, permit, registration, or similar evidence of authority issued by the division or by one of the boards listed in AS 08.01.010;
- (4) "licensee" means a person who holds a license issued by the division or by one of the boards listed in AS 08.01.010.

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**ARTICLE 4.  
GENERAL PROVISIONS****Section**

- 900. Current address**
- 910. Abandoned applications**
- 920. Filing date**
- 940. Effective date of renewed licenses**
- 990. Definitions**

**12 AAC 02.900. CURRENT ADDRESS.** A person licensed, registered, or certified by a board or commission listed in AS 08.01.010, or in an occupation listed in AS 08.01.010, shall maintain a current, valid, mailing address on file with the division at all times. The latest mailing address on file with the division is the address that will be used for official communications, notifications, and service of legal process.

**12 AAC 02.910. ABANDONED APPLICATIONS.** (a) An application is considered abandoned when

- (1) 12 months have elapsed since correspondence was last received from or on behalf of the applicant; or
- (2) the applicant has failed to appear for two successive examinations.

(b) An abandoned application is denied without prejudice and the application fee forfeited.

(c) At the time an application is considered abandoned, the division will send notification of abandonment to the last known address of the applicant. An applicant may request a refund of all unused examination and licensing fees credited to the application by submitting a written request for refund within 30 days from the date notification of abandonment was mailed by the division. If no request for refund is received, all fees are forfeited.

**12 AAC 02.920. FILING DATE.** (a) Except as otherwise provided in this title, a document submitted to the division will be considered filed as of the postmark date of the document. If the document is submitted by a method that does not provide a postmark date, the document will be considered filed as of the date stamped on the document, when it is received in the division office.

(b) For the purposes of this section, "postmark date" means the date a document with prepaid postage and correctly addressed to the division is sent by the United States Postal Service or other established, domestic courier service.

- (1) initial course certification fee, \$5 per credit hour;
- (2) biennial course recertification fee, \$25 per credit hour;
- (3) correspondence course certification fee, if requested separate from initial course certification application, \$50 per course;
- (4) course revision fee, separate from biennial course recertification, \$25 per application;
- (5) instructor approval fee, \$100 per instructor;
- (6) temporary instructor approval fee, \$50 per instructor;
- (7) instructor approval recertification fee, \$50;
- (8) *repealed 11/10/95.*

### ARTICLE 3. EXAMINATION REVIEW PROCEDURES

#### Section

#### 400. Examination review

**12 AAC 02.400. EXAMINATION REVIEW.** (a) For nationally prepared and administered examinations, the examination review procedures established by the national examination organization will be used in conjunction with the procedures established in this section. National examinations which have no provision for examination review are not available for review under this section.

(b) An applicant who wishes to review a failed examination shall submit a written request to the division within 30 days after the notice of examination results was mailed to the applicant.

(c) All examination reviews will be conducted in the presence of division staff at the time and location determined by the division. An examination review will not be conducted within 30 days of the next examination the applicant is scheduled to take.

(d) Only an applicant who has failed an examination may participate in the examination review and the applicant may review only his or her own examination.

(e) An applicant may use the same reference materials during an examination review that were allowed during the examination itself, but applicants may not use other materials or take notes or make copies of any kind. All materials brought to an examination review are subject to inspection by the division staff.

### CHAPTER 88. REAL ESTATE BROKERS AND SALESMEN.

#### Article

1. Real Estate Commission (§§ 08.88.011—08.88.141)
2. Licensing (§§ 08.88.161—08.88.251)
3. Miscellaneous Provisions (§§ 08.88.263—08.88.401)
4. Real Estate Surety Fund (§§ 08.88.450—08.88.495)
5. General Provisions (§§ 08.88.900—08.88.990)

### ARTICLE 1. REAL ESTATE COMMISSION.

#### Section

11. Creation and membership of commission
26. Terms of office
31. Executive secretary of commission
37. Investigation and injunction
41. Qualifications of commission members
51. Commission meetings and officers
61. Assistants
71. Duties of the commission
81. Commission regulations
91. Education of applicants and licensees
111. Commission regulations
131. Applicability of the Administrative Procedure Act
141. Compensation

**Sec. 08.88.011. Creation and membership of commission.** There is created a Real Estate Commission. It consists of seven members.

**Sec. 08.88.026. Terms of office.** The terms of office of members of the commission begin on February 1 after appointment.

**Sec. 08.88.031. Executive secretary of commission.** The department shall, after consultation with the commission, employ a person, who is not a member of the commission, to serve as executive secretary for the commission. The executive secretary shall perform duties as assigned by the commission.

**Sec. 08.88.037. Investigation and injunction.** (a) The commission may request the department to conduct investigations to determine whether a person has violated a provision of this chapter or a regulation

adopted under it, or to secure information useful in the administration of this chapter.

(b) If it appears to the department that a person has engaged in or is about to engage in an act or practice in violation of a provision of this chapter or a regulation adopted under it and that action is warranted in the public interest, the department shall notify all commission members by telephone, telegraph, or facsimile of a proposed order or action, and, if a majority of the members of the commission approve, the department may

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

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

(3) examine or have examined the books and records of a person whose business activities require licensure under this chapter and the department may require the person to pay the reasonable costs of the examination; and

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

**Sec. 08.88.041. Qualifications of commission members.** (a) Five members of the commission must be real estate brokers or associate brokers who have been licensed real estate brokers or licensed associate brokers in Alaska for at least three years before appointment. Two members of the board must be public members in accordance with AS 08.01.025.

(b) Of the five members of the commission who must be real estate brokers or associate brokers, one member shall be from the First Judicial District, one shall be from the Second Judicial District, one shall be from the Third Judicial District, one shall be from the Fourth Judicial District, and one shall be from the state at large. However, if no licensed real estate broker or licensed associate broker is eligible or available for appointment from the Second Judicial District, then two licensed real

- (1) duplicate license fee, \$5;
- (2) fee for verification or certification of an Alaska license, registration, or examination, \$20;
- (3) name change, except for construction contractors, \$5;
- (4) photocopy fee, \$.25 per page, which may be waived by the department if the total fee is less than \$5;
- (5) facsimile fee, \$1 per page, which may be waived by the department if the total fee is less than \$5;
- (6) returned check fee, \$20;
- (7) penalty for reinstatement of a registration, license, permit or certificate which remains lapsed for more than 60 days, \$50;
- (8) exam postponement fee, \$25;
- (9) wall certificate fee, \$20;
- (10) fee for proctoring an examination for another state's applicant, \$50;
- (11) fee for specialized report of licensing data, \$100 plus the cost of supplies;
- (12) express delivery handling fee, \$20; and
- (13) fee for providing a roster of
  - (A) 1,500 or less licensees, \$5;
  - (B) more than 1,500 licensees, \$10;
  - (C) current business licenses, \$100.

**12 AAC 02.360. REAL ESTATE COMMISSION.** (a) The following fees are established for real estate salespersons, associate brokers, and brokers:

- (1) *repealed 5/28/93;*
- (2) license fee, for all or part of the initial biennial license period, whether licensure is by examination or endorsement, \$165;
- (3) biennial license renewal fee for both active and inactive licenses, \$165;
- (4) fee for office registration changes, including change of broker, company name, or office address, \$5 for each license, with a minimum of \$25 for each office;
- (5) transfer of license fee, \$25;
- (6) *repealed 5/28/93;*
- (7) *repealed 5/28/93;*
- (8) *repealed 5/28/93;*
- (9) application fee for initial license, \$50.
- (10) initial office registration fee, \$25;
- (11) license inactivation or reactivation fee, \$25.

(b) The following fees are established for real estate education course certification and instructor approval:

the prescribed renewal fee until the second renewal date;

(2) within the 12 months before the date by which the license must be renewed, the applicant shall pay the entire license fee, and shall pay one-half of the prescribed renewal fee at the time of renewal; or

(3) more than 12 months before the date by which the license must be renewed, the applicant shall pay the entire license fee, and shall pay the entire prescribed renewal fee at the time of renewal.

(b) When the department issues an initial annual license

(1) within the 90 days before the date by which it must be renewed, the applicant shall pay the entire license fee but is not required to pay the prescribed renewal fee until the second renewal date;

(2) within the six months before the date by which the license must be renewed, the applicant shall pay the entire license fee, and shall pay one-half of the prescribed renewal fee at the time of renewal; or

(3) more than six months before the date by which the license must be renewed, the applicant shall pay the entire license fee, and shall pay the entire prescribed renewal fee at the time of renewal.

(c) A quadrennial license issued before July 1, 1987 shall be renewed by the department as a biennial license upon payment of the entire prescribed biennial license renewal fee.

(d) The department will not prorate renewal fees if the initial licensing fee was \$150 or less.

(e) The department will not prorate fees for applications, examinations, reexaminations, credential review or investigation, temporary or emergency permits, locum tenens permits, certificates, or other such fees established in AS 08 or in this chapter.

## ARTICLE 2. OCCUPATIONAL LICENSING FEES

### Section

100. Fees established by department

105. Administrative fees

360. Real estate commission

**12 AAC 02.100. FEES ESTABLISHED BY DEPARTMENT.** The fees established in this chapter have been adopted by the department after considering any recommendations of the applicable board or commission listed in AS 08.01.010.

**12 AAC 02.105. ADMINISTRATIVE FEES.** Except as otherwise provided in this chapter for a particular board or occupation, the following fees apply to all boards and professions listed in AS 08.01.010:

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

**Sec. 08.88.051. Commission meetings and officers.** (a) The commission shall hold a regular annual meeting. It may hold a special meeting at the call of the chairman or at the request of three commission members.

(b) At least two judicial districts shall be represented and at least a majority of the commission members shall be present in order to conduct business.

(c) The commission shall elect its officers.

**Sec. 08.88.061. Assistants.** The commission may use assistants to

(1) prepare questions on examinations;

(2) grade examinations.

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

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

(2) prepare and grade examinations;

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

(A) with respect to a real estate transaction

(i) made a substantial misrepresentation;

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

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

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

(v) violates AS 08.88.391;

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

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

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

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

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

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

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

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

(5) publish, on three consecutive weekends in a newspaper of general circulation in the locale of the offending person's principal office licensed under this chapter, disciplinary action taken by the commission against a person licensed under this chapter;

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

(7) establish the form of the disclosure statement required by AS 34.70.010.

(b) When an award is made from the real estate surety fund under this chapter in reimbursement of losses suffered by a claimant as a result of fraud, misrepresentation, deceit, or conversion of trust funds on the part of a licensed broker, associate broker, or salesman, the commission may consider the hearing on the claim to be a hearing on the suspension of the license of the broker, associate broker, or salesman, and may suspend the license of the broker, associate broker, or salesman. A suspension ordered under this subsection shall be lifted if the broker, associate broker, or salesman reaches an agreement with the commission on terms and conditions for the repayment to the real estate surety fund of the money awarded to the claimant and the costs of hearing the claim under AS 08.88.465. The suspension shall be reimposed if the broker, associate broker, or salesman violates the terms of a repayment agreement entered into under this subsection.

(c) For the purposes of (a)(3) of this section, the conduct of an employee is not attributable to a real estate broker unless the real estate broker has actual knowledge that the employee is going to engage in the conduct and agrees to the conduct, either actively or by remaining silent, or ratifies the conduct after it is engaged in.

CHAPTER 02.  
DIVISION OF OCCUPATIONAL LICENSING

## Article

1. Collection of Fees  
(12 AAC 02.010 — 12 AAC 02.030)
2. Occupational Licensing Fees  
(12 AAC 02.100 — 12 AAC 02.360)
3. Examination Review Procedures  
(12 AAC 02.400)
4. General Provisions  
(12 AAC 02.900 — 12 AAC 02.990)

ARTICLE 1.  
COLLECTION OF FEES

## Section

10. Licensing and renewal fees
20. Prorating renewal fees
30. Prorating initial renewal fees

**12 AAC 02.010. LICENSING AND RENEWAL FEES.** (a) The department will collect fees and issue receipts for licensing and for license renewal for the boards listed in AS 08.01.010.

(b) The department will not issue a license or renew a license unless the applicable fees established in AS 08 or in this chapter have been collected, and a receipt has been prepared.

(c) Except as otherwise provided in this title, an application for initial licensure or renewal of license will be considered filed as of the filing date of the document, as determined by 12 AAC 02.920.

(d) *Repealed 5/4/90.*

(e) An application fee is not refundable.

**12 AAC 02.020. PRORATING RENEWAL FEES.** The department will prorate the first license renewal fees following initial licensure, in accordance with 12 AAC 02.030. All renewal fees, including penalty and delinquent fees must be paid by the licensee applying for renewal of a license, except as provided in 12 AAC 02.030(a)(1) and (b)(1).

**12 AAC 02.030. PRORATING INITIAL RENEWAL FEES.** (a) When the department issues an initial biennial license

(1) within the 90 days before the date by which it must be renewed, the applicant shall pay the entire license fee but is not required to pay

**Sec. 08.88.081. Commission regulations.** The commission shall adopt regulations necessary to carry out the purposes of this chapter.

**Sec. 08.88.091. Education of applicants and licensees.** (a) The commission may conduct and assist in conducting real estate clinics, meetings, courses, or institutes. The commission may

(1) assist libraries and educational institutions in sponsoring studies and programs; and

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

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

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

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

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

**Sec. 08.88.111. Commission regulations.** The commission shall adopt procedural regulations describing

(1) how it conducts an examination;

(2) how a person applies to take an examination, applies for a license, and registers that person's office.

**Sec. 08.88.131. Applicability of the Administrative Procedure Act.** The Administrative Procedure Act (AS 44.62) applies to regulations and proceedings under this chapter.

**Sec. 08.88.141. Compensation.** A commission member is entitled to transportation expenses and per diem allowances specified in AS 39.20.180.

**ARTICLE 2.  
LICENSING.**

**Section**

- 161. License required**
- 171. Entitlement to license**
- 181. Content and purpose of examination**
- 191. Administration of examination**
- 201. Reexamination**
- 221. Fees**
- 241. Reinstatement of lapsed license**
- 251. Inactive license**

**Sec. 08.88.161. License required.** Unless licensed as a real estate broker, associate real estate broker, or real estate salesman, a natural person, foreign or domestic corporation, or partnership, or limited partnership, or other entity may not

- (1) sell, exchange, rent, lease, auction, or purchase real estate;
- (2) list real estate for sale, exchange, rent, lease, auction, or purchase;
- (3) collect rent for the use of real estate;
- (4) as a business, buy, sell or deal in
  - (A) options in real estate; or
  - (B) options in improvements to real estate;
- (5) assist in or direct the procuring of prospective buyers or the negotiation of a transaction which results or is calculated to result in the sale, exchange, rent, lease, auction, or purchase of real estate;
- (6) hold out to the public as being engaged in the business of doing any of the things listed in this section;
- (7) attempt or offer to do any of the things listed in this section.

**Sec. 08.88.171. Entitlement to license.** (a) A person is eligible for a real estate broker license if the person passes the real estate brokers examination, if the person applies for a license within six months after the person has taken the real estate brokers examination, if the person furnishes satisfactory proof of successful completion of the education requirements of AS 08.88.091, if the person has had at least 24 months of active and continuous experience as a licensed real estate salesman, if the person is not under indictment for, or seven years have elapsed since the person has completed a sentence imposed upon conviction of, forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving moral turpitude, and if the person is an owner of a real estate business or employed as a real estate broker by a corporation or a partnership, and if that corporation or partnership does not have an

- (8) Board of Chiropractic Examiners (AS 08.20.010)—June 30, 1996;
- (9) Board of Clinical Social Work Examiners (AS 08.95.010)—June 30, 2005;
- (10) Board of Dental Examiners (AS 08.36.010)—June 30, 1997;
- (11) Board of Dispensing Opticians (AS 08.71.010)—June 30, 1996;
- (12) *[Repealed]*
- (13) Board of Marine Pilots (AS 08.62.010)—June 30, 1999;
- (14) Board of Marital and Family Therapy (AS 08.63.010)—June 30, 2005;
- (15) *[Repealed]*
- (16) State Medical Board (AS 08.64.010)—June 30, 2003;
- (17) Board of Nursing (AS 08.68.010)—June 30, 2003;
- (18) *[Repealed]*
- (19) Board of Examiners in Optometry (AS 08.72.010)—June 30, 1996;
- (20) Board of Pharmacy (AS 08.80.010)—June 30, 1999;
- (21) State Physical Therapy and Occupational Therapy Board (AS 08.84.010)—June 30, 1997;
- (22) Board of Psychologist and Psychological Associate Examiners (AS 08.86.010)—June 30, 2005;
- (23) Real Estate Commission (AS 08.88.011)—June 30, 2004;
- (24) Board of Veterinary Examiners (AS 08.98.010)—June 30, 1997.

**Sec. 08.03.020. Procedures governing termination, transition and continuation.** (a) Upon termination, each board listed in AS 08.03.010 shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs. During this period, termination does not reduce or otherwise limit the powers or authority of each board. One year after the date of termination, a board not continued shall cease all activities.

(b) The termination, dissolution, continuation or reestablishment of a regulatory board shall be governed by the legislative oversight procedures of AS 44.66.050.

(c) A board scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years unless the board is continued or reestablished for a longer period under AS 08.03.010.

(b) The Department of Commerce and Economic Development shall provide the applicable licensing board, if any, a copy of a notice received under (a) of this section.

**Sec. 08.02.030. Courtesy licenses.** (a) A board established under this title and the Department of Commerce and Economic Development, with respect to an occupation that it regulates under this title, may by regulation establish criteria for issuing a temporary courtesy license to nonresidents who enter the state so that, on a temporary basis, they may practice the occupation regulated by the board or the department.

(b) The regulations adopted under (a) of this section may include limitations relating to the

- (1) duration of the license's validity;
- (2) scope of practice allowed under the license; and
- (3) other matters considered important by the board or the department.

### CHAPTER 03. TERMINATION, CONTINUATION AND REESTABLISHMENT OF REGULATORY BOARDS.

#### Section

10. Termination dates for regulatory boards
20. Procedures governing termination, transition and continuation

#### **Sec. 08.03.010. Termination dates for regulatory boards.**

(a) *[Repealed]*

(b) *[Repealed]*

(c) The following boards have the termination date provided by this subsection:

- (1) Board of Public Accountancy (AS 08.04.010)—June 30, 1997;
- (2) Board of Governors of the Alaska Bar Association (AS 08.08.040)—June 30, 1993;
- (3) State Board of Registration for Architects, Engineers and Land Surveyors (AS 08.48.011)—June 30, 1997;
- (4) Board of Barbers and Hairdressers (AS 08.13.010)—June 30, 1997;
- (5) Big Game Commercial Services Board (AS 08.54.300)—June 30, 1994;
- (6) Board of Certified Direct-Entry Midwives (AS 08.65.010)—June 30, 1998;
- (7) Board of Certified Real Estate Appraisers (AS 08.87.010)—June 30, 1998;

existing licensed broker. Unless the broker fails to pay the biennial renewal fee or unless the broker's license is suspended or revoked under AS 08.88.071(a)(3), the real estate broker's license continues in effect so long as the broker is an owner of a real estate business, or the broker is employed as a real estate broker by a corporation or a partnership. If the broker stops being an owner of a real estate business, or stops being employed as a real estate broker by a corporation or partnership, the broker's license is suspended from the time the broker stops until

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

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

(b) A person is eligible for an associate real estate broker license if the person passes the real estate brokers examination, if the person applies for a license within six months after the person has taken the examination, if the person submits satisfactory proof of successful completion of the education requirements of AS 08.88.091, if the person has had at least 24 months of active and continuous experience as a licensed real estate salesman, if the person is not under indictment for, or five years have elapsed since the person has completed a sentence imposed upon conviction of, forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving moral turpitude, and if the person is employed by a licensed real estate broker as an associate real estate broker. Unless the associate broker fails to pay the biennial renewal fee or unless the associate broker's license is suspended or revoked under AS 08.88.071(a)(3), the associate real estate broker's license continues in effect so long as the associate broker is employed by a licensed real estate broker as an associate broker. If the associate broker stops being employed by a licensed real estate broker, the associate broker's license is suspended from the time the associate broker stops until

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

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

(c) A person is eligible for a real estate salesman license if the person passes the real estate salesman examination, if the person applies for a license within six months after the person has taken the examination,

if the person submits satisfactory proof of successful completion of the education requirements of AS 08.88.091, if the person is at least 19 years old, if the person is not under indictment for forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving moral turpitude, or, if convicted of such an offense, the person has completed the sentence imposed upon conviction, and if the person is employed by a real estate broker. Unless the salesman fails to pay the biennial renewal fee or unless the real estate salesman's license is suspended or revoked under AS 08.88.071(a)(3), a real estate salesman's license continues in effect so long as the salesman is employed as a salesman by a licensed real estate broker. If the salesman stops being employed as a real estate salesman, the real estate salesman's license is suspended from the time the salesman stops until the salesman again is employed as a salesman by a licensed real estate broker.

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

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

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

(c) The only purpose of an examination under this chapter is to disqualify those whose lack of ability to participate in real estate transactions would create a serious risk of serious financial loss to members of the public.

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

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

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

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

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

**Sec. 08.02.020. Limitation of liability.** An action may not be brought against a person for damages resulting from

(1) the person's good faith performance of a duty, function, or activity required as

(A) a member of, or witness before, a licensing board or peer review committee established to review a licensing matter;

(B) a member of a committee appointed under AS 08.64.336(c);

(C) a contractor or agent of a contractor under AS 08.01.050(d) or AS 08.64.101(6);

(2) a recommendation or action in accordance with the prescribed duties of a licensing board, peer review committee established to review a licensing matter, committee appointed under AS 08.64.336(c), or contractor or agent of a contractor under AS 08.01.050(d) or AS 08.64.101(6) when the person acts in the reasonable belief that the action or recommendation is warranted by facts known to the person, board, peer review committee, committee appointed under AS 08.64.336(c), or contractor or agent of the contractor under AS 08.01.050(d) or AS 08.64.101(6) after reasonable efforts to ascertain the facts upon which the action or recommendation is made; or

(3) a report made in good faith to a public agency by the person, or participation by the person in an investigation by a public agency or a judicial or administrative proceeding relating to the report, if the report relates to the abuse of alcohol, other drugs, or other substances by a person licensed by a board listed in AS 08.01.050(d).

**Sec. 08.02.025. Compliance with student loan requirements.** (a) A person licensed under this title shall comply with the student loan repayment provisions under AS 14.43 that are applicable to the person. Notwithstanding another provision of law, a license issued to a person under this title may not be renewed if the borrower and the Department of Commerce and Economic Development have received notice from the Alaska Commission on Postsecondary Education that the licensee is in default on a student loan provided to the licensee. This action may be taken no sooner than 60 days after the Alaska Commission on Postsecondary Education has notified the borrower of the default status of the loan as provided under AS 14.43.120(i). If an appeal of a determination of default status is pending on behalf of the licensee, the Alaska Commission on Postsecondary Education shall notify the department and renewal may not be denied under this section until and unless the appeal has been concluded and the default status affirmed. Denial of renewal of a license shall continue until the Department of Commerce and Economic Development receives notice from the Alaska Commission on Postsecondary Education that the licensee is no longer in default on the student loan.

**CHAPTER 02.  
MISCELLANEOUS PROVISIONS.**

**Section**

- 10. Professional designation requirements
- 11. Professional geologist
- 20. Limitation of liability
- 25. Compliance with student loan requirements
- 30. Courtesy licenses

**Sec. 08.02.010. Professional designation requirements.** (a) An acupuncturist licensed under AS 08.06, an audiologist licensed under AS 08.11, a person licensed in the state as a chiropractor under AS 08.20, a dentist under AS 08.36, a marital and family therapist licensed under AS 08.63, a medical practitioner or osteopath under AS 08.64, a direct-entry midwife certified under AS 08.65, a registered nurse under AS 08.68, an optometrist under AS 08.72, a registered pharmacist under AS 08.80, a physical therapist or occupational therapist licensed under AS 08.84, a psychologist under AS 08.86, or a clinical social worker licensed under AS 08.95, shall use as professional identification appropriate letters or a title after that person's name which represents that person's specific field of practice. The letters or title shall appear on all signs, stationery, or other advertising in which the person offers or displays personal professional services to the public. In addition, a person engaged in the practice of medicine or osteopathy as defined in AS 08.64.380, or a person engaged in any manner in the healing arts who diagnoses, treats, tests, or counsels other persons in relation to human health or disease and uses the letters "M.D." or the title "doctor" or "physician" or another title that tends to show that the person is willing or qualified to diagnose, treat, test, or counsel another person, shall clarify the letters or title by adding the appropriate specialist designation, if any, such as "dermatologist", "radiologist", "audiologist", "naturopath", or the like.

(b) A person subject to (a) of this section who fails to comply with the requirements of (a) of this section shall be given notice of noncompliance by that person's appropriate licensing board. If, after a reasonable time, with opportunity for a hearing, the person's noncompliance continues, the board may suspend or revoke the person's license or registration, or administer other disciplinary action which in its determination is appropriate.

**Sec. 08.02.011. Professional geologist.** The commissioner of commerce and economic development shall certify an applicant as a professional geologist if the applicant is certified as a professional geologist by the American Institute of Professional Geologists.

lation for a system of reevaluating examinations on request of an applicant who fails the examination. The system provided by the commission may provide for reevaluation by the testing service or by any other person.

**Sec. 08.88.201. Reexamination.** A person who fails an examination may apply for a subsequent examination, but shall pay the application fee for each application.

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

- (1) examination;
- (2) reciprocity;
- (3) initial license;
- (4) renewal of an active license;
- (5) renewal of an inactive license;
- (6) amending or transferring a license;
- (7) publications offered by the commission;
- (8) seminars offered by the commission.

**Sec. 08.88.241. Reinstatement of lapsed license.** A licensee who was required to take an examination before receiving a license and whose license has lapsed for more than two years shall be reexamined before reinstatement.

**Sec. 08.88.251. Inactive license.** (a) A person licensed by the commission may become inactive by returning to the commission the person's license certificate and a form provided by the commission. In the form, the person shall state the date on which the person intends to become inactive. The person's inactive status begins on the date stated. The commission shall issue the person an inactive license certificate.

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

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

**ARTICLE 3.  
MISCELLANEOUS PROVISIONS.**

**Section**

- 263. License by endorsement**
- 281. Real estate surety fund**
- 291. Location**
- 301. Change of location**
- 311. Branch offices**
- 321. Possession and display of license certificates**
- 331. Making of transactions**
- 341. Listings**
- 351. Record of transaction**
- 361. When commission is earned**
- 381. Signs**
- 391. Conflict of interest**
- 396. Disclosure of agency**
- 401. Prohibited conduct**

**Sec. 08.88.263. License by endorsement.** A person who holds a valid active real estate license issued by another state shall be granted an equivalent Alaska real estate license if that person

- (1) passes the portion of the real estate examination which examines on Alaska law; and
- (2) meets the requirements of AS 08.88.171.

**Sec. 08.88.281. Real estate surety fund.** Before issuing a license to an applicant under this chapter, the board shall determine that the applicant has complied with the provisions of AS 08.88.455 and is covered by the real estate surety fund established in AS 08.88.450.

**Sec. 08.88.291. Location.** A licensed real estate broker shall inform the commission of the broker's principal office and of any branch offices the broker has. The broker and the associate real estate brokers and real estate salesmen the broker employs may do business only in or out of the broker's principal office and the broker's branch offices. Failure of a real estate broker to maintain a place of business or inform the commission of its location and the names and addresses of all licensees under the broker's jurisdiction at the location are grounds for the suspension or revocation of the broker's license.

**Sec. 08.88.301. Change of location.** If a real estate broker changes the location of the broker's principal office or of a branch office, the broker shall immediately notify the commission.

of its issuance except as required under this subsection and (e) of this section.

(e) The department shall require the return of a copy of every citation issued by the department and all copies of a citation that has been spoiled or upon which an entry has been made and not issued to an alleged violator. The department shall also maintain, in connection with each citation, a record of the disposition of the charge by the court where the original or copy of the citation was deposited.

(f) If the form of citation includes the essential facts constituting the offense charged, and if the citation is sworn to as required under the laws of this state for a complaint charging commission of the offense alleged in the citation, then the citation when filed with a court having jurisdiction is considered to be a lawful complaint for the purpose of prosecution.

**Sec. 08.01.104. Failure to obey citation.** Unless the citation has been voided or otherwise dismissed by the magistrate, judge, or prosecutor, a person who without lawful justification or excuse fails to appear in court to answer a citation issued under AS 08.01.102, regardless of the disposition of the charge for which the citation was issued, is guilty of a class B misdemeanor.

**Sec. 08.01.105. Penalty for improper payment.** An applicant shall pay a penalty of \$10 each time a negotiable instrument is presented to the department in payment of an amount due and payment is subsequently refused by the named payor.

**Sec. 08.01.110. Definitions.** In this chapter

- (1) "board" includes the boards and commissions listed in AS 08.01.010;
- (2) "commissioner" means the commissioner of commerce and economic development;
- (3) "department" means the Department of Commerce and Economic Development;
- (4) "license" means a business license or a license, certificate, permit, or registration or similar evidence of authority issued for an occupation by the department or by one of the boards listed in AS 08.01.010;
- (5) "licensee" means a person who holds a license;
- (6) "occupation" means a trade or profession listed in AS 08.01.010.

adopted and proceedings held under this chapter, except those under AS 08.01.087(b).

**Sec. 08.01.100. License renewal, lapse and reinstatement.** (a) Licenses shall be renewed biennially on the dates set by the department with the approval of the respective board.

(b) A license subject to renewal shall be renewed on or before the date set by the department. If the license is not renewed by the date set by the department, the license lapses. In addition to renewal fees required for reinstatement of the lapsed license, the department may impose a delayed renewal penalty, established by regulation, that shall be paid before a license that has been lapsed for more than 60 days may be renewed. The department may adopt a delayed renewal penalty only with the concurrence of the appropriate board.

(c) When continuing education or other requirements are made a condition of license renewal, the requirements shall be satisfied before a license is renewed.

(d) Except as otherwise provided, a license may not be renewed if it has been lapsed for five years or more.

**Sec. 08.01.102. Citation for unlicensed practice or activity.** The department may issue a citation for a violation of a license requirement under this chapter or AS 43.70 if there is probable cause to believe a person has practiced a profession or engaged in business for which a license is required without holding the license. Each day a violation continues after a citation for the violation has been issued constitutes a separate violation.

**Sec. 08.01.103. Procedure and form of citation.** (a) A citation issued under AS 08.01.102 must be in writing. A person receiving the citation is not required to sign a notice to appear in court.

(b) The time specified in the notice to appear on a citation issued under AS 08.01.102 shall be at least five days, not including weekends and holidays, after the issuance of the citation, unless the person cited requests an earlier hearing.

(c) The department is responsible for the issuance of books containing appropriate citations, and shall maintain a record of each book issued and each citation contained in it. The department shall require and retain a receipt for every book issued to an employee of the department.

(d) The department shall deposit the original or a copy of the citation with a court having jurisdiction over the alleged offense. Upon its deposit with the court, the citation may be disposed of only by trial in the court or other official action taken by the magistrate, judge, or prosecutor. The department may not dispose of a citation, copies of it, or of the record

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

(b) All branch offices shall bear and be advertised only in the name of the principal office but may indicate that they are branch offices of the principal office.

**Sec. 08.88.321. Possession and display of license certificates.** Real estate salesmen or associate real estate brokers shall turn their license certificates over to the real estate broker who employs them. The employing real estate broker shall display the employing real estate broker's license certificate in the employing real estate broker's principal office and the license certificates of employees in the office where they do most of their work.

**Sec. 08.88.331. Making of transactions.** A real estate salesman or associate real estate broker may make a real estate transaction only through the real estate broker who employs the real estate salesman or associate real estate broker. All money collected on behalf of the broker shall immediately be turned over to the broker or the broker's agent. All transactions in real estate by a real estate salesman or associate real estate broker shall be processed through the real estate salesman's or the associate real estate broker's employing real estate broker's office, whether the transactions are for the real estate salesman's or associate real estate broker's own use or the use of a client.

**Sec. 08.88.341. Listings.** All real estate listings must be in writing and must be signed by the seller or by an agent of the seller. All exclusive listings must have a definite expiration date.

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

(1) keep a complete record of all real estate transactions made by the broker or employees of the broker for at least three years;

(2) make a closing statement showing disbursements and accounting for all money in the transaction;

(3) keep a separate trust account in a bank, into which the broker shall deposit all earnest money deposits and purchase money until it is proper for the broker to distribute the money to the proper persons;

(4) make available to the commission, on request, records and all other documents relating to transactions under (3) of this section that the commission may require in order to conduct a complete audit of trust accounts.

**Sec. 08.88.361. When commission is earned.** A commission is earned when the real estate broker fulfills the terms of a written personal services contract.

**Sec. 08.88.381. Signs.** A licensed real estate broker shall maintain a sign at each of the real estate broker's offices, prominently showing the name of the real estate broker's business.

**Sec. 08.88.391. Conflict of interest.** A licensed real estate broker, associate real estate broker, or real estate salesman who has a personal financial interest in a real estate transaction shall disclose that interest to every person involved in the transaction.

**Sec. 08.88.396. Disclosure of agency.** (a) A person holding a license under this chapter shall, when acting as an agent for a prospective seller of real estate,

(1) disclose in writing the person's agency relationship with the seller to each prospective buyer at the time that the person begins to provide specific assistance to locate or acquire real estate for the buyer, and obtain from each prospective buyer a signed acknowledgment that the buyer is aware of the agency relationship between the person licensed under this chapter and the seller; and

(2) include in the purchase agreement a statement of the agency relationship between the person licensed under this chapter and the seller.

(b) A person holding a license under this chapter shall, when acting as an agent for a prospective buyer of real estate,

(1) disclose the person's relationship with the buyer to a prospective seller of real estate, or to the seller's agent, at the time of the initial contact between the person licensed under this chapter and the prospective seller or the seller's agent, and confirm the relationship in writing as soon as possible after the initial contact;

(2) include in the purchase agreement a statement of the agency relationship between the person licensed under this chapter and the buyer;

(3) if the prospective seller has an unexpired exclusive listing contract for a property, present an offer to purchase that property to the seller's agent; and

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

(c) A person licensed under this chapter may not act as an agent for both a prospective seller and a prospective buyer of real estate unless the person informs both the seller and the buyer and obtains written

(2) to secure information useful in the administration of this chapter.

(b) If it appears to the commissioner that a person has engaged in or is about to engage in an act or practice in violation of a provision of this chapter or a regulation adopted under it, or a provision of AS 43.70, or a provision of this title or regulation adopted under this title dealing with an occupation or board listed in AS 08.01.010, the commissioner may, if the commissioner considers it in the public interest, and after notification of a proposed order or action by telephone, telegraph, or facsimile to all board members, if a board regulates the act or practice involved, unless a majority of the members of the board object within 10 days,

(1) issue an order directing the person to stop the act or practice; however, reasonable notice of and an opportunity for a hearing must first be given to the person, except that the commissioner may issue a temporary order before a hearing is held; a temporary order remains in effect until a final order affirming, modifying, or reversing the temporary order is issued or until 15 days after the person receives the notice and has not requested a hearing by that time; a temporary order becomes final if the person to whom the notice is addressed does not request a hearing within 15 days after receiving the notice; the commissioner or the commissioner's designee shall be the hearing officer at the hearing and shall issue a final order within 10 days after the hearing;

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter, a regulation adopted under it, an order issued under it, or with a provision of this title or regulation adopted under this title dealing with business licenses or an occupation or board listed in AS 08.01.010;

(3) examine or have examined the books and records of a person whose business activities require a business license or licensure by a board listed in AS 08.01.010, or whose occupation is listed in AS 08.01.010; the commissioner may require the person to pay the reasonable costs of the examination; and

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

**Sec. 08.01.088. Conviction as grounds for disciplinary action.** Notwithstanding any other provision of this title, the conviction under AS 47.24.010 or 47.24.110 of a person licensed, certified, or regulated by the department or a board under this title may be considered by the department or board as grounds for disciplinary proceedings or sanctions.

**Sec. 08.01.090. Applicability of the Administrative Procedure Act.** The Administrative Procedure Act (AS 44.62) applies to regulations

- (3) censure or reprimand a licensee;
- (4) impose limitations or conditions on the professional practice of a licensee;
- (5) require a licensee to submit to peer review;
- (6) impose requirements for remedial professional education to correct deficiencies in the education, training, and skill of the licensee;
- (7) impose probation requiring a licensee to report regularly to the board on matters related to the grounds for probation;
- (8) impose a civil fine not to exceed \$5,000.
- (b) A board may withdraw probationary status if the deficiencies that required the sanction are remedied.
- (c) A board may summarily suspend a licensee from the practice of the profession before a final hearing is held or during an appeal if the board finds that the licensee poses a clear and immediate danger to the public health and safety. A person is entitled to a hearing before the board to appeal the summary suspension within seven days after the order of suspension is issued. A person may appeal an adverse decision of the board on an appeal of a summary suspension to a court of competent jurisdiction.
- (d) A board may reinstate a suspended or revoked license if, after a hearing, the board finds that the applicant is able to practice the profession with skill and safety.
- (e) A board may accept the voluntary surrender of a license. A license may not be returned unless the board determines that the licensee is competent to resume practice and the licensee pays the appropriate renewal fee.
- (f) A board shall seek consistency in the application of disciplinary sanctions. A board shall explain a significant departure from prior decisions involving similar facts in the order imposing the sanction.

**Sec. 08.01.080. Department regulations.** The department shall adopt regulations to carry out the purposes of this chapter including but not limited to describing

- (1) how an examination is to be conducted;
- (2) what is contained in application forms;
- (3) how a person applies for an examination or license.

**Sec. 08.01.087. Investigative and enforcement powers of department.** (a) The department may, upon its own motion, conduct investigations

- (1) to determine whether a person has violated a provision of this chapter or a regulation adopted under it, or a provision of AS 43.70, or a provision of this title or regulation adopted under this title dealing with an occupation or board listed in AS 08.01.010; or

consent to the joint agency from both.

(d) When a change occurs during a transaction that makes a prior written disclosure required by this section incomplete, misleading, or inaccurate, the person licensed under this chapter shall make a revised disclosure, in writing, to all parties to the transaction as soon as possible. The revised disclosure must include the date of the revision and shall be acknowledged in writing by all the parties.

**Sec. 08.88.401. Prohibited conduct.** (a) A person licensed under this chapter may not falsely represent to have been awarded a degree or other designation or to be a member or affiliate of a professional organization.

(b) A person

(1) who is not a real estate broker licensed in this state may not accept a fee or a commission for performance of an act for which a license is required by this chapter except that a real estate broker validly licensed in another state may accept a fee or commission or a portion of a fee or commission for assisting a real estate broker licensed in this state in the performance of an act for which a license is required by this chapter;

(2) who is a real estate salesman licensed in this state may not accept a fee or commission for performance of an act for which a license is required by this chapter unless acceptance is authorized by the broker who employs the salesman.

(c) A person may not knowingly make, authorize, direct, or aid in the publication of a false statement or misrepresentation concerning land or a subdivision or other real estate offered for sale or lease.

(d) A person who violates a provision of this section, AS 08.88.161, or AS 08.88.396 is guilty of a class A misdemeanor.

#### ARTICLE 4. REAL ESTATE SURETY FUND.

##### Section

450. Real estate surety fund
455. Payments by real estate brokers and salesmen
460. Claim for payment
465. Consideration of application
470. Findings and payment
472. Hearing costs
474. Payment of small claims judgment
475. Maximum liability
480. Order of claim payment

- 485. False claims or documents**  
**490. Right to subrogation**  
**495. Disciplinary action against brokers and salesmen**

**Sec. 08.88.450. Real estate surety fund.** The real estate surety fund is established in the general fund to carry out the purposes of AS 08.88.450—08.88.500. The fund is composed of payments made by licensed real estate brokers and salesmen under AS 08.88.455 and filing fees retained in accordance with AS 08.88.460. The fund may not exceed \$500,000 and amounts in the fund in excess of \$250,000 may be appropriated for real estate educational purposes as provided in AS 08.88.091.

**Sec. 08.88.455. Payments by real estate brokers and salesmen.**

(a) A licensed real estate broker, associate broker, or salesman when obtaining or renewing a real estate license, in lieu of obtaining a corporate surety bond, shall pay to the commission in addition to the license fee, a surety fund fee not to exceed \$125. After the fund reaches \$250,000 the commission shall by regulation adjust the surety fund fees so that, taking into account anticipated expenditures for claims against the fund and real estate educational purposes, the fund is maintained at a level not less than \$250,000.

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

**Sec. 08.88.460. Claim for payment.** (a) A person seeking reimbursement for a loss suffered in a transaction as a result of fraud, misrepresentation, deceit, or the conversion of trust funds on the part of a real estate broker, associate real estate broker, or real estate salesman licensed under this chapter shall make a claim to the commission for reimbursement on a form furnished by the commission. The form shall be executed under penalty of unsworn falsification, and must include the following:

- (1) the name and address of the real estate broker, associate real estate broker, or real estate salesman;
- (2) the amount of the alleged loss;
- (3) the date or period of time during which the alleged loss occurred;
- (4) the date upon which the alleged loss was discovered;
- (5) the name and address of the claimant; and
- (6) a general statement of facts relative to the claim.

(b) A copy of a claim filed with the commission under (a) of this section shall be sent to the real estate broker, associate real estate

occupation's fee collections and regulatory costs are not approximately equal, the department shall calculate fee adjustments and adopt regulations under (a) of this section to implement the adjustments. In January of each year, the department shall report on all fee levels and revisions for the previous year under this subsection to the office of management and budget. If a board regulates an occupation covered by this chapter, the department shall consider the board's recommendations concerning the occupation's fee levels and regulatory costs before revising fee schedules to comply with this subsection. In this subsection, "regulatory costs" means costs of the department that are attributable to regulation of an occupation plus

(1) all expenses of the board that regulates the occupation if the board regulates only one occupation;

(2) the expenses of a board that are attributable to the occupation if the board regulates more than one occupation.

(d) The license fee for a business license is set by AS 43.70.030(a). The department shall adopt regulations that establish the manner of payment of the license fee.

**Sec. 08.01.070. Administrative duties of boards.** Each board shall perform the following duties in addition to those provided in its respective law:

- (1) take minutes and records of all proceedings;
- (2) hold a minimum of one meeting each year;
- (3) hold at least one examination each year;
- (4) request, through the department, investigation of violations of its laws and regulations;
- (5) prepare and grade board examinations;
- (6) set minimum qualifications for applicants for examination and license;
- (7) forward a draft of the minutes of proceedings to the department within 20 days after the proceedings;
- (8) forward results of board examinations to the department within 20 days after the examination is given;
- (9) notify the department of meeting dates and agenda items at least 15 days before meetings and other proceedings are held;
- (10) submit before the end of the fiscal year an annual performance report to the department stating the board's accomplishments, activities, and needs.

**Sec. 08.01.075. Disciplinary powers of boards.** (a) A board may take the following disciplinary actions, singly or in combination:

- (1) permanently revoke a license;
- (2) suspend a license for a specified period;

(19) provide inspection, enforcement, and investigative services to the boards and for the occupations listed in AS 08.01.010, regarding all licenses issued by or through the department;

(20) retain and safeguard the official seal of a board and prepare, sign, and affix a board seal, as appropriate, for licenses approved by a board;

(21) issue business licenses under AS 43.70.

(b) The form and content of a license, authorized by a board listed in AS 08.01.010, including any document evidencing renewal of a license, shall be determined by the department after consultation with and consideration of the views of the board concerned.

(c) *[Repealed 1987]*

(d) At the request of one of the following boards, the department may contract with public agencies and private professional organizations to provide assistance and treatment to persons licensed by the board who abuse alcohol, other drugs, or other substances:

- (1) Board of Clinical Social Work Examiners;
- (2) Board of Dental Examiners;
- (3) Board of Dispensing Opticians;
- (4) State Medical Board;
- (5) Board of Nursing;
- (6) Board of Examiners in Optometry;
- (7) Board of Pharmacy;
- (8) State Physical Therapy and Occupational Therapy Board;
- (9) Board of Psychologist and Psychological Associate Examiners;

and

- (10) Board of Veterinary Examiners.

**Sec. 08.01.060. Application for license.** All applications for examination or licensing to engage in the business or profession covered by this chapter shall be made in writing to the department.

**Sec. 08.01.065. Establishment of fees.** (a) Except for business licenses, the department shall adopt regulations that establish the amount and manner of payment of application fees, examination fees, license fees, registration fees, permit fees, investigation fees, and all other fees as appropriate for the occupations covered by this chapter.

(b) *[Repealed 1992]*

(c) The department shall establish fee levels under (a) of this section so that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation. The department shall annually review each fee level to determine whether the regulatory costs of each occupation are approximately equal to fee collections related to that occupation. If the review indicates that an

broker, or real estate salesman alleged to have committed the misconduct resulting in losses, as well as a real estate broker employing an associate real estate broker or real estate salesman alleged to have committed the conduct resulting in losses, at least 20 days before any hearing held on the claim by the commission.

(c) Within seven days after receipt of notice of a claim under (b) of this section the real estate broker, associate real estate broker, or real estate salesman against whom the claim is made may elect to defend the claim as a small claims action in district court under District Court Civil Rules 8—22, if the claim does not exceed the small claims jurisdictional limit. An election to defend a claim in district court under the small claims rules may not be revoked by the broker, associate broker, or salesman without the consent of the claimant. Upon receipt of a valid written election under this subsection the commission shall dismiss the claim filed with the commission and notify the claimant that the claim must be brought as a small claims action in the appropriate state court.

(d) A claimant under this section shall pay a filing fee of \$250 to the commission at the time the claim is filed. The filing fee shall be refunded only 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. 08.88.465. Consideration of application.** (a) Upon receipt of a claim for reimbursement, the commission may, in considering whether a claim should be granted,

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

(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 funds on the part of a licensed broker, associate broker, or real estate salesman is established, may constitute sufficient evidence to support a finding.

(c) Before the commission finds that payment should be made from the real estate surety fund, the real estate 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.

(d) The claimant bears the burden of proof of establishing that the claimant suffered losses in a transaction as a result of fraud, misrepresentation, deceit, or the conversion of trust funds on the part of a real estate 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.

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

(f) The provisions of this section do not apply to a claim that is dismissed under AS 08.88.460(c).

**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 has suffered a loss in a transaction as a result of fraud, misrepresentation, deceit, or the conversion of trust funds on the part of a real estate broker, associate broker, or salesman, the commission may award a claimant reimbursement out of the real estate surety fund for the claimant's loss up to \$10,000. However, not more than \$10,000 may be paid for each transaction regardless of the number of persons injured or the number of parcels of real estate involved in the transaction.

**Sec. 08.88.472. Hearing costs.** (a) When an award is made from the real estate surety fund under AS 08.88.470, the commission may charge to the fund the costs of a hearing held under AS 08.88.071 or 08.88.465. Amounts subsequently recovered by the commission for these costs from the licensee under AS 08.88.071(b) or from other parties under AS 08.88.490 shall be deposited to the real estate surety fund.

(b) An amount charged to the fund by the commission for costs under (a) of this section may not be considered in determining the maximum reimbursement to be awarded under AS 08.88.470 or in determining the maximum liability of the real estate surety fund under AS 08.88.475.

**Sec. 08.88.474. Payment of small claims judgment.** If a claim originally filed with the commission is dismissed and is heard as a small claims action under AS 08.88.460(c) and the claimant prevails in the small claims action against the real estate broker, associate real estate broker, or salesman, the commission shall make an award from the fund of any outstanding portion of the small claims judgment on receipt of a copy of the final judgment and an affidavit from the claimant stating that

term. A member who has served all or part of two successive terms on a board may not be reappointed to that board unless four years have elapsed since the person has last served on the board.

**Sec. 08.01.040. Transportation and per diem.** A board member is entitled to transportation expenses and per diem as set out in AS 39.20.180.

**Sec. 08.01.050. Administrative duties of department.** (a) The department shall perform the following administrative and budgetary services when appropriate:

- (1) collect and record fees;
- (2) maintain records and files;
- (3) issue and receive application forms;
- (4) notify applicants of acceptance or rejection as determined by the board or as determined by the department under AS 08.06 for acupuncturists, under AS 08.11 for audiologists, under AS 08.18 for contractors, under AS 08.40 for electrical and mechanical administrators, under AS 08.45 for naturopaths, under AS 08.55 for hearing aid dealers, or under AS 08.70 for nursing home administrators;
- (5) designate dates examinations are to be held and notify applicants;
- (6) publish notice of examinations and proceedings;
- (7) arrange space for holding examinations and proceedings;
- (8) notify applicants of results of examinations;
- (9) issue licenses or temporary licenses as authorized by the board or as authorized by the department under AS 08.06 for acupuncturists, under AS 08.11 for audiologists, under AS 08.18 for contractors, under AS 08.40 for electrical and mechanical administrators, under AS 08.45 for naturopaths, under AS 08.55 for hearing aid dealers, or under AS 08.70 for nursing home administrators;
- (10) issue duplicate licenses upon submission of a written request by the licensee attesting to loss of or the failure to receive the original and payment by the licensee of a fee established by regulation adopted by the department;
- (11) notify licensees of renewal dates at least 30 days before the expiration date of their licenses;
- (12) compile and maintain a current register of licensees;
- (13) answer routine inquiries;
- (14) maintain files relating to individual licensees;
- (15) arrange for printing and advertising;
- (16) purchase supplies;
- (17) employ additional help when needed;
- (18) perform other services that may be requested by the board;

- (18) *[Repealed]*;  
 (19) Board of Examiners in Optometry (AS 08.72.010);  
 (20) Board of Pharmacy (AS 08.80.010);  
 (21) State Physical Therapy and Occupational Therapy Board (AS 08.84.010);  
 (22) Board of Psychologist and Psychological Associate Examiners (AS 08.86.010);  
 (23) Real Estate Commission (AS 08.88.011);  
 (24) Board of Veterinary Examiners (AS 08.98.010);  
 (25) regulation of acupuncturists under AS 08.06;  
 (26) regulation of audiologists under AS 08.11;  
 (27) regulation of business licenses under AS 43.70;  
 (28) regulation of collection agencies under AS 08.24;  
 (29) regulation of concert promoters under AS 08.92;  
 (30) regulation of construction contractors under AS 08.18;  
 (31) regulation of electrical and mechanical administration under AS 08.40;  
 (32) regulation of professional geologists under AS 08.02.011;  
 (33) regulation of hearing aid dealers under AS 08.55;  
 (34) regulation of morticians under AS 08.42;  
 (35) regulation of the practice of naturopathy under AS 08.45;  
 (36) regulation of nursing home administrators under AS 08.70.

**Sec. 08.01.020. Board organization.** Board members are appointed by the governor and serve at the pleasure of the governor. Unless otherwise provided, the governor may designate the chair of a board, and all other officers shall be elected by the board members. Unless otherwise provided, officers of a board are the chair and the secretary. A board may provide by regulation that three or more unexcused absences from meetings are cause for removal.

**Sec. 08.01.025. Public members.** A public member of a board may not:

- (1) be engaged in the occupation that the board regulates;
- (2) be associated by legal contract with a member of the occupation that the board regulates except as a consumer of the services provided by a practitioner of the occupation; or
- (3) have a direct financial interest in the occupation that the board regulates.

**Sec. 08.01.030. Quorum.** A majority of the membership of a board constitutes a quorum unless otherwise provided.

**Sec. 08.01.035. Appointments and terms.** Members of boards subject to this chapter are appointed for staggered terms of four years. A member of a board serves until a successor is appointed. An appointment to fill a vacancy on a board is for the remainder of the unexpired

more than 30 days have elapsed since the judgment became final and that the broker, associate broker, or salesman has not satisfied the judgment during that time. After payment of a small claims judgment the commission is subrogated to the claimant's rights in the judgment under AS 08.88.490.

**Sec. 08.88.475. Maximum liability.** (a) The maximum liability of the real estate surety fund may not exceed \$50,000 for any one broker or salesman.

(b) If the \$50,000 liability of the fund as provided in (a) of this section is insufficient to pay in full the valid claims of all persons who have filed claims against one broker or salesman, the \$50,000 shall be distributed among the claimants in the ratio that their individual claims bear to the aggregate of valid claims, or in another manner that the commission considers equitable. Distribution shall be among the persons entitled to share in the recovery, without regard to the order of priority in which their claims were filed.

**Sec. 08.88.480. Order of claim payment.** If the money deposited in the real estate surety fund is insufficient at a given time to satisfy a duly authorized claim against the fund, the commission shall, when sufficient money has been deposited in the fund and appropriated, satisfy unpaid claims in the order that the claims were originally filed, plus accumulated interest at the rate of eight percent a year.

**Sec. 08.88.485. False claims or documents.** A person who files with the commission a notice, statement, or other document required under this chapter which contains a wilful material misstatement of fact, is guilty of a misdemeanor and is punishable by imprisonment for a period of not more than one year, or a fine of not more than \$1,000, or by both.

**Sec. 08.88.490. Right to subrogation.** When the commission has paid to a claimant from the real estate surety fund the sum awarded by the commission, the commission shall be subrogated to all of the rights of the claimant to the amount paid and the claimant shall assign all right, title and interest in that portion of the claim to the commission. Amounts subsequently realized by the commission on the claim shall be deposited to the real estate surety fund.

**Sec. 08.88.495. Disciplinary action against brokers and salesmen.** Repayment in full of all obligations to the real estate surety fund does not nullify or modify the effect of disciplinary proceedings brought under the provisions of this chapter.

**ARTICLE 5.  
GENERAL PROVISIONS.**

**Section**

900. Exceptions  
990. Definitions

**Sec. 08.88.900. Exceptions.** This chapter does 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 land defined in AS 34.55.044(7) that is not in Alaska;

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

(3) a lawyer performing duties as a lawyer;

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

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

(6) a person acting under court order;

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

(8) a person dealing in mineral rights transactions;

(9) a domestic or foreign corporation, a general or limited partnership, or a partner or regular employee of a domestic or foreign corporation or a general or limited partnership, when performing an act described in AS 08.88.161 in the regular course, or as an incident to, the management, sale, or other disposition of real estate owned by the corporation or partnership; the exemption provided in 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 directly related to the value of the real estate with respect to which the act is performed;

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

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

(B) employed by, or engaged under contract with, a licensed real estate broker.

**CHAPTER 01.  
CENTRALIZED LICENSING.**

**Section**

10. Applicability of chapter  
20. Board organization  
25. Public members  
30. Quorum  
35. Appointments and terms  
40. Transportation and per diem  
50. Administrative duties of department  
60. Application for license  
65. Establishment of fees  
70. Administrative duties of boards  
75. Disciplinary powers of boards  
80. Department regulations  
87. Investigative and enforcement powers of department  
88. Conviction as grounds for disciplinary action  
90. Applicability of the Administrative Procedure Act  
100. License renewal, lapse and reinstatement  
102. Citation for unlicensed practice or activity  
103. Procedure and form of citation  
104. Failure to obey citation  
105. Penalty for improper payment  
110. Definitions

**Sec. 08.01.010. Applicability of chapter.** This chapter applies to the

(1) Board of Public Accountancy (AS 08.04.010);

(2) State Board of Registration for Architects, Engineers and Land Surveyors (AS 08.48.011);

(3) Athletic Commission (AS 05.05 and AS 05.10);

(4) Board of Barbers and Hairdressers (AS 08.13.010);

(5) Big Game Commercial Services Board (AS 08.54.300);

(6) Board of Certified Direct-Entry Midwives (AS 08.65.010);

(7) Board of Certified Real Estate Appraisers (AS 08.87.010);

(8) Board of Chiropractic Examiners (AS 08.20.010);

(9) Board of Clinical Social Work Examiners (AS 08.95.010);

(10) Board of Dental Examiners (AS 08.36.010);

(11) Board of Dispensing Opticians (AS 08.71.010);

(12) Board of Electrical Examiners (AS 08.40.011);

(13) Board of Marine Pilots (AS 08.62.010);

(14) Board of Marital and Family Therapy (AS 08.63.010);

(15) Board of Mechanical Examiners (AS 08.40.220);

(16) State Medical Board (AS 08.64.010);

(17) Board of Nursing (AS 08.68.010);

(4) "real estate transaction" means any transaction for which a real estate broker must maintain records under AS 08.88.331 - 08.88.351 and 12 AAC 64.220;

(5) "commingle" means a licensee depositing the licensee's own funds in the account where the funds of others are held in trust, except as allowed in 12 AAC 64.180;

(6) "salesperson" means the same as "salesman" in AS 08.88.

(7) "division" means the division of occupational licensing in the Department of Commerce and Economic Development.

(c) In 12 AAC 64.280—12 AAC 64.325,

(1) "claim" means a claim for reimbursement filed with the commission under AS 08.88.460 and 12 AAC 64.280 - 12 AAC 64.325;

(2) "claimant" means a person who properly files a claim with the commission under AS 08.88.460 and 12 AAC 64.280 - 12 AAC 64.325;

(3) "involved licensee" means an individual described in AS 08.88.460(b) and, if applicable, a cooperating broker and any affiliated licensees who participated in the transaction upon which the claim is based;

(4) "involved party" means any licensee, whether named or unnamed by the claimant, involved in a transaction that is the subject of a claim, and the employing broker or brokers of all involved licensees at the time of the transaction, and all principals to the transaction.

(d) In AS 08.88, "personal service contracts" include listings, fee agreements between brokers and buyers or sellers, management contracts with property owners, or other agreements by which a broker agrees to perform a duty with respect to real estate for an agreed upon fee or commission.

**Sec. 08.88.990. Definitions.** In this chapter

(1) "commission" means the Real Estate Commission;

(2) "lease" includes a lease that is a part of another transaction.

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

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

*Editor's notes: Copies of the Residential Real Property Transfer Disclosure Statement are available at the Department of Commerce and Economic Development, Division of Occupational Licensing offices in Anchorage, Fairbanks, and Juneau.*

**12 AAC 64.960. PAYMENT OF ASSOCIATE BROKER OR SALESPERSON.** A broker may pay a former associate broker or salesperson a commission for services performed while the associate broker or salesperson was actively licensed under AS 08.88 regardless of the license status of the associate broker or salesperson at the time the commission is payable.

**12 AAC 64.970. COMMISSION MEMBER ABSENCES.** (a) The commission will, in its discretion, recommend to the governor that a member be removed from the commission if that member has three or more unexcused absences from regularly scheduled commission meetings.

(b) Before the close of each regularly scheduled commission meeting, the commission will determine whether a member's absence from that meeting is excused or unexcused. An absence will be considered excused if it is pre-approved by the chairperson of the commission or due to an emergency.

**12 AAC 64.980. DOCUMENTS SUBMITTED BY FACSIMILE.** (a) For the purposes of a surety fund hearing or another administrative hearing, a facsimile copy of a contract or transaction document that includes the facsimile transmission time and date may be introduced as evidence.

(b) An applicant or licensee may submit a document to the commission by facsimile if the commission does not require

- (1) the applicant or licensee to submit a fee with the document; or
- (2) a notarized signature on the document.

**12 AAC 64.990. DEFINITIONS.** (a) In AS 08.88.171(a), "active and continuous experience" means that an applicant for a broker or associate broker license has worked as a real estate licensee, as a principal occupation, for any consecutive 24 months within the 48 month period immediately preceding the date of application.

(b) In this chapter, unless the context requires otherwise,

(1) "commission" means the real estate commission established by AS 08.88.011;

(2) "contact hour" means a minimum of 50 minutes of instruction;

(3) "sponsor" means a person, school, college, or professional association that provides, or wishes to provide, courses in real estate education under this chapter;

tenants and prospective tenants of that property that the licensee holds a real estate license and the name of the company with which the licensee is affiliated.

**12 AAC 64.560. COMPLIANCE WITH UNIFORM RESIDENTIAL LANDLORD AND TENANT ACT.** Failure of a licensee engaged in property management to deposit prepaid rents or security deposits in a trust account as required by AS 34.03 (Uniform Residential Landlord and Tenant Act) is considered fraudulent or dishonest conduct within the meaning of AS 08.88.071(a)(3)(A)(iv).

**ARTICLE 10.  
GENERAL PROVISIONS**

**Section**

- 900. Violation
- 920. Current address
- 930. Property disclosure form
- 960. Payment of associate broker or salesperson
- 970. Commission member absences
- 980. Documents submitted by facsimile
- 990. Definitions

**12 AAC 64.900. VIOLATION.** Violation of or failure to comply with the provisions of this chapter constitutes grounds for the suspension or revocation of a license.

**12 AAC 64.920. CURRENT ADDRESS.** A licensee shall maintain a current, valid mailing address on file with the commission at all times. The latest mailing address on file for an active, inactive or lapsed license is the address of the licensee for official communications, notifications and service of legal process.

**12 AAC 64.930. PROPERTY DISCLOSURE FORM.** (a) The form titled "Residential Real Property Transfer Disclosure Statement," dated August 1993 is adopted by reference. This form, prepared by the Real Estate Commission, presents the information required by AS 34.70 that a transferor of an interest in residential real property must disclose to a prospective transferee of the property before the transferee makes a written offer.

(b) For the purposes of this section, "residential real property" has the meaning given to the term in AS 34.70.200.

**CHAPTER 64.  
REAL ESTATE COMMISSION**

**Article**

- 1. Examinations  
(12 AAC 64.010—12 AAC 64.050)
- 2. Licensing  
(12 AAC 64.060—12 AAC 64.100)
- 3. Place of Business  
(12 AAC 64.110—12 AAC 64.127)
- 4. Prohibited Conduct  
(12 AAC 64.130—12 AAC 64.175)
- 5. Trust Accounts  
(12 AAC 64.180—12 AAC 64.270)
- 6. Surety Fund Claims  
(12 AAC 64.280—12 AAC 64.325)
- 7. Real Estate Education Standards  
(12 AAC 64.400—12 AAC 64.470)
- 8. Continuing Education Requirements  
(12 AAC 64.500)
- 9. Property Management  
(12 AAC 64.550—12 AAC 64.560)
- 10. General Provisions  
(12 AAC 64.900—12 AAC 64.990)

**ARTICLE 1.  
EXAMINATIONS**

**Section**

- 10. Applications for examination
- 40. Admission to examination
- 50. Rescoring

**12 AAC 64.010. APPLICATIONS FOR EXAMINATION.** (a) An applicant for licensure shall pass a written examination, approved by the commission, before applying for a license as a real estate broker, associate real estate broker, or real estate salesperson.

(b) *Repealed 12/6/81.*

(c) Deadlines for registration will be published with the registration forms for written examination or will be available from the commission. Deadlines for registration will not be more than 45 days before the test.

(d) Registration fees for written examination are not refundable.

**12 AAC 64.040. ADMISSION TO EXAMINATION.** (a) Before the scheduled examination date, an applicant who has been preregistered by the commission to sit for the examination will be sent an admission ticket that specifies the time and place of the examination.

(b) An applicant who has not been preregistered by the commission will be admitted to the examination upon

- (1) presenting two pieces of picture identification; and
- (2) paying the fee established by 12 AAC 02.360.

**12 AAC 64.050. RESCORING.** A applicant who fails the written examination may submit a written request for hand rescoring to the testing agency within 90 days after the date the examination was administered.

**ARTICLE 2.  
LICENSING**

**Section**

- 59. Review of license applications
- 60. Applications for licensure
- 61. License by endorsement
- 63. Minimum education requirements for licensure
- 65. License required for employees, directors, agents, and officers
- 68. Professional corporations
- 71. License renewal
- 73. Surety fund fee
- 75. Employment and transfer
- 77. Broker authorization of license applications
- 80. Suspension and revocation of active licenses
- 85. Suspended or revoked out-of-state license
- 90. Surrender of suspended or revoked licenses
- 95. Unlicensed representative
- 99. Application or reissuance application for licensure after revocation or suspension
- 100. Reissuance of suspended license

**12 AAC 64.059. REVIEW OF LICENSE APPLICATIONS.** (a) An applicant who meets the requirements on the relevant checklist set out in this section has demonstrated the necessary qualifications for the license applied for. An applicant who does not meet the requirements on that checklist or whose responses on the form for application do not clearly show that the applicant is qualified to receive a license will not be issued a license

will have been licensed

(1) 12 complete months or more must complete 20 contact hours of continuing education;

(2) less than 12 complete months but more than one month must complete 10 contact hours of continuing education;

(3) one month or less is not required to meeting continuing education requirements.

(k) *Repealed 7/16/94.*

(l) *Repealed 7/16/94.*

(m) For the purposes of this section and AS 08.88.091

(1) one contact hour equals a minimum of 50 minutes of instruction;

(2) one academic semester credit hour equals 15 contact hours;

(3) one academic quarter credit hour equals 10 contact hours.

**ARTICLE 9.  
PROPERTY MANAGEMENT**

**Section**

- 550. Property management transactions
- 560. Compliance with Uniform Residential Landlord and Tenant Act.

**12 AAC 64.550. PROPERTY MANAGEMENT TRANSACTIONS.** (a) A licensee engaged in property management shall conduct property management activity in the registered name of the real estate company with which the licensee is affiliated.

(b) A licensee may not conduct property management activity for another person without a prior written property management contract. At a minimum, a property management contract must include

(1) the specific responsibilities of the property manager;

(2) the authority and powers given by the property owner to the property manager;

(3) the period of the agreement; and

(4) the management fee.

(c) A licensee acting as a property manager may transfer funds between two or more accounts maintained for the same property owner if the licensee has written authorization from the property owner. The licensee shall make entries fully identifying the transaction in each of the ledger accounts affected.

(d) The sale or exchange of a property that is subject to an existing property management contract must be authorized by specific language in the property management contract or by a separate listing agreement.

(e) A licensee that owns rental real property shall disclose in writing to all

- (21) property valuation;
- (22) real estate brokerage;
- (23) real estate investment analysis;
- (24) real estate property law;
- (25) real estate license law;
- (26) securities;
- (27) title insurance;
- (28) trust account management; and
- (29) trusts, estates, and probate.

(b) An applicant for renewal of a broker, associate broker, or salesperson license must document that the following continuing education contact hours were earned during the concluding licensing period:

- (1) eight contact hours of continuing education in topic areas specifically identified by the commission that stress current trends in real estate practices and relevant changes in state, federal, and case law; and
- (2) 12 contact hours of continuing education in elective topics that meet the requirements in (a) of this section.

(c) Before the beginning of each renewal period, the commission will identify topics in which all licensees will be required to obtain, during that renewal period, eight contact hours of continuing education credit under (b)(1) of this section.

(d) By September 30 of each odd-numbered year, the commission, or its designee, will notify sponsors of the topics that, for the purposes of obtaining the required continuing education credit during the next renewal period, will no longer satisfy the requirements in (b)(1) of this section.

(e) The following types of training do not meet the continuing education standards of the commission:

- (1) mechanical office or business skills, including typing, speed-reading, or use of a calculator;
- (2) office sales meetings;
- (3) orientation courses by professional organizations;
- (4) instructor development courses.

(f) No more than 12 contact hours of credit from any one course content area may be accrued toward license renewal in a single licensing period.

(g) An applicant for renewal may earn up to eight contact hours of continuing education for instructing certified real estate education courses. The number of hours earned for instructing a course may not exceed the number of contact hours offered to students who complete that course.

(h) An applicant for renewal may not accrue continuing education contact hours for taking the same, or substantively identical, course more than once during a licensing period.

(i) An applicant for renewal may not earn real estate continuing education contact hours for courses taken before the applicant was originally licensed.

(j) An applicant for renewal who, at the time the license is due to lapse,

unless the commission further reviews the application and determines that the applicant meets the qualifications in AS 08 88 and this chapter for that license.

(b) The following checklist is established by the commission for review of an application for a salesperson license; a salesperson license will be issued to an applicant who

(1) submits a completed form for application under this chapter, including

(A) the applicant's name, mailing address, and telephone number;

(B) the applicant's date of birth that shows the applicant is at least 19 years old;

(C) the applicant's employing broker's name, current and active license number, business name, telephone number, mailing address, and signature;

(D) "no" answers to all questions on the form dealing with felony indictments or convictions and license actions; and

(E) the applicant's notarized signature certifying that the information on the form is true and correct to the best of the applicant's knowledge;

(2) has passed the examination for real estate salespersons;

(3) files the completed form for application with the division within six months of passing the examination for real estate salespersons as calculated under 12 AAC 64.060(e);

(4) submits a precicensing education certificate or a transcript from a college or university registrar verifying 20 hours of precicensing education approved by the commission;

(5) pays the application and initial license fees established in 12 AAC 02.360; and

(6) pays the surety fund fee established in 12 AAC 64.073.

(c) The following checklist is established by the commission for reviewing an application for a salesperson license by endorsement; a salesperson license by endorsement will be issued to an applicant who

(1) meets the requirements in (b)(1), (5), and (6) of this section;

(2) has passed the state law portion of the examination for real estate salespersons;

(3) files the completed form for application with the division within six months of passing the state law portion of the examination for real estate salespersons as calculated under 12 AAC 64.060(e);

(4) provides a license history from another licensing authority in accordance with 12 AAC 64.061 that shows the applicant meets the requirements in 12 AAC 64.061(c) for a valid and active license;

(5) submits documentation that the applicant met education requirements that covered the topics and hours listed in 12 AAC 64.063(c)(1) - (6) and (8) to obtain a license in another jurisdiction; and

(6) submits evidence of completing three contact hours of course work

on Alaska real estate license law as required in 12 AAC 64.063(c)(7).

(d) The following checklist is established by the commission for reviewing an application for an associate broker license; an associate broker license will be issued to an applicant who

(1) submits a completed form for application, including

(A) the applicant's name, mailing address, and telephone number;

(B) the applicant's date of birth that shows the applicant is at least 21 years old;

(C) the applicant's employing broker's name, current and active license number, business name, telephone number, mailing address, and signature;

(D) "no" answers to all questions on the form dealing with felony indictments or convictions and license actions; and

(E) the applicant's notarized signature certifying that the information on the form is true and correct to the best of the applicant's knowledge;

(2) has passed the examination for real estate brokers;

(3) files the completed application with the division within six months of passing the real estate broker examination as calculated under 12 AAC 64.060(e);

(4) submits a broker training education certificate or a transcript from a college or university registrar verifying 15 hours of broker training education approved by the commission;

(5) submits a statement, signed by the broker who employed the applicant as a salesperson, verifying at least 24 months of active and continuous experience as a real estate salesperson as calculated under 12 AAC 64.990(a) within the 48 months before the date of application for an associate broker license; and

(6) pays the transfer of license fee established in 12 AAC 02.360.

(e) The following checklist is established by the commission for review of an application for a broker license; a broker license will be issued to an applicant who

(1) meets the requirements of (d)(1) - (5) of this section or is currently licensed in the state as an associate broker;

(2) submits a completed office registration form that includes the information required in 12 AAC 64.110(e); and

(3) pays the office registration fee and transfer of license fee established in 12 AAC 02.360.

(f) The following checklist is established by the commission for review of an application for an associate broker license by endorsement. An associate broker license by endorsement will be issued to an applicant who

(1) meets the requirements in (d)(1) of this section;

(2) has passed the state law portion of the examination for real estate brokers;

(1) the findings of a classroom audit; or

(2) review of the course content at the time of recertification under 12 AAC 64.420(c).

(b) If course certification is withdrawn or an application for course certification is denied, the commission will provide a written notice of withdrawal or denial of certification stating the reasons for the withdrawal or denial. Withdrawal of course certification is effective 30 days after the date of the written notice of withdrawal unless the sponsor of the course files with the commission an acceptable revision of the course outline.

(c) The commission, or its designee, will, in its discretion, audit a certified course at any time.

## ARTICLE 8. CONTINUING EDUCATION REQUIREMENTS

### Section

#### 500. Continuing education requirements

**12 AAC 64.500. CONTINUING EDUCATION REQUIREMENTS.** (a) For the purposes of AS 08.88.091(d), the commission will accept only those continuing education courses that meet the real estate education standards of 12 AAC 64.400—12 AAC 64.470, including courses in the following subject areas:

(1) agency;

(2) closing transactions;

(3) common interest ownership;

(4) communications and negotiations;

(5) computerization;

(6) contracts;

(7) energy conservation;

(8) environmental issues;

(9) fair housing and equal opportunity laws;

(10) financing real estate;

(11) foreclosure, judgments, and bankruptcy;

(12) international real estate transactions;

(13) land use, planning, and zoning;

(14) legal descriptions;

(15) listing practices;

(16) marketing skills;

(17) new construction;

(18) prohibited conduct;

(19) property disclosure;

(20) property management;

of Realtors (NAR), or Real Estate Educators Association (REEA); or

(B) at least two hours of continuing education in each elective subject for which the instructor is applying for recertification.

**12 AAC 64.450. TEMPORARY INSTRUCTOR APPROVAL.** (a) A course sponsor may request the temporary approval of a person to teach a course if the sponsor

(1) is unable to find an instructor who is already approved to teach that course topic; or

(2) chooses to use a qualified instructor from another state;

(b) The commission or its designee, will, in its discretion, issue a five-day temporary instructor approval to a person who

(1) is currently certified by a nationally recognized organization that requires similar instructor standards; or

(2) has sufficient experience in the specific area of real estate to be covered by that course.

**12 AAC 64.460. WITHDRAWAL OR DENIAL OF INSTRUCTOR APPROVAL.** (a) The commission will, in its discretion, withdraw instructor approval or deny an application for approval if

(1) disciplinary action is taken or pending by the commission or another licensing jurisdiction against that instructor's practitioner license;

(2) the instructor is no longer providing satisfactory instruction based upon

(A) poor student evaluations; or

(B) the findings of a classroom audit conducted by the commission or its designee;

(3) the instructor offers a course for credit that has not received prior written approval from the commission; or

(4) the instructor teaches a course in a subject area for which the instructor has not been approved to teach.

(b) If instructor approval is withdrawn or an application for instructor approval is denied, the commission will provide a written notice of withdrawal or denial of approval, stating the reasons for the withdrawal or denial. Withdrawal of instructor approval is effective 30 days after the date of the written notice of withdrawal unless the instructor files a written request to petition the commission at its next regularly scheduled meeting.

**12 AAC 64.470. WITHDRAWAL OR DENIAL OF COURSE CERTIFICATION.** (a) The commission will, in its discretion, withdraw course certification or deny an application for course certification if the commission, or the commission's designee, finds that the course no longer meets the standards adopted by the commission in 12 AAC 64.410, as evidenced by

(3) files the completed form for application with the division within six months of passing the state law portion of the examination for real estate brokers as calculated under 12 AAC 64.060(e);

(4) provides a license history from another licensing authority in accordance with 12 AAC 64.061 that shows the applicant meets the requirements in 12 AAC 64.061(c) for a valid and active license;

(5) submits documentation that the applicant met education requirements that covered the topics and hours listed in 12 AAC 64.063(b) to obtain a broker or associate broker license in another jurisdiction;

(6) pays the application and initial license fees established in 12 AAC 02.360; and

(7) pays the surety fund fee established in 12 AAC 64.073.

(g) The following checklist is established by the commission for review of an application for a broker license by endorsement. A broker license by endorsement will be issued to an applicant who

(1) meets the requirements of (f) of this section;

(2) submits a completed office registration form that includes the information required in 12 AAC 64.110(e); and

(3) pays the office registration fee established in 12 AAC 02.360.

**12 AAC 64.060. APPLICATIONS FOR LICENSURE.** (a) An applicant for licensure to practice as a real estate broker, associate broker, or salesperson shall submit, within six months after the individual has taken the examination required for licensure,

(1) a completed application on the form provided by the department, including all necessary attachments;

(2) the license fee established in 12 AAC 02.360;

(3) the surety fund fee established in 12 AAC 64.073; and

(4) documentation that the applicant has satisfied the education requirements of AS 08.88.091 and 12 AAC 64.063.

(b) The applicant may be required to furnish information in addition to that set forth on the application if it is relevant to the applicant's qualifications to do business under this chapter. An applicant who has been required to submit additional information may not be issued a license until the required information is received and evaluated and the commission approves the application.

(c) If the commission determines that an applicant is not eligible for licensure, the applicant will be given a statement of issues in accordance with AS 44.62.370.

(d) The department will not process an application if the fees required in (a)(2) and (3) of this section were paid by a check that is returned to the department by the banking institution due to insufficient funds. If the license is issued before the check is returned to the department, failure to pay the

fees required in (a)(2) and (3) of this section and the returned check fee required in 12 AAC 02.105 within three months of the applicant's receipt of the department's first notice of the returned check is grounds for revocation of the license.

(e) In this section and in AS 08.88.171, "within six months after the individual has taken the examination" means within the period that begins on the date the applicant passed the examination and ends on the same calendar day of the month that is six months after that examination date.

**12 AAC 64.061. LICENSE BY ENDORSEMENT.** (a) A license which has lapsed, been suspended, been surrendered by a licensee for disciplinary reasons, or a license which has been limited in any way for disciplinary reasons is not considered valid and active for purposes of licensure by endorsement.

(b) A licensee who requests licensure by endorsement must have a certification of license status sent directly to the commission from the other licensing authority.

(c) For purposes of licensure by endorsement, a valid and active license is a real estate license which is issued by another state and is equivalent to a license issued by Alaska. Active means that the applicant for an Alaska license must have met standards of activity and license status in the other state that are equivalent to the Alaska standards for active licensure as provided in 12 AAC 64.080, 12 AAC 64.110, and AS 08.88.171. In addition, the applicant must have worked as a real estate licensee as a principal occupation and, within six months preceding the Alaska application

(1) if the applicant is applying for a broker license or associate broker license, the applicant must have, within those six months

(A) owned a real estate business;

(B) been employed as a broker by a corporation or partnership; or

(C) been an actively licensed broker or associate broker under another broker; and

(2) if the applicant is applying for a salesperson license, the applicant must have within those six months, been employed by or affiliated with a broker as a salesperson.

**12 AAC 64.063. MINIMUM EDUCATION REQUIREMENTS FOR LICENSURE.** (a) All real estate education courses used to qualify for initial licensure must

(1) meet the requirements of 12 AAC 64.400—12 AAC 64.470; and

(2) have been completed within the 18 months immediately preceding the date of application.

(b) To meet the real estate education requirements for licensure under AS 08.88.171(a) or (b) an applicant for a broker or associate broker license

be taken in the presence of a proctor designated by the commission or its designee.

**12 AAC 64.440. INSTRUCTOR APPROVAL.** (a) Only a course taught by an instructor who is approved by the commission or its designee to teach a course on that topic meets the education requirements of AS 08.88.091 and this chapter.

(b) An applicant for instructor approval must apply to the commission by submitting

(1) a completed application on a form provided by the department;

(2) the fees required in 12 AAC 02.360;

(3) a list of topics the applicant is seeking approval to teach;

(4) verification of education and experience that shows that the applicant meets one of the following criteria:

(A) a bachelor's degree, two years of experience as a broker, and 30 contact hours of experience teaching adults;

(B) a bachelor's degree, three years of experience as an associate broker, and 30 contact hours of experience teaching adults;

(C) five years of experience as a real estate licensee and 60 contact hours of experience teaching adults;

(D) a juris doctorate or equivalent degree from an accredited law school and three years of experience in the area of proposed instruction;

(E) three years of experience in a specialized area related to real estate that is the proposed area of instruction, and 30 contact hours of experience teaching adults; or

(F) another combination of experience and education that the commission finds sufficiently qualifies the applicant to teach a specific topic.

(c) Successful completion of an instructor workshop sponsored by the National Association of Real Estate License Law Officials or the National Association of Realtors may be substituted for 30 contact hours of teaching experience.

(d) In order to verify or substantiate the qualifications of an applicant for instructor approval, the commission, or its designee, will, in its discretion, interview an applicant for instructor approval at no expense to the applicant.

(e) An instructor may apply for recertification by submitting on or before April 1 of even-numbered years to recertify the instructor's approval and shall submit

(1) a completed application;

(2) the fees required in 12 AAC 02.360; and

(3) evidence of completion during the previous licensing period of

(A) an instructor development workshop sponsored by the Association of Real Estate License Law Officials (ARELLO), National Association

(3) the following information:

- (A) title of course;
- (B) the number of contact hours to be awarded;
- (C) the name of the sponsor and designated contact person;
- (D) a detailed course outline that identifies the text materials used and includes sample handouts and a sample examination, if any;
- (E) a copy of the attendance policy and a description of the procedures used for keeping a record of attendance;
- (F) provisions for offering the course by correspondence, if any; and
- (G) the policy for allowing a student to make up missed class time, if any.

(b) An application for course certification must be filed with the division at least 60 days before the course is anticipated to begin. A course may not be advertised as being certified under this chapter until the applicant has received written certification from the commission.

(c) The commission, or the commission's designee, will, in its discretion, certify a course for up to two years. All courses are subject to recertification and content review by November 15 of each odd-numbered year following initial certification. A course certified after July 15 but before November 15 of an odd-numbered year is exempt from recertification for the first November 15 deadline after its initial certification. An application for recertification shall be submitted by October 1 of odd-numbered years in order to maintain continuous course certification.

(d) Any change in the content or materials used in a certified course must be approved by the commission or its designee. A request for approval of a course change must be submitted not later than 20 days before the date the change is to be implemented.

(e) Notwithstanding (d) of this section, a course change may be implemented immediately if it is based on a change in the policy of a financial institution or government agency which has been documented by a public memorandum or press release from that institution or agency and which has a specific effective date. A change made under this subsection must be reported to the commission within 15 days after receipt of the public memorandum or press release.

**12 AAC 64.430. CORRESPONDENCE COURSES.** (a) To obtain certification of a correspondence course a sponsor must

- (1) meet the requirements of 12 AAC 64.420;
- (2) submit a copy of the complete course materials that will be provided to participants, including any published texts and audio-cassette or videotapes; and
- (3) submit the written instructions for completing each lesson.

(b) All courses taken by correspondence must include an examination to

must document completion of the following contact hours of education in the following topics:

- (1) single agency, dual agency, and subagency—three contact hours;
- (2) broker supervision requirements—three contact hours;
- (3) trust accounting procedures—five contact hours;
- (4) organizing and managing a real estate office—two contact hours;

and

- (5) property management responsibilities—two contact hours.

(c) To meet the real estate education requirements for licensure under AS 08.88.171(c) an applicant for a salesperson license shall document completion of the following topics and hours:

- (1) agency relationships, disclosure, and conflict of interest— two contact hours;
- (2) forms of ownership—two contact hours;
- (3) property law, public and private rights and limitations— two contact hours;
- (4) forms of conveyances and recording of documents—two contact hours;
- (5) contracts and transaction documents—four contact hours;
- (6) financing instruments—three contact hours;
- (7) Alaska real estate license law—three contact hours; and
- (8) federal fair housing and RESPA laws—two contact hours.

(d) To document the real estate education received, an applicant shall list on the application form the following information:

- (1) course title;
- (2) course sponsor;
- (3) number of contact hours; and
- (4) instructor of the course.

(e) An associate broker who has met the education requirements in (b) of this section does not need to repeat those requirements when upgrading to a broker license.

(f) A licensee is responsible for maintaining adequate and detailed records, including course certificates or transcripts, showing completion of education courses claimed, and shall make the records available to the commission upon request. Records must be retained for three years after the date a course was taken.

(g) For the purposes of this section and AS 08.88.091,

- (1) one contact hour equals a minimum of 50 minutes of instruction;
- (2) one academic semester credit hour equals 15 contact hours;
- (3) one academic quarter credit hour equals 10 contact hours.

**12 AAC 64.065. LICENSE REQUIRED FOR EMPLOYEES, DIRECTORS, AGENTS, AND OFFICERS.** (a) *Repealed 2/11/95.*

(b) A broker acting on behalf of a business, corporation, or organization shall be authorized to act by a resolution of the policy making body of that business, corporation, or organization. The resolution must be a permanent part of the records of that business, corporation, or organization and must show that the broker has exclusive authority over and responsibility for

(1) employing and terminating the employment of licensees;

(2) maintaining and examining all trust accounts for real estate transactions;

(3) authorizing payment of all commissions, salaries, finder's fees, or other compensation for activities for which a license is required and indicating on the payment record the specific reason for the payment;

(4) maintaining the records of all real estate transactions and assuring their accessibility to the department; and

(5) directing and supervising all real estate business activities for which a license is required and all activities necessary for full compliance with AS 08.88 and this chapter.

(c) When a broker who is authorized to act on behalf of a business, corporation, or organization loses an active broker license for any reason, the business, corporation, or organization shall stop engaging in real estate transactions until the broker's license is renewed or reinstated, or until a new broker is employed.

**12 AAC 64.068. PROFESSIONAL CORPORATIONS.** A real estate broker licensed under this chapter may do business as a professional corporation when incorporated under AS 10.45.

**12 AAC 64.071. LICENSE RENEWAL.** (a) All licenses lapse January 31 of every even-numbered year unless renewed under this section and in accordance with AS 08.88.091, AS 08.88.171, and AS 08.88.251.

(b) An applicant for renewal of an active license shall submit to the department, by the date the license lapses,

(1) a completed renewal application on the form provided by the department;

(2) the license renewal fee established in 12 AAC 02.360;

(3) the surety fund fee established in 12 AAC 64.073; and

(4) documentation that the applicant has satisfied the continuing education requirements of AS 08.88.091(d) and 12 AAC 64.500 by listing the

(A) course title and course approval number;

(B) course sponsor;

(C) number of contact hours; and

(D) instructor of the course.

(c) An applicant for renewal of an inactive license shall submit to the department, on or before the date the license lapses,

used to advertise the course;

(4) the course must be taught by at least one instructor approved by the commission to teach that course topic;

(5) guest instructors for specialized aspects of the course may be used for a portion of the classroom time, if an approved course instructor is also present;

(6) students must be required to adhere to a strict attendance policy in order to receive credit for the course;

(7) students must complete a course and instructor evaluation form; and

(8) a certificate of completion must be given to each participant who successfully completes the course, showing the

(A) name of student;

(B) city where course was held;

(C) course title and course approval number;

(D) date the course was delivered;

(E) number of contact hours awarded;

(F) signature of the course instructor or sponsor; and

(G) name of the course instructor.

(b) A transcript from a college or university registrar may substitute for the certificate of completion required in (a)(8) of this section.

(c) The commission will not certify a course for more than 10 contact hours per day.

(d) A course sponsor may provide to the commission a list of all approved course offerings. The commission will publish in its quarterly newsletter a list of course offerings that are on file with the commission at the time of printing.

(e) A course outline submitted to the commission in compliance with 12 AAC 64.420(a)(3)(D) is the property of the author or course sponsor. An instructor other than the author or course sponsor may teach the approved course outline without reapplying for course certification if

(1) the author or course sponsor has given the instructor approval to teach the course outline;

(2) the instructor is approved to teach the subject area covered by the course outline; and

(3) the instructor includes the course title and approval number on each course completion certificate.

**12 AAC 64.420. APPLICATION FOR COURSE CERTIFICATION.** (a) To apply for commission certification of a real estate course, a course sponsor shall submit

(1) a completed application on a form provided by the department;

(2) the fees required in 12 AAC 02.360;

by the commission; and

(2) proof of payment from the real estate surety fund to the claimant.

(e) When, as a result of the commission's findings and conclusions, the commission suspends a licensee's license, the commission will require proof of reimbursement of the surety fund by the licensee or an agreement between the licensee and the commission on the terms and conditions for reimbursing the surety fund under AS 08.88.071(b) before reinstating the license. The proof of reimbursement or agreement for reimbursement will be added to the licensee's license file.

ARTICLE 7. REAL ESTATE EDUCATION STANDARDS

Section

- 400. Purpose of course certification and instructor approval
- 410. Minimum course requirements
- 420. Application for course certification
- 430. Correspondence courses
- 440. Instructor approval
- 450. Temporary instructor approval
- 460. Withdrawal or denial of instructor approval
- 470. Withdrawal or denial of course certification

12 AAC 64.400. PURPOSE OF COURSE CERTIFICATION AND INSTRUCTOR APPROVAL. The Real Estate Commission certifies real estate education courses and approves course instructors for the purpose of

- (1) establishing uniform high standards for real estate educational offerings;
- (2) assuring that only those courses that cover current and relevant information are certified; and
- (3) assuring that instructors meet minimum education and experience requirements.

12 AAC 64.410. MINIMUM COURSE REQUIREMENTS. (a) Only real estate education courses certified by the commission meet the requirements of AS 08.88.091. To be certified by the commission, a course must meet the following minimum requirements:

- (1) the course must add to the practical knowledge required to perform the duties of a real estate practitioner;
- (2) the course content must be applicable to all areas of the state, but may also include consideration of unique local circumstances;
- (3) no references to a pass/fail ratio may be included in any materials

(1) a completed renewal application on the form provided by the department;

(2) the license renewal fee established in 12 AAC 02.360; and

(3) documentation that the applicant has satisfied the continuing education requirements of AS 08.88.091(d) and 12 AAC 64.500 by listing the

- (A) course title and course approval number;
- (B) course sponsor;
- (C) number of contact hours; and
- (D) instructor of the course.

(d) A license lapses if an application for renewal either has not been received by the department or is not complete by the date the license is to lapse.

(e) A lapsed license will be reinstated only as an active license according to the provisions of this section.

(f) A licensee may be inactive for an entire licensing period and reactivate without paying the surety fund fee established in 12 AAC 64.073 if the licensee's inactive license dates coincide exactly with the dates of a biennial licensing period.

12 AAC 64.073. SURETY FUND FEE. In addition to the required license or renewal fee, an applicant for licensure or for renewal of a license issued under AS 08.88 shall submit with the application a surety fund fee in the amount of \$125.

12 AAC 64.075. EMPLOYMENT AND TRANSFER. (a) An individual may not be involved in activities requiring licensure under AS 08.88 until the individual's employing broker signs and delivers to the commission a notice of employment of the individual and the individual's license certificate is delivered to the broker by the licensee or the commission.

(b) When a licensee transfers from one broker to another, the terminating broker shall sign and date the front of the license certificate, provide a copy to the licensee, and return the original to the commission. The licensee shall provide the new employing broker with a copy of the signed license certificate and provide the commission with a completed application for license transfer and the fee established in 12 AAC 02.360. The commission will mail an amended license certificate directly to the new employing broker.

(c) After applying for a license transfer, the licensee may work in the office of the new employing broker for no more than 30 days while waiting for an amended license certificate. The new employing broker shall keep a copy of the licensee's signed application for license transfer and a copy of the signed license certificate described in (b) of this section until the amended license certificate is received.

**12 AAC 64.077. BROKER AUTHORIZATION OF LICENSE APPLICATIONS.** (a) Except as provided in (c) of this section, only the registered broker of an office may employ or terminate a licensed associate broker or salesperson.

(b) An applicant applying to work in a branch office shall submit to the commission an application signed by the registered broker and the associate broker in charge of the branch office.

(c) A broker or an associate broker designated by the registered broker to supervise transactions or licensees during the broker of record's absence may sign for the broker of record on a license application.

**12 AAC 64.080. SUSPENSION AND REVOCATION OF ACTIVE LICENSES.** (a) An active license is a license which has been issued by the commission for the purposes expressed in AS 08.88.161 and which has not lapsed nor been placed on inactive status, revoked, or suspended.

(b) Upon the suspension or revocation of a real estate broker's license, the license of each associate broker and real estate salesperson employed by that broker is automatically and simultaneously suspended. The commission will notify all licensees of the suspension or revocation of their employing broker's license after the order is served on the employing broker.

(c) Any lapse, suspension, revocation, or inactivation of a licensee's license which results from or occurs in connection with a violation of or noncompliance with any provision of the licensing statutes and regulations constitutes an interruption in the licensee's active and continuous experience.

**12 AAC 64.085. SUSPENDED OR REVOKED OUT-OF-STATE LICENSE.** If an Alaskan licensee also holds an out-of-state broker's, associate broker's, or salesperson's license or certificate and it is revoked, suspended, or in any way restricted, the licensee shall inform the commission within five calendar days of receiving notification of this action.

**12 AAC 64.090. SURRENDER OF SUSPENDED OR REVOKED LICENSES.** (a) A suspended or revoked license and the pocket part of the license must be immediately surrendered by the employing broker to the commission. If the license and pocket part are not in the possession of a broker, they must be immediately surrendered to the commission by the licensee. A license and pocket part are considered surrendered when they have been placed in the United States mail, registered with postage prepaid, and properly addressed to the commission, or when they have been otherwise delivered to the commission.

(b) When a real estate broker surrenders his or her license, the licenses of all licensees employed by the broker who are not subject to an order of suspension or revocation must be returned to the licensees; the broker shall execute and send to the commission a notice of termination for each of the

(c) The real estate broker supervising an involved licensee at the time the claim is filed, if not notified under (a) of this section, will be notified by the commission that an involved licensee is a named party in a pending claim filed under AS 08.88.460.

(d) An involved licensee has 10 days from receipt of the notice of a claim to respond in writing by filing with the commission a statement of opposition or an application for the presentation of additional evidence. Posting of the response in the United States mails by certified mail, return receipt requested, on or before the tenth day constitutes a timely response.

(e) If an involved licensee fails to respond in writing to the notice of a claim as set out in (d) of this section the commission will proceed with consideration of the claim as set out in AS 08.88.465.

**12 AAC 64.315. WITHDRAWAL OF CLAIM.** (a) A claimant may withdraw a claim filed under AS 08.88.460 at any time before the proposed decision is filed with the commission.

(b) Withdrawal of a claim by the claimant does not preclude disciplinary proceedings by the commission against an involved licensee under the provisions of AS 08.88.

**12 AAC 64.320. MOTION FOR RECONSIDERATION.** A motion for reconsideration of a decision concerning a contested claim must be filed in accordance with AS 44.62.540.

**12 AAC 64.325. FINDINGS AND CONCLUSIONS.** (a) After consideration of a claim, the commission will make written findings and conclusions in accordance with the provisions of AS 08.88.470.

(b) The commission will furnish a copy of its findings and conclusions to

- (1) the claimant;
- (2) the claimant's legal representative, if applicable;
- (3) the involved parties;
- (4) the involved parties' legal representatives, if applicable;
- (5) the real estate broker under 12 AAC 64.310(c); and
- (6) the real estate broker supervising an involved licensee at the time

the commission makes its written findings and conclusions, if applicable.

(c) If interest is ordered to be paid on a claim of less than \$10,000, the interest will be calculated from the date of loss until the date of payment of the claim. However, total payment from the fund will not exceed \$10,000 per transaction, whether principal or a combination of principal and interest.

(d) When the commission awards payment of a claim from the real estate surety fund, the following information will be added to the license file of each licensee named in the findings and conclusions as responsible for the loss:

- (1) a copy of the findings and conclusions and the order adopted

as a result of fraud, misrepresentation, deceit, or the conversion of trust funds by an involved licensee;

(3) include all the information required by AS 08.88.460(a) and by the claim form itself; and

(4) be executed under penalty of unsworn falsification.

**12 AAC 64.290. NOTIFICATION OF CLAIM.** (a) Upon receipt of a claim for reimbursement filed under AS 08.88.460, the commission will mail a copy of the claim and any documentary material filed with the claim to all involved parties.

(b) In addition to the claim and documentary material in (a) of this section, the commission will mail a response form to each involved licensee.

(c) The commission will mail all documents in (a) and (b) of this section by certified mail, return receipt requested.

**12 AAC 64.300. CURRENT ADDRESS OF CLAIMANTS.** A claimant shall keep a current mailing address and telephone number on file with the commission until the claim is resolved. Failure to maintain a current mailing address and telephone number on file with the commission while a claim is pending may result in dismissal of the claim.

**12 AAC 64.305. HEARINGS.** (a) In accordance with the provisions of AS 44.62.340, the commission will delegate a case involving a claim filed under AS 08.88.460 to a hearing officer for a hearing. In its order of delegation the commission will specify whether the hearing officer will hear the claim case alone or whether the commission will hear the claim case with the hearing officer.

(b) Hearings will be conducted according to the procedures set out in AS 44.62.330—44.62.630 except that

(1) the copy of a claim mailed to an involved licensee under 12 AAC 64.290 and AS 08.88.460(b) is substituted for an accusation under AS 44.62.360 or a statement of issues under AS 44.62.370; and

(2) the written statement in opposition to a claim or application for presentation of additional evidence under 12 AAC 64.310 and AS 08.88.465(c) is substituted for a notice of defense under AS 44.62.390.

(c) The executive secretary of the commission, or an alternate who is an employee of the department and designated by the commission, shall represent the surety fund at hearings.

**12 AAC 64.310. ROLE OF INVOLVED LICENSEE.** (a) At the time the commission sends notice of a claim to an involved licensee under 12 AAC 64.290, the involved licensee is, for all legal purposes, a named party in any proceedings held by the commission regarding the claim.

(b) *Repealed 7/3/94.*

licensees employed by the broker. Within two working days of receipt of the returned license, licensees whose licenses are returned shall submit to the commission a properly executed notice of employment or a request for inactivation. Failure to follow the requirements of this section will result in automatic suspension of the employee's license and interruption in the licensee's active status beginning on the date of the broker's suspension or revocation and continuing until a properly executed employment notice or request for inactive status is received by the commission.

(c) When an associate real estate broker or real estate salesperson is discharged or released from a broker's employ for violating the provisions of AS 08.88 or this chapter, the broker shall notify the commission, in writing, of the release or discharge circumstances and reasons for the broker's action. Failure to immediately notify the commission constitutes ratification of the acts of the associate broker or salesperson by the broker.

(d) No refund of the license fee will be made by the commission when a license is surrendered.

(e) A licensee whose license has been suspended or revoked may not engage in any of the activities authorized by AS 08.88 until the license has been reissued.

**12 AAC 64.095. UNLICENSED REPRESENTATIVE.** Brokers may not employ unlicensed representatives to perform licensed activities. However, an unlicensed representative may assist in preparing audio and visual material for use by licensees in offering or presenting property for sale and may assist in preparing and developing copy for advertising by brokers.

**12 AAC 64.099. APPLICATION OR REISSUANCE APPLICATION FOR LICENSURE AFTER REVOCATION OR SUSPENSION.** (a) An applicant whose real estate license has been revoked or suspended in any state, province, or territory shall inform the commission of the circumstances of the revocation or suspension when applying for licensure. Failure to inform the commission of any prior revocation or suspension is grounds for denial or revocation of the license.

(b) No license will be issued to a person who has had a license suspended or revoked until the commission has reviewed the application at a regular commission meeting. The commission will, in its discretion, conduct an investigation into the circumstances of the suspension or revocation and will determine whether or not an applicant whose license has been suspended or revoked may take the examination or be licensed in Alaska.

**12 AAC 64.100. REISSUANCE OF SUSPENDED LICENSE.** A license which has been suspended and surrendered, together with its pocket part, will be reissued, without charge, for the unexpired balance of the license