

ALASKA LEGISLATURE COMMITTEES FILED 1997-1998 00/2

9264 HOUSE LABOR & COMMERCE

Reliance Surety CompanySurety and Fidelity Manager
for the Reliance Insurance Companies2505 South 320th Street
Federal Way, WA 98003Box 9719
Federal Way, WA 98063-9719
(206.952.5000)**Reliance**

January 27, 1998

Betty A. Cox
Brady & Company
1031 West Fourth Ave., Suite 400
Anchorage, AK 99501Re: **Fidelity Bond for Property Managers**

Dear Betty:

John and I discussed your request and he asked me to respond to your fax regarding coverage for property managers. Reliance is willing to offer fidelity coverage to property managers who have instituted strong internal control procedures. Per your request, we offer the following premium indications for your review:

Options #1, #2 and #3 - for 5 or less employees:

<u>Agreement</u>	<u>Limit</u>	<u>Deductible</u>	<u>Annual Premium</u>
#1. Form A - Employee Dishonesty with Third Party Liability	\$100,000	\$10,000	\$441
#2. Form A - Employee Dishonesty with Third Party Liability	\$200,000	\$10,000	\$566
#3. Form A - Employee Dishonesty with Third Party Liability	\$300,000	\$10,000	\$686

Options #4, #5 and #6 - for 10-25 employees:

<u>Agreement</u>	<u>Limit</u>	<u>Deductible</u>	<u>Annual Premium</u>
#4. Form A - Employee Dishonesty with Third Party Liability	\$100,000	\$10,000	\$986

Reliance Surety Company

January 27, 1998
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#5. Form A - Employee Dishonesty with Third Party Liability	\$200,000	\$10,000	\$1,185
#6. Form A - Employee Dishonesty with Third Party Liability	\$300,000	\$10,000	\$1,358

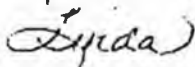
Options #7, #8 and #9 - for 25-50 employees:

<u>Agreement</u>	<u>Limit</u>	<u>Deductible</u>	<u>Annual Premium</u>
#7. Form A - Employee Dishonesty with Third Party Liability	\$100,000	\$10,000	\$1,666
#8. Form A - Employee Dishonesty with Third Party Liability	\$200,000	\$10,000	\$1,959
#9. Form A - Employee Dishonesty with Third Party Liability	\$300,000	\$10,000	\$2,198

Betty, in the interest of time, I'm forwarding these indications to you without an application. I am combining two applications for you to use and will fax the final result to you as soon as possible - hopefully later today.

Please call either of us if you have any other questions or if we can assist you further with this project.

Best Regards,



Linda Beesley
Regional Fidelity Underwriter

P.S. Betty, we will not exclude the owners.

RE/MAX[®]

properties, inc
2600 cordova, suite 100
anchorage, alaska 99503
phone: (907) 276-2761

JAN 27 1998



Bill Brady

DATE: 1/27/98

TO: Rep. Norm Rokberg

FAX NO: 1-907-465-2040

FROM: Bill

PAGES TO FOLLOW: (2)

IF ANY PAGES ARE NOT RECEIVED, PLEASE CALL:
257-0138

SPECIAL INSTRUCTIONS: Norm here's what we got from Gordon Schadt. We are meeting at 3pm today at ABE to go over this. I will let you know the outcome after the meeting.

OUR FAX NO: (907) 276-4429 Bill

Original is being sent by mail: () Yes (X) No

LAW OFFICES OF STANLEY AND SCHADT, P.C.

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Anchorage, Alaska 99503

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SHARON D. MACK, Of Counsel
THERESA A. TILLION, Of Counsel

January 26, 1998

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

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 Services 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
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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 Horciski, 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 his or her 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:

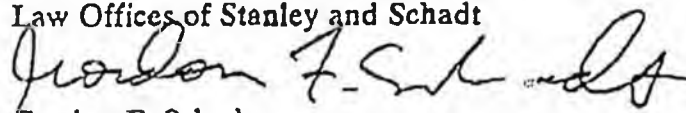
- (1) payments by a licensee to a person licensed to perform real estate activities in another jurisdiction if the other person has assisted the licensee in the performance of an act for which a license is required by this chapter; or
- (2) negotiations between licensee and principals of the amount of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

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

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

Page 22, lines 15-18:

Delete current language

Insert: (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.

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."

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

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

Page 23, line 21

Page 23, line 27

Page 25, line 11

Page 25, line 25

Page 26, line 3

After "conversion of trust funds" insert "or accounts under the control of a community association manager"

Add to Section 11

Language making the surety fund primary and should be looked to first for community association management claims versus fidelity bonds.



Kodiak Board of Realtors

218 Center Ave. Suite 200
Kodiak, Alaska 99615

January 22, 1998


JAN 27 1998

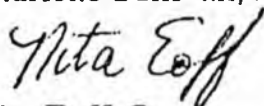
Jerry Royce, President
Alaska Association of Realtors, Inc.
741 Sesame Street, Suite 100
Anchorage, Ak 99503

Dear Jerry,

The Kodiak Board of Realtors would like to express our endorsement of the revision of HB33 to contain the *Mississippi law* verbiage dealing with paying commissions to unlicensed people or entities. We strongly support your efforts in this endeavor.

Sincerely,


Sharlene Sullivan, Pres.


Nita Eoff, Sec.

HOUSE BILL 33 VERSIONS F. H. L. & P COMPARISON

Prepared by Rep. Norman Rokeberg's Office
January 26, 1998

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CSHB 33/Version F March 18, 1997	CSHB 33/Version H September 8, 1997	CSHB 33/Version L November 24, 1997	CSHB 33/Version P January 16, 1998	PROPOSED AMENDMENTS January 26, 1998
Adopted as working document by House Labor & Commerce Committee	Adopted as working document October 1997. Drops endorsement concept, real estate surety fund, commercial broker language. Corresponding changes.	Reinserts real estate surety fund language. Endorsement concept not included. Commercial broker concept not included.	Adopted as working document by House Labor and Commerce Committee, January 26, 1998. Endorsement concept not included. Commercial broker concept not included. Real estate surety fund language same as L	
Title: An Act relating to real estate licensing and the real estate surety fund	Title: An Act relating to real estate licensing	Title: An Act relating to real estate licensing and to the real estate surety fund	An Act relating to real estate licensing and to the real estate surety fund	
Section 1, page 1. Qualification of commission members. New language regarding endorsements	DELETED	Same as H	Same as H	
Section 2, page 2. Requires Real Estate Commission to elect officers at first meeting of each fiscal year.	Section 1, page 1	Section 1, page 1	Section 1, page 1	
Section 3, page 2. Assistants. Sets forth what actions the Commission may delegate to assistants.	Section 2, page 1	Section 2, page 1	Section 2, page 1	

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<p>Section 4, page 2. Duties of the commission. Adds language regarding endorsements, specialties, and association management. Allows Department of Commerce & Economic Development to prosecute violations of this chapter. Permits publication of disciplinary action in commission's newsletter and allows information on such action to be released for general publication. Permits issuance of temporary permit to personal representative of legally incompetent broker so that the business of that broker may be managed. Grants authority to levy civil fines.</p>	<p>Section 3, page 2.</p>	<p>Section 3, page 2. Language change on page 2, lines 19-21. New section added on page 4, lines 11-16 regarding revocation of license when person convicted of felony.</p>	<p>Section 3, page 2. Only change from L is deletion of subsection (6) concerning publication in commission's newsletter concerning summary of disciplinary action taken against a licensee.</p>	<p>By Rep. Rokeberg: Amendment #2 adopted by HL&C, January 26, 1998</p>
				<p>By Rep. Rokeberg. Amendment #3 adopted by HL&C, January 26, 1998</p>
<p>Section 5, page 5. Commission regulations. Adds setting ethical standards and minimum</p>	<p>DELETED</p>	<p>Same as H</p>	<p>Same as H</p>	

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standards of conduct and definity of terms to the regulatory powers of the Commission.				
Section 6, page 6. Amends language concerning real estate education to include general public, licensees, commission members and staff. Permits the Commission to provide educational opportunities for instructor training. Permits Commission to charge fees for education programs and publications of the Commission; such fee to be deposited in the Real estate surety fund.	Section 4, page 5	Section 4, page 5	DELETED	
Section 7, page 6. Amends language concerning education requirements for license.	Section 5, page 5	Section 5, page 5	DELETED	By Rep. Rokeberg: Amendment #4, adopted by HL&C, January 26, 1998
Section 8, page 6, Amends language concerning educational requirements for license renewal.	Section 6, page 5	Section 6, page 5	Section 4, page 5. Changes: 20 hours of continuing education reinserted as standard. New last sentence: The commission may not	

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			establish limits that prevent a person from satisfying this continuing education requirement within a two-day period.	
Section 9, page 6. Makes clear that the Commission must approve educational courses before such are taken and accepted as meeting the education or continuing education requirements.	Section 7, page 5	Section 7, page 6. New introductory clause, line 1 "Except for a course described in (f)(1) or (3) of this section"	Section 5, page 5. Introductory reference changed to (f)(1), (3), or (4). New last sentence added concerning "A course outline or instructor is considered approved if the commission or the commission's designee does not disapprove the outline or instructor within 30 days after the date on which application was made for approval."	By Rep. Rokeberg: Amendment #7 as amended, adopted by HL&C, January 26, 1998
Section 10, page 7. New language indicates that Commission is to establish education for each type of license. Must allow courses required to earn professional designation sponsored by the National Association of REALTORS®, Building Owners and Managers Association, or other recognized national organization to fulfill educational	Section 8, page 6. With NEW subsection (g) added, page 6, regarding development of four eight-hour core curricula for continuing education in: real estate sales, property management, community association management, and commercial sales.	Section 8, page 6. Subparagraphs (1)-(3) rewritten. Drops reference to particular national organizations. Refers to "technology courses". Drops reference to "four eight-hour" in regards to core curricula.	Section 6, page 5. Adds new (f)(4) concerning courses taken at national conventions.	By Rep. Rokeberg: Amendment #4 adopted by HL&C, January 26, 1998

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<p>requirements. Computer training specifically designed for real estate applications are to be permitted. Courses from an accredited college or university as part of a real estate curriculum and which are at least one semester in length must be allowed.</p>				
<p>Section 11, page 7. License required. Adds language concerning endorsements. Adds limited liability company to those that must hold license to perform real estate activities enumerated.</p>	<p>Section 9, page 6. New sections 6-9, page 7. Address community association or property management, administrative or financial maintenance of real estate, acceptance of fees.</p>	<p>Section 9, page 7. Drops reference to corporations or partnerships. Adds in (3) "or collect fees for property management or community association management". Remainder same as H version with exception of "salesman" to "salesperson"</p>	<p>Section 7, page 6. Deletes (6) from version L (supervise, contract for, or arrange for physical, administrative, or financial maintenance). Renumbers remaining subsections.</p>	
<p>Section 12, page 8. New language concerning commercial real estate services broker and activities of same.</p>	<p>DELETED</p>	<p>Same as H</p>	<p>Same as H</p>	
<p>Section 13, page 9. Civil penalty for unlicensed or unauthorized practice. Allows Commission to enter order levying civil penalty which may not exceed \$5,000 or the</p>	<p>Section 10, page 7. Subsection(c) changed from "After providing a person written notice of an order issued under this section, the commission shall grant a 30-day" to "Before</p>	<p>Section 10, page 7</p>	<p>Section 8, page 7</p>	

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amount of gain realized plus \$5,000 whichever is greater, for each offense. Provides for written notification, hearing on record. Appeal is to Superior Court.	entering an order under (a) of this section, the commission shall send the person written notice of the proposed order that grants the person a 30-day"			
Section 14, page 10. Endorsement. New language concerning real estate endorsements in sales, property management or community association management.	DELETED	Same as H	Same as H	
Section 15, page 10. Entitlement to license and endorsements. Amends language to provide endorsement provisions.	Section 11, page 8. Drops endorsement references.	Section 11, page 8. Changes "salesman" to "salesperson" where applicable. Replaces "is eligible" with "qualifies". Inserts references to foreign or domestic corporations and limited partnership or limited liability company. As in version H, drops endorsement references.	Section 9, page 8.	
Section 16, page 14. New language concerning commercial real estate brokers and license for same.	DELETED	Same as H	Same as H	

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			<p>Section 10, page 10. New section concerning community association management limited license. Person qualifies if (1) applies by January 1, 1999; (2) pays required fees; (3) demonstrates person has engaged in practice of community association management for 24 months before January 1, 1999; and (4) meets other requirements set forth by Commission. Person qualifying shall be issued associate broker license if employed by a broker. Issued a broker's license if owner of business or employed as community association manager by various entities. After initial license, person subject to same requirements existing for other brokers and associate brokers; however, person may only practice community association management.</p>	<p>By Rep. Rokeberg Amendment #5, as amended, adopted by HL&C, January 26, 1998. Amendment #7 as amended, adopted by HL&C, January 26, 1998</p>
			<p>Section 11, page 11. Fidelity bond for community association managers. Requires that if a</p>	<p>By Rep. Rokeberg: Amendment #7 as amended,</p>

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			community association allows a broker to exercise control over fees or funds of association, the broker must provide evidence to the commission that broker is covered by blanket fidelity insurance bond; bond may be in name of broker with association as additional insured or in name of association with broker as additional insured; bond must cover maximum funds in control of manager at any time.	adopted by HL&C, January 26, 1998.
Section 17, page 15. Insurance Requirements. New language requiring that licensee carry errors and omissions insurance. If commission offers such coverage for annual premium of \$200 or less, the licensee is to submit two years' payment on each license anniversary date or initial license. Commission is to offer licensee opportunity to purchase if available. If errors and omission insurance not available under the premium cap, these sections will not be enforced.	Section 12, page 10	Section 12, page 11. Premium lowered to \$150 or less. Page 12, line 6 "or alternative" added after "additional". Subsection (3) added on page 12, lines 17-21, concerning consumer price index.	DELETED.	

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<p>Section 18, page 16. Content and purpose of examination. Adds language regarding additional items that may be included in exam. Adds language concerning endorsement specialty exams.</p>	<p>Section 13, page 11. Endorsement language deleted.</p>	<p>Section 13, page 12.</p>	<p>Section 12, page 12</p>	<p>By Rep. Rokeberg Amendment #7 as amended, adopted by HL&C, January 26, 1998</p>
<p>Section 19, page 16. Adds language permitting the Commission to designate someone to review the examination and contents.</p>	<p>Section 14, page 12</p>	<p>Section 14, page 13. Makes <i>minor language change</i> and <i>adds additional wording</i> after the ";" on line 8.</p>	<p>Section 13, page 12</p>	
<p>Section 20, page 17. Reexamination. Minor word change ("for" to "with")</p>	<p>Section 15, page 12</p>	<p>Section 15, page 13</p>	<p>Section 14, page 12</p>	
<p>Section 21, page 17. Fees. Adds language concerning endorsements. Adds language allowing fees for reciprocal licensing, reinstatement of lapsed license and endorsement, changes to registered office information, course certification and rectification, instructor approval and renewal of approval.</p>	<p>Section 16, page 12. Drops reference to endorsements.</p>	<p>Section 16, page 13</p>	<p>Section 15, page 12</p>	

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<p>Section 22, page 17. Reinstatement of lapsed license. Amends procedure and time lines for reinstatement of lapsed license.</p>	<p>Section 17, page 12</p>	<p>Section 17, page 13</p>	<p>Section 16, page 13</p>	<p>By Rep. Rokeberg Amendment #7 as amended, adopted by HL&C, January 26, 1998.</p>
<p>Section 23, page 18. Inactive license. Amends language.</p>	<p>Section 18, page 13</p>	<p>Section 18, page 14</p>	<p>Section 17, page 13</p>	<p>By Rep. Rokeberg: Amendment #1, adopted by HL&C, January 26, 1998</p>
<p>Section 24, page 19. Reciprocal licensing. Allows a person holding a valid license from another state that has a reciprocal licensing agreement with Alaska, to be granted Alaska license after passing Alaska portion of exam.</p>	<p>Section 19, page 14</p>	<p>DELETED</p>	<p>Same as L</p>	
	<p>Section 20, page 14. Bonding requirement. NEW SECTION. Provides that a licensee who collects, controls, or disburses money in community association management must file evidence of coverage by a bond in the amount of \$1 million running to the association.</p>	<p>DELETED</p>	<p>Same as L</p>	

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<p>Section 25, page 19. License by endorsement. Amends current language concerning license by endorsement where a reciprocal licensing agreement is not in effect.</p>	<p>DELETED (Current language remains)</p>	<p>Same as H</p>	<p>Same as H</p>	
<p>Section 26, page 19. Real estate surety fund. Language changes.</p>	<p>DELETED</p>	<p>Section 19, page 15</p>	<p>Section 18, page 14</p>	
<p>Section 27, page 19. Location. Language changes ("broker's" to "person's", for example). Requires registration of location and who at location.</p>	<p>Section 21, page 14</p>	<p>Section 20, page 15</p>	<p>Section 19, page 14</p>	
<p>Section 28, page 20. Change of location. Amended to provide the broker must notify Commission of change of office location on forms provided by Commission and prior to change of a principal office.</p>	<p>Section 22, page 15</p>	<p>Section 21, page 15</p>	<p>Section 20, page 15</p>	
<p>Section 29, page 20. Branch offices. Amended to reflect specialty language and practice of that specialty.</p>	<p>Section 23, page 15. Drops reference to specialties. Provides for associate broker to be direct supervisor of branch</p>	<p>Section 22, page 16</p>	<p>Section 21, page 15</p>	

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	office and only at one branch location.			
Section 30, page 20. Possession and display of license certificates. Licensees must turn over their license certificate to broker that employs them. Employing broker is to display broker license and certificated employees' licenses in office where licensee's employment is registered.	Section 24, page 15.	Section 23, page 16. REWRITTEN. Broker's license shall be displayed in broker's principal office. License of each licensee working in broker's principal office shall be displayed in that office. License of designated associate broker in charge of branch office and licenses of all licensees working that branch office shall be displayed at the branch office as registered. Certificates of license must be displayed where public may view.	Section 22, page 15.	
Section 31, page 21. Making of transactions. Provides that all money/proceeds collected in trust should be immediately turned over to broker or authorized agent. Licensee must perform services through a broker.	Section 25, page 16	Section 24, page 17	Section 23, page 16	By Rep. Rokeberg Amendment #1, adopted by HL&C, January 26, 1998
Section 32, page 21. Personal services contracts. Changes "listings" language to "personal	Section 26, page 16.	Section 25, page 17. Changes from "personal services contract" to "real estate	Section 24, page 16	By Rep. Rokeberg:

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<p>service contract" and sets forth requirements for same.</p>		<p>employment contract".</p>		<p>Amendment #2, as adopted by HL&C, January 26, 1998</p>
<p>Section 33, page 22. Record of transactions. Amends to set forth type of transactions and the various records that must be maintained and the length such records must be retained.</p>	<p>Section 27, page 17</p>	<p>Section 26, page 17. Drops reference in line 21 to "at least"</p>	<p>Section 25, page 16. DELETES reference on page 17, line 8 to "community association fees". DELETES reference on page 17, line 10 to language in L concerning "community association funds invested. . ." (see page 17, line 31, through page 18, line 3 of Version L). ADDS subsection (4), Page 17, lines 11-14 concerning community association board's directions concerning funds. ADDS, page 17, line 17 "an account required under this section;".</p>	
<p>Section 34, page 22. New section concerning record of transactions. Calls for licensees to maintain certain records for certain length of time and make such records available to the commission upon request. Defines "three-year requirement" time line.</p>	<p>Section 28, page 17</p>	<p>Section 27, page 18</p>	<p>Section 26, page 17</p>	
<p>Section 35, page 23. When</p>	<p>Section 29, page 18</p>	<p>Section 28, page 18. Changes</p>	<p>Section 27, page 18</p>	

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<p>commission or other fee is earned. Amends to include management fee or other compensation. Requires that a licensee has no right under law to enforce collection of commission or other fee unless through enforcement of terms of written personal services contract.</p>		<p>"personal services contract" to "real estate employment contract."</p>		
<p>Section 36, page 23. Signs. Amends to require that Commission approve signs and that such signs are to be registered with the Commission. Provides that if the building an office is located in has different sign requirements or limitations, the Commission shall honor those requirements.</p>	<p>Section 30, page 18. New language reflects "premises" instead of "building" to make clear that sign restrictions for premises (i.e., condo complexes) are to be honored.</p>	<p>Section 29, page 19. Rewrites language in lines 10-15 regarding restrictive sign requirements on premises to make plain that premise requirements will control.</p>	<p>Section 28, page 18</p>	
<p>Section 37, page 23. Conflict of interest. Amends and defines what a conflict of interest is. Includes such items as personal financial interest, anticipated personal interest, ownership (whole or part), represents more than one party in transaction without giving notice</p>	<p>Section 31, page 18</p>	<p>Section 30, page 19</p>	<p>Section 29, page 18</p>	<p>By Rep. Rokeberg: Amendment #2, as adopted by HL&C, January 26, 1998</p>

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required by law, receives compensation from someone other than party to contract.				
Section 38, page 24. Disclosure of agency to prospective buyers and sellers. Amends, for the most part, to change "person licensed under this chapter" or "person" to "licensee".	Section 32, page 19	Section 31, page 20. REWRITTEN. Disclosure when seller's agent at time licensee begins to provide special assistance to buyer. When buyer's agent , disclose at time presents offer from buyer . When both, disclose after written offer made between principals and then must accomplish certain things .	Section 30, page 19. Similar to Version F. Change "person's" or "person licensed under this chapter" to "licensee". Other minor language changes.	
	Section 33, page 20. Licensed Assistants. NEW SECTION. Licensee permitted to employ licensed assistants if agreement is in writing and conforms to state and federal regulations, approved by broker who employs licensee, licensee agrees to be responsible for assistant, and broker agrees to be liable for actions of assistant.	Section 32, page 21	Section 31, page 20	
Section 39, page 25. Prohibited	Section 34, page 21. Language	Section 33, page 22.	Section 32, page 21. Lines 17-	

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<p>conduct. Amends language concerning prohibited conduct. Licensee may not falsely represent to: have been awarded degree or other designation, be a member or an affiliate of a professional organization, be a member of a franchise or other business association, or be certified or endorsed as specialist. Licensee may not pay fee or commission for performance of act under this chapter to a person unless that person is licensed under this chapter. Licensee may not knowingly make, authorize, direct or aid in publication of false statement or misrepresentation concerning land or a subdivision or other real estate offered for sale, lease or rent or concerning an association manager. Violation is class A misdemeanor.</p>	<p>changes consistent with dropping of endorsement and/or specialty provisions.</p>		<p>18, reinsert "validly" on line 17 and add "as a broker" after "licensed" on line 18.</p>	
		<p>Section 34, page 23. NEW SECTION. Based on Mississippi language. Provides that person licensed may not knowingly pay any part of fee,</p>	<p>Section 33, page 23. This Section 33 also includes old Section 35 from the L version.</p>	

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		<p>commission, or other compensation to a person not licensed under this chapter, another licensee <i>except</i> through licensee's responsible broker, or another licensee knowing that the licensee intends to pay all or a portion of that received to a person not licensed. Subsection (f), lines 17-20, <i>indicates that this section does not prohibit payment by a licensee to a person licensed to perform real estate activities in another jurisdiction if the other person has assisted the licensee in performance of an act for which a license is required under this chapter.</i></p>		
<p>Section 40, page 26. Adds new subsection to prohibited conduct. Person may not use license issued to another person, give false or forged evidence to Commission in attempt to obtain license or endorsement, impersonate applicant under this chapter, knowingly use or attempt to use expired or suspended or</p>	<p>Section 35, page 22. Deletes references to endorsement.</p>	<p>Section 35, page 23.</p>	<p>Section 33, page 22, beginning with line 19.</p>	

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revoked or nonexistent license or endorsement, falsely claim to be licensed under this chapter.				
	Section 36, page 22. Adds reference to "except as provided in AS 08.88.285 (c)" (see Section 20 – bonding – page 14.)	DELETED	Same as L	
Section 41, page 27. Real estate surety fund. Adds "and fees collected under AS 08.88.091(a)" to this section. Makes other minor language changes.	DELETED	REINSERTED as Section 36, page 24.	Section 34, page 22	
Section 42, page 27. Payments by real estate licensee. Licensee must pay fee not to exceed \$125 in addition to license fee to surety fund. When fund reaches \$250,000, commission shall adjust fees so fund is maintained at not less than \$250,000	DELETED	REINSERTED as Section 37, page 24	Section 35, page 23	
Section 43, page 27. Claim for Payment. Claims must be filed on Commission form within two	DELETED	REINSERTED as Section 38, page 24	Section 36, page 23. Adds "Subject to (e) of this section," to language.	

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years. Sets out procedure for filing claims.				
			Section 37, page 25. NEW SECTION regarding (e) referred to in Section 36 above. Addresses claims regarding community association management and states that only the owners' association may file.	
Section 44, page 29. Language changes to cover new license term (real estate services license).	DELETED	REINSERTED as Section 39, page 26	Section 38, page 25	
Section 45, page 29. Licensee language changes	DELETED	REINSERTED as Section 40, page 26.	Section 39, page 25	
Section 46, page 29. Licensee language changes.	DELETED	REINSERTED as Section 41, page 26	Section 40, page 25	
Section 47, page 29. Findings and payment. Licensee language changes and other minor changes.	DELETED	REINSERTED as Section 42, page 26	Section 41, page 25	
Section 48, page 30. Real estate surety fund may be	DELETED	REINSERTED as Section 43, page 27	Section 42, page 26	

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charged cost of claim hearing. Amounts recovered by Commission shall be deposited into surety fund.				
Section 49, page 30. Payment of small claims judgment. Award shall be paid from surety fund on small claims judgment if judgment has not been satisfied by licensee responsible.	DELETED	REINSERTED as Section 44, page 27	Section 43, page 26	
Section 50, page 30. Maximum liability. Makes language changes "broker or salesman" to "real estate licensee".	DELETED	REINSERTED as Section 45, page 27	Section 44, page 26	
Section 51, page 31. Right to subrogation. Changes "Amounts subsequently realized" to "Money collected".	DELETED	REINSERTED as Section 46, page 28.	Section 45, page 27.	
Section 52, page 31. Exceptions. Adds following to exceptions provisions. This law does not apply to: (1) person licensed in another profession while performing duties authorized under the license; (2) bookkeeper performing	Section 37, page 22. In subsection (1) adds reference to "mangers or" regarding a person's own property. Reorders exceptions from version F. Major changes from version F in subsections 13-19. Among these changes:	Section 47, page 28. Changes from H: (1) insert "natural" before "person" on line 19. (3) reverts to current language concerning lawyers; (9) reworded; (11) adds "accountant" and "accounting"; (12) adds "a secretary' or	Section 46, page 27. Changes (16) to read: "a person who manages a total of four or fewer residential units for other persons;".	By Rep. Rokeberg: Amendment #7 as amended, adopted by HL&C, January 26, 1998

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<p>bookkeeping functions; (3) tradesmen or vendors performing maintenance and repair functions; (4) employee of real estate firm or property owner who delivers or accepts a real estate contract or application or a related amendment to or from another person; (5) individual assisting in real estate duties by carrying out administrative, clerical or maintenance tasks. These are in addition to those currently in law.</p>	<p>Exemptions granted to person managing four or fewer residential units, owner of unit of self-managed community association managing within that association without payment, developers during period developer controls 51% of association, resident managers, attorney in fact for relative. "Relative" means spouse, great grandparent, grandparent, parent, uncle, aunt, sibling, child, nephew, niece, grandchild, great grandchild, which are all by whole or half blood or by marriage. Not included are step relations.</p>	<p>receptionist in a real estate office who accepts rent or association fees and provides a written receipt for the rent or fees when a tenant or community association member delivers the rent or fees to the real estate office; (17) changes to: "an owner of a unit in property organized under AS 34.07 or AS 34.08 who is a member of a self-managed community association who manages the community association without remuneration other than the reimbursement of expenses."; (1) adds after "but does not include" the following: "a relative who is only related through a step relationship, such as stepbrother or the child of a stepbrother, except that "relative" includes a stepchild."</p>		
<p>Section 53, page 33. Adds to the exceptions section by adding language concerning various endorsements and describes who is exempt from licensing provisions. For</p>	<p>See Section 37, page 22.</p>	<p>Section 47, page 28.</p>	<p>See Section 46, page 27.</p>	

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<p>example, person dealing with own real property sale unless involving subdivided land, attorney in fact for two or fewer sales per year, mineral rights transactions, person managing own real property, person managing four or fewer residential units for another, resident manager, owner of unit of self-managed community association or developer of a community association during certain periods.</p>				
<p>Section 54, page 34. Definitions. Adds some clarifying language to some definitions currently in law.</p>	<p>Sections 38-40, pages 24-25. Defines "commission," "real estate," and "resident manager".</p>	<p>Sections 48-50, pages 30-31</p>	<p>Sections 47-48, pages 29-30</p>	
<p>Section 55, page 35. More definitions. Adds definition of "broker", "commercial real estate services broker", "community association management", "employed", "employed real estate services licensee", "property management", "real estate services licensee", "real estate transaction"</p>	<p>Section 41, page 25. Defines "community association management", "employed", "property management", "real estate licensee", "real estate transaction".</p>	<p>Section 51, page 31.</p>	<p>Section 50, page 30. Adds "knowingly" to definitions.</p>	<p>By Rep. Rokeberg: Amendment #6, adopted by HL&C, January 28, 1998</p>

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<p>Section 56, page 36. Amends 18.80.300(1) concerning blockbusting by changing language to reflect "real estate services" and "services licensees".</p>	<p>DELETED</p>	<p>Same as H</p>	<p>Same as H</p>	
<p>Section 57, page 36. Amends 21.66.310(b) to reflect "real estate services broker" instead of "real estate broker".</p>	<p>DELETED</p>	<p>Same as H</p>	<p>Same as H</p>	
<p>Section 58, page 37. Amends 23.20.526(a)(8) to reflect "real estate services licensee".</p>	<p>DELETED</p>	<p>Same as H</p>	<p>Same as H</p>	
<p>Section 59, page 37. Amends 34.08.600, escrow of deposits, to make "real estate broker" "real estate services broker".</p>	<p>DELETED</p>	<p>Same as H</p>	<p>Same as H</p>	
<p>Section 60, page 37. Amends 45.63.080(4) to "real estate services licensee".</p>	<p>DELETED</p>	<p>Same as H</p>	<p>Same as H</p>	
<p>Section 61, page 37. Repeals AS 08.88.091(c) and 08.88.111.</p>	<p>Section 42, page 26. Repeals AS 08.88.111 (Commission regulations) as to examinations. General ability of Commission</p>	<p>Section 52, page 32</p>	<p>Section 51, page 31</p>	

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	to adopt regulations is in 08.88.081 that is not changed by Version H.			
Section 62, page 37. Transitional licensing. Sets forth provisions for transitional licensing.	Section 43, page 26. Provides: (a) person may practice community association management without a license until one year after the effective date of Section 1 of this Act; (b) person who meets requirements of this subsection is eligible for license without completing education requirements of Section 5 if person applies by one year after effective date of Section 1 of this Act and if that person (1) demonstrates person is currently engaged as principal in practice of community association management and has passed the broker's examination, is eligible for a real estate broker license; or (2) if same as #1 but has passed the associate broker examination, is eligible for a real estate associate broker license; or (3) has passed salesman examination and currently engaged in	Section 53, page 32. Transitional provisions rewritten: (1) person may practice community association management without license under this Act until January 1, 1999 ; (2) a person qualifies for a limited license to practice community association management until January 30, 2000 if (a) applies by January 1, 1999; (b) pays fees; (c) demonstrates to commission's satisfaction that person has engaged in practice of community association management for at least 24 months before effective date of this act; and (d) meets other requirements established by Commission in regulations.	Section 52, page 31. Transitional provisions rewritten. Notwithstanding 08.88.161(6), person may practice, or negotiate a contract to practice, community association management without a license issued under AS 08.88 until January 1, 1999. See Section 7, page 6 and Section 10, page 10.	

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	community association management under supervision of principal, eligible for a real estate salesman license.			
Section 63, page 38. Other transitional provisions. Covers terms of commission members. Allows a person to be appointed to commission without having held a specific endorsement for three years during the first three years after legislation's effective date.	DELETED	Same as H	Same as H	
		Section 54, page 32. Revisor's instructions. Wherever "salesman" used, should read "salesperson".	Section 53, page 31	
Section 64, page 39. Effective dates, section 17	Section 44, page 27. Effective dates: AS 08.88.173(a) Section 12 is effective 90 days after effective date of AS 08.88.173(b), Section 12.	Section 55, page 32. Immediate effective date.	Section 54, page 31. Effective dates for 08.88.091(f) and (g), January 31, 1999. See Section 6, page 5.	
Section 65, page 39. Effective dates, various sections.	Section 45, page 27. All other sections take effect immediately.		Section 55, page 31. All other sections, except as provided in Section 54, take effect immediately.	

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				<p>Rep. Rokeberg: Conceptual Amendment: See conceptual amendment handed out January 26, 1998.</p>
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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
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Representative Norman Rokeberg

MEMORANDUM

TO: Rep. John Cowdery, Vice-Chairman
Rep. Bill Hudson
Rep. Joe Ryan
Rep. Jerry Sanders
Rep. Tom Brice
Rep. Gene Kubina
House Labor & Commerce Committee

FROM: Janet Seitz *Janet*
Rep. Rokeberg's Office

DATE: December 2, 1997

RE: House Bill 33

Representative Rokeberg is out of town; however, he asked that when the latest version of House Bill 33 was received that it be delivered to each of you.

Enclosed is work draft CSHB 33 (L&C), Version L, Lauterbach 11/24/97.

Changes from the H version, which the committee worked with during the October meetings, are:

Title: adds back in reference to real estate surety fund

Page 2, lines 19-21

House Labor & Commerce Committee Members
December 2, 1997
Page Two

Page 3, lines 7-9, Subsection (F)

Page 4, lines 11-16. Subsection (11) is a new addition to the bill.

Page 6, line 2 - introductory clause, before the comma, is new.
lines 15-31 have been changed

Page 7, lines 3-9 have been changed

Page 9, lines 8-23 have been changed. Additionally, throughout the bill, "salesman" has been replaced with "salesperson".

Page 10, lines 18-19 have been changed.

Page 11, Section 12. Amount has been lowered from \$200 to \$150

Page 12, line 6, after "additional" the words "or alternative" have been added.
lines 17-21, new language

Page 13, lines 6-10 have been changed
line 20 - reference to reciprocity dropped since that section has been deleted from this version of the bill

Page 15, Sections 19 and 20 from version H (reciprocity and bonding) have been deleted in this version. Also all real estate surety language has been reinserted in the bill. Such language starts with Section 19 on page 15.

Page 16, Section 23, rewritten.

Page 17, section 25. "Personal services contract" changed to "real estate employment contract". Corresponding changes made

House Labor & Commerce Committee Members
December 2, 1997
Page Three

throughout the bill.

Page 18, line 28, through Page 19, line 4. Changes concerning "real estate employment contract" language.

Page 18, line 10-15. The wording after "under regulations." is new.

Page 20, Section 31, has been rewritten.

Page 23, Section 34, is the Mississippi language referred to during the committee meetings in October.

Page 24, line 1, through Page 28, line 15. Real estate surety fund language from version F reinserted.

Page 28, line 26, new wording regarding lawyers.

Page 29, lines 2-16, reworded.

lines 18-19, adds reference to accountant and accounting function

lines 20-23, new subsection.

Page 30, lines 2-5 - reworded section (17)

lines 8-14, reworded section (19)

Page 31, line 9, adds "owners' association" and "AS 34.07 or".

Page 32, Sections 53, 54, and 55 are new.

LEGAL SERVICES

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

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

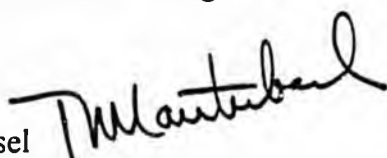
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

November 26, 1997

SUBJECT: Real Estate Licensing (Work Order No. 20-LS0197L)

TO: Representative Norman Rokeberg
Attn: Janet Seitz

FROM: Terri Lauterbach 
Legislative Counsel

Enclosed is the new work draft of CSHB 33(L&C).

The "Mississippi language" is added in sec. 34.

The changes relating to AS 34.07 are in AS 08.88.161(8), 08.88.900(17), and 08.88.990(5).

The new language relating to disclosure of agency status is in AS 08.88.396(b)(1) and (c)(bill sec. 31).

"Auction" has been restored in AS 08.88.161(bill sec. 9).

In addition to these items, I also deleted the word "natural" in the first sentence of AS 08.88.161 (bill sec. 9). It seemed to me from our conversation on Friday, that you do not wish to license corporations, only individuals. Consequently, the prohibition against practicing without a license should be directed at all persons, not just natural persons. Correct?

Please let me know if you have questions about these changes.

TML:pl
97-250.plm

Enclosure

0-LS0197L
Lauterbach
11/24/97

DRAFT

DRAFT

DRAFT

DRAFT

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

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE ROKEBERG BY REQUEST

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

12 (2) prepare questions on examinations;

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

14 (4) certify courses required under this chapter;

1 (5) approve instructors to teach courses required under this
2 chapter; and

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

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

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

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

10 (2) prepare and grade examinations;

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

14 (A) with respect to a real estate transaction

15 (i) made a substantial misrepresentation;

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

18 (iii) in the case of a real estate broker, pursued a
19 flagrant course of misrepresentation or made a false promise through
20 another [AN AGENT, ASSOCIATE REAL ESTATE BROKER, OR]
21 real estate licensee [SALESMAN];

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

24 (v) violates AS 08.88.391;

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

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

30 (D) knowingly authorizes, directs, connives at or aids in
31 publishing, distributing, or circulating a material false statement or

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

5 (E) if a real estate broker, wilfully violates AS 08.88.171(d) or
6 08.88.291;

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

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

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

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

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

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

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

1 estate business:

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

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

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

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

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

1 subsection.

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

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

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

11 (1) assist libraries and educational institutions in sponsoring studies and
12 programs: [AND]

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

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

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

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

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

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

29 (d) A person who is licensed under this chapter must complete the applicable
30 [20 HOURS OF] continuing education requirements adopted [APPROVED] by the
31 commission under its regulations before the person's license may be renewed.

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

2 (e) Except for a course described in (f)(1) or (3) of this section, in order
3 for an educational course to be recognized for credit under this section, [THE
4 COMMISSION MAY NOT APPROVE AN EDUCATION OR CONTINUING
5 EDUCATION COURSE REQUIRED UNDER THIS SECTION UNLESS THE
6 COMMISSION CERTIFIES] the course outline and [APPROVES] the instructor of the
7 course must have been approved by the commission or the commission's designee
8 before the course was [IS] conducted.

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

10 (f) The commission shall establish by regulation the educational and continuing
11 educational requirements for each type of license issued by the commission. The
12 regulations for continuing education requirements must allow the following types of
13 courses to qualify for the appropriate number of credit hours, as determined by the
14 commission:

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

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

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

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

1 * Sec. 9. AS 08.88.161 is amended to read:

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

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

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

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

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

11 (A) options in real estate; or

12 (B) options in improvements to real estate;

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

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

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

20 (8) assist in or direct the management of the affairs of a community
21 association for property organized under AS 34.07 or AS 34.08;

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

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

26 (11) [(7)] attempt or offer to do any of the things listed in this section
27 [.

28 (8) REPEALED].

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

30 **Sec. 08.88.167. Civil penalty for unlicensed or unauthorized practice.** (a)
31 In addition to penalties prescribed by any other provision of law, if a person engages

1 or offers to engage in an activity for which a license is required under AS 08.88.161
2 without being licensed or authorized to engage in the activity in accordance with the
3 provisions of this chapter, the commission may enter an order levying a civil penalty.

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

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

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

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

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

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

26 * Sec. 11. AS 08.88.171 is amended to read:

27 **Sec. 08.88.171. Entitlement to license.** (a) A natural person qualifies [IS
28 ELIGIBLE] for a real estate broker license if the person passes the [REAL ESTATE]
29 brokers examination, [IF THE PERSON] applies for a license within six months after
30 passing the [PERSON HAS TAKEN THE REAL ESTATE BROKERS] examination,
31 [IF THE PERSON] furnishes satisfactory proof of successful completion of the

1 education requirements of AS 08.88.091, [IF THE PERSON] has had at least 24
2 months of active and continuous experience as a licensed real estate salesperson
3 within the 36 months immediately preceding application for the broker license.
4 [SALESMAN, IF THE PERSON] is not under indictment for, or seven years have
5 elapsed since the person has completed a sentence imposed upon conviction of,
6 forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving
7 moral turpitude, and [IF THE PERSON] is an owner of a real estate business or
8 employed as a real estate broker by a foreign or domestic corporation, [OR A]
9 partnership, limited partnership, or limited liability company [AND IF THAT
10 CORPORATION OR PARTNERSHIP DOES NOT HAVE AN EXISTING
11 LICENSED BROKER. UNLESS THE BROKER FAILS TO PAY THE BIENNIAL
12 RENEWAL FEE OR UNLESS THE BROKER'S LICENSE IS SUSPENDED OR
13 REVOKED UNDER AS 08.88.071(a)(3), THE REAL ESTATE BROKER'S LICENSE
14 CONTINUES IN EFFECT SO LONG AS THE BROKER IS AN OWNER OF A
15 REAL ESTATE BUSINESS, OR THE BROKER IS EMPLOYED AS A REAL
16 ESTATE BROKER BY A CORPORATION OR A PARTNERSHIP]. If the broker
17 stops being an owner of a real estate business [,] or stops being employed as a real
18 estate broker by a foreign or domestic corporation, [OR] partnership, limited
19 partnership, or limited liability company, the broker's license is suspended from the
20 time the broker stops until

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

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

28 (b) A natural person qualifies [IS ELIGIBLE] for an associate real estate
29 broker license if the person passes the [REAL ESTATE] brokers examination, [IF THE
30 PERSON] applies for the [A] license within six months after passing [THE PERSON
31 HAS TAKEN] the examination, [IF THE PERSON] submits satisfactory proof of

1 successful completion of the education requirements of AS 08.88.091. [IF THE
2 PERSON] has had at least 24 months of active and continuous experience as a licensed
3 real estate salesperson within the 36 months immediately preceding application for
4 the license. [SALESMAN. IF THE PERSON] is not under indictment for, or five
5 years have elapsed since the person has completed a sentence imposed upon conviction
6 of, forgery, theft, extortion, conspiracy to defraud creditors, or any other felony
7 involving moral turpitude, and [IF THE PERSON] is employed by a licensed real
8 estate broker as an associate real estate broker. Unless the associate broker fails to
9 renew the license [PAY THE BIENNIAL RENEWAL FEE] or unless the associate
10 broker's license is suspended or revoked [UNDER AS 08.88.071(a)(3)], the associate
11 [REAL ESTATE] broker's license continues in effect as [SO] long as the associate
12 broker is employed by a licensed real estate broker as an associate broker. If the
13 associate broker stops being employed by a licensed real estate broker, the associate
14 broker's license is suspended from the time the associate broker stops until

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

17 (2) the associate broker becomes an owner of a real estate business or
18 is employed as a real estate broker by a foreign or domestic corporation,
19 partnership, limited partnership, or limited liability company, in which case the
20 associate broker's [ASSOCIATE REAL ESTATE BROKER] license shall he [IS]
21 returned to the commission by the associate broker, and the commission shall issue
22 [ISSUES] the licensee [ASSOCIATE BROKER] a broker's [REAL ESTATE
23 BROKER] license.

24 (c) A natural person qualifies [IS ELIGIBLE] for a real estate salesperson
25 [SALESMAN] license if the person passes the real estate salesperson [SALESMAN]
26 examination, [IF THE PERSON] applies for the [A] license within six months after
27 passing [THE PERSON HAS TAKEN] the examination, [IF THE PERSON] submits
28 satisfactory proof of successful completion of the education requirements of
29 AS 08.88.091, [IF THE PERSON] is at least 19 years old, [IF THE PERSON] is not
30 under indictment for forgery, theft, extortion, conspiracy to defraud creditors, or any
31 other felony involving moral turpitude, or, if convicted of such an offense, the person

1 has completed the sentence imposed upon conviction, and [IF THE PERSON] is
2 employed by a real estate broker. Unless the salesperson [SALESMAN] fails to
3 renew the license [PAY THE BIENNIAL RENEWAL FEE] or unless the real estate
4 salesperson's [SALESMAN'S] license is suspended or revoked under
5 AS 08.88.071(a)(3), a real estate salesperson's [SALESMAN'S] license continues in
6 effect as [SO] long as the salesperson [SALESMAN] is employed as a salesperson
7 [SALESMAN] by a licensed real estate broker. If the salesperson [SALESMAN]
8 stops being employed as a real estate salesperson [SALESMAN], the real estate
9 salesperson's [SALESMAN'S] license is suspended from the time the salesperson
10 [SALESMAN] stops until the salesperson [SALESMAN] again is employed as a real
11 estate salesperson [SALESMAN] by a licensed real estate broker.

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

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

16 **Sec. 08.88.173. Insurance requirement.** (a) A real estate licensee shall, as
17 a condition of obtaining, retaining, or renewing a real estate license, carry errors and
18 omissions insurance to cover all activities for which the person is licensed, or is to be
19 licensed, under this chapter. The insurance policy must include coverage of activities
20 that occurred before the insurance was obtained, including activities that were covered
21 by another insurance policy. If the commission offers an insurance policy under this
22 section for an annual premium of \$150 or less, a licensee under this chapter shall carry
23 the insurance and submit proof of coverage to the commission at the time of initial
24 licensure and on subsequent license renewal dates unless the licensee obtains
25 alternative insurance under (c) of this section, in which case the licensee shall submit
26 proof of that insurance to the commission at the time of initial licensure and on
27 subsequent license renewal dates.

28 (b) The commission shall provide to each licensee the opportunity to purchase
29 the insurance required under this section by contracting with an insurance provider for
30 a guaranty of coverage for each licensee. The contract under this subsection is subject
31 to competitive sealed bidding requirements under AS 36.30. The commission shall

1 determine the terms and conditions of coverage required under this section, including
2 the minimum limits of coverage and the permissible deductibles and exemptions. A
3 policy obtained under this subsection shall be available to every real estate licensee
4 with no right of cancellation of any particular licensee's coverage on the part of the
5 insurance provider except for nonpayment of premium or loss of license.

6 (c) A licensee may obtain additional or alternative errors and omissions
7 insurance that exceeds the minimum requirements established by the commission in
8 regulations. A licensee who obtains insurance coverage under this subsection shall file
9 with the commission a certificate of the additional or alternative coverage.

10 (d) If the commission is unable to obtain coverage for all licensees who choose
11 to participate in the commission's insurance program at a cost to each licensee of \$150
12 a year or less, the commission shall report that fact to the governor. During the time
13 that insurance is unavailable through the commission as described in this subsection,
14 the provisions of (a) - (c) of this section may not be enforced, but the commission
15 shall continue to attempt to contract for an insurance guaranty that will offer coverage
16 for \$150 a year or less.

17 (e) The dollar amount relating to annual premiums in (a) and (d) of this
18 section is adjusted annually on July 1 to reflect the change in the consumer price index
19 for the previous calendar year for all urban consumers, United States City Average, as
20 determined by the Bureau of Labor Statistics, United States Department of Labor. The
21 base year for the computation under this subsection is 1998.

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

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

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

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

4 (1) the commission or its designee shall review the examination and
5 approve its contents:

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

11 * Sec. 15. AS 08.88.201 is amended to read:

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

15 * Sec. 16. AS 08.88.221 is amended to read:

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

19 (1) examination;

20 (2) [RECIPROCITY;

21 (3)] initial license;

22 (3) [(4)] renewal of an active license;

23 (4) [(5)] renewal of an inactive license;

24 (5) [(6)] amending or transferring a license;

25 (6) [(7)] publications offered by the commission;

26 (7) courses and [(8)] seminars offered by the commission;

27 (8) reinstatement of a lapsed license;

28 (9) changes to registered office information;

29 (10) course certification and recertification; and

30 (11) instructor approval and renewal of approval.

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

1 **Sec. 08.88.241. Reinstatement of lapsed license.** (a) A person whose real
2 estate license has lapsed 60 days or less is eligible for reinstatement of the license by
3 providing the required application, licensing fees, applicable late fees, and proof of
4 continuing education as required by AS 08.88.091 for the licensing period during
5 which the license was inactive or lapsed.

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

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

14 * **Sec. 18.** AS 08.88.251 is amended to read:

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

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

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

1 ACTIVE. THE PERSON'S ACTIVE STATUS BEGINS ON THE DATE STATED.
2 THE COMMISSION SHALL SEND THE PERSON A LICENSE CERTIFICATE.]
3 A person is eligible for change from an inactive to an active status under this
4 subsection only [WITHOUT EXAMINATION] if the person has [NOT] been in
5 inactive status for less [MORE] than 24 months [TWO YEARS]. If the person has
6 been in inactive status for 24 months or for more than 24 months [TWO YEARS],
7 the person is required to meet the requirements for initial licensure in order to be
8 licensed under this chapter again [TAKE AN EXAMINATION].

9 * Sec. 19. AS 08.88.281 is amended to read:

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

14 * Sec. 20. AS 08.88.291 is amended to read:

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

29 * Sec. 21. AS 08.88.301 is amended to read:

30 Sec. 08.88.301. Change of location. Before [IF] a real estate broker changes
31 the location of the broker's principal office or of a branch office, the broker shall

1 [IMMEDIATELY] notify the commission of the new address and any other office
2 changes on a form provided by the commission and pay the applicable fees.

3 * Sec. 22. AS 08.88.311 is amended to read:

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

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

11 * Sec. 23. AS 08.88.321 is repealed and reenacted to read:

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

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

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

21 (d) Certificates displayed under this section must be displayed where they are
22 available for public clients and customers to verify the current active status of licensees
23 working in the office.

24 * Sec. 24. AS 08.88.331 is amended to read:

25 **Sec. 08.88.331. Making of transactions.** An employed [A] real estate
26 licensee [SALESMAN OR ASSOCIATE REAL ESTATE BROKER] may perform
27 activities for which a real estate license is required [MAKE A REAL ESTATE
28 TRANSACTION] only through the real estate broker who employs the licensee [REAL
29 ESTATE SALESMAN OR ASSOCIATE REAL ESTATE BROKER]. All money or
30 other proceeds collected in trust and related to a real estate transaction [ON
31 BEHALF OF THE BROKER] shall immediately be turned over to the broker or the

1 broker's authorized agent. [ALL TRANSACTIONS IN REAL ESTATE BY A REAL
2 ESTATE SALESMAN OR ASSOCIATE REAL ESTATE BROKER SHALL BE
3 PROCESSED THROUGH THE REAL ESTATE SALESMAN'S OR THE
4 ASSOCIATE REAL ESTATE BROKER'S EMPLOYING REAL ESTATE
5 BROKER'S OFFICE. WHETHER THE TRANSACTIONS ARE FOR THE REAL
6 ESTATE SALESMAN'S OR ASSOCIATE REAL ESTATE BROKER'S OWN USE
7 OR THE USE OF A CLIENT.]

8 * Sec. 25. AS 08.88.341 is amended to read:

9 **Sec. 08.88.341. Real estate employment contracts [LISTINGS].** All real
10 estate employment contracts [LISTINGS] must be in writing and must be signed by
11 the broker [SELLER] or employed licensee [BY AN AGENT] of the broker and by
12 the client or an authorized representative of the client for whose benefit the real
13 estate licensee will act [SELLER]. All real estate employment contracts
14 [EXCLUSIVE LISTINGS] must have a definite expiration date that may be renewed
15 or extended only by a written agreement signed by the client or the client's
16 authorized representative.

17 * Sec. 26. AS 08.88.351 is amended to read:

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

19 (1) keep a complete record, [OF ALL REAL ESTATE
20 TRANSACTIONS MADE BY THE BROKER OR EMPLOYEES OF THE BROKER]
21 for [AT LEAST] three years, of all real estate transactions in which the broker or
22 employed licensees of the broker engaged;

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

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

1 invested outside of the trust account must be subject to the control only of the
2 board of directors of the association unless the board or association, by written
3 agreement, allows the broker to exercise some control over invested funds:

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

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

12 * Sec. 27. AS 08.88.351 is amended by adding new subsections to read:

13 (b) A real estate licensee

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

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

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

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

24 (1) a listing agreement ends;

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

26 (3) a management contract ends; or

27 (4) another contractual or fiduciary obligation ends.

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

29 Sec. 08.88.361. When commission or other fee is earned. An obligation to
30 pay a [A] commission, management fee, or other compensation to a real estate
31 broker must be based on [IS EARNED WHEN THE REAL ESTATE BROKER

1 FULFILLS] the terms of a written real estate employment [PERSONAL SERVICES]
2 contract. Other than through enforcement of the terms of a written real estate
3 employment contract, a licensee has no right under law to enforce collection of
4 a commission or other fee for a service that requires a real estate license.

5 * Sec. 29. AS 08.88.381 is amended to read:

6 Sec. 08.88.381. Signs. A [LICENSED] real estate broker shall maintain a sign
7 at each of the [REAL ESTATE] broker's registered real estate offices [,] prominently
8 showing the name of the real estate [BROKER'S] business as registered with the
9 commission. The required size, content, and location of signs under this section
10 may be determined by the commission under regulations. The regulations must
11 allow signs in offices located on premises with more restrictive sign requirements
12 than would otherwise be applicable under the commission's regulations to be
13 considered to be in compliance with the regulations if the signs meet the
14 requirements of the premises and the licensee submits a copy of the sign
15 requirements of the premises to the commission.

16 * Sec. 30. AS 08.88.391 is amended to read:

17 Sec. 08.88.391. Conflict of interest. A [LICENSED] real estate licensee
18 [BROKER, ASSOCIATE REAL ESTATE BROKER, OR REAL ESTATE
19 SALESMAN] who has a personal financial interest or other conflict of interest
20 relating to [IN] a real estate transaction shall, at the time of initial substantive
21 contact with the principals or agents of the principals, disclose that interest in
22 writing to the principals and agents of the principals [EVERY PERSON] involved
23 in the transaction. In this section, "conflict of interest" is when a licensee

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

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

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

31 (4) represents more than one party in a transaction without giving

1 disclosure notification as required by law:

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

4 * Sec. 31. AS 08.88.396 is amended to read:

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

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

8 (1) disclose [IN WRITING] the licensee's [PERSON'S] agency
9 relationship with the seller to each prospective buyer at the time that the licensee
10 [PERSON] begins to provide specific assistance to locate or acquire real estate for the
11 buyer [, AND OBTAIN FROM EACH PROSPECTIVE BUYER A SIGNED
12 ACKNOWLEDGEMENT THAT THE BUYER IS AWARE OF THE AGENCY
13 RELATIONSHIP BETWEEN THE PERSON LICENSED UNDER THIS CHAPTER
14 AND THE SELLER]; and

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

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

20 (1) disclose, in writing, the licensee's [PERSON'S] relationship with
21 the buyer to a prospective seller of real estate, or to the seller's agent, at the time that
22 the licensee presents an offer from the buyer to [OF THE INITIAL CONTACT
23 BETWEEN THE LICENSEE PERSON LICENSED UNDER THIS CHAPTER AND]
24 the prospective seller or the seller's agent [, AND CONFIRM THE RELATIONSHIP
25 IN WRITING AS SOON AS POSSIBLE AFTER THE INITIAL CONTACT]; and

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

29 (3) IF THE PROSPECTIVE SELLER HAS AN UNEXPIRED
30 EXCLUSIVE LISTING CONTRACT FOR A PROPERTY, PRESENT AN OFFER TO
31 PURCHASE THAT PROPERTY TO THE SELLER'S AGENT; AND

1 (4) DISCLOSE IN WRITING TO ALL PARTIES TO A
2 TRANSACTION WHEN THE PERSON'S COMPENSATION AS AGENT FOR THE
3 BUYER IS TO BE PAID BY ANYONE OTHER THAN THE BUYER BEING
4 REPRESENTED BY THE PERSON].

5 (c) A person licensed under this chapter, when acting [MAY NOT ACT] as an
6 agent for both a prospective seller and a prospective buyer of real estate, shall
7 promptly, after a written offer is made between the principals,

8 (1) inform the principals of the dual agency status and obtain their
9 written consent to the dual representation;

10 (2) disclose all material facts that could affect, either beneficially
11 or adversely, a principal's decision about the transaction;

12 (3) obtain written authorization from the principal before disclosing
13 confidential information regarding the principal's motivation to buy or sell or
14 regarding the price or terms of the transaction; and

15 (4) work diligently to consummate the transaction without
16 representing the interest of one principal to the detriment of another principal
17 [UNLESS THE PERSON INFORMS BOTH THE SELLER AND THE BUYER AND
18 OBTAINS WRITTEN CONSENT TO THE JOINT AGENCY FROM BOTH].

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

25 * Sec. 32. AS 08.88 is amended by adding a new section to read:

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

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

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

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

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

8 * Sec. 33. AS 08.88.401 is amended to read:

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

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

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

13 or

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

15 (b) A person licensed under this chapter

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

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

31 (c) A person licensed under this chapter may not knowingly make, authorize,

1 direct, or aid in the publication of a false statement or misrepresentation concerning
2 land or a subdivision or other real estate offered for sale, [OR] lease, or rent or
3 concerning an association being managed.

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

6 * Sec. 34. AS 08.88.401 is amended by adding new subsections to read:

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

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

12 (2) another licensee, except through the licensee's responsible broker;
13 or

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

17 (f) The prohibition of (e)(1) of this section does not prohibit payments by a
18 licensee to a person licensed to perform real estate activities in another jurisdiction if
19 the other person has assisted the licensee in the performance of an act for which a
20 license is required by this chapter.

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

22 (e) A person may not

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

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

27 (3) impersonate an applicant under this chapter;

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

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

1 * Sec. 36. AS 08.88.450 is amended to read:

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

10 * Sec. 37. AS 08.88.455 is amended to read:

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

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

22 * Sec. 38. AS 08.88.460 is amended to read:

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

1 under penalty of unsworn falsification [,] and must include the following:

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

5 (2) the amount of the alleged loss:

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

7 (4) the date upon which the alleged loss was discovered:

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

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

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

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

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

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

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

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

6 * Sec. 39. AS 08.88.465(b) is amended to read:

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

13 * Sec. 40. AS 08.88.465(c) is amended to read:

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

20 * Sec. 41. AS 08.88.465(d) is amended to read:

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

27 * Sec. 42. AS 08.88.470 is amended to read:

28 **Sec. 08.88.470. Findings and payment.** At the conclusion of the
29 commission's consideration of a claim made under AS 08.88.460, it shall make written
30 findings and conclusions on the evidence. If the commission finds that the claimant
31 has suffered a loss in a real estate transaction as a result of fraud, misrepresentation,

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

7 * Sec. 43. AS 08.88.472(a) is amended to read:

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

16 * Sec. 44. AS 08.88.474 is amended to read:

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

29 * Sec. 45. AS 08.88.475 is amended to read:

30 Sec. 08.88.475. **Maximum liability.** (a) The maximum liability of the real
31 estate surety fund may not exceed \$50,000 for any one real estate licensee [BROKER

1 OR SALESMAN].

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

9 * Sec. 46. AS 08.88.490 is amended to read:

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

16 * Sec. 47. AS 08.88.900 is amended to read:

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

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

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

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

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

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

30 (6) a person acting under court order;

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

1 (8) a person dealing in mineral rights transactions:

2 (9) an [A DOMESTIC OR FOREIGN CORPORATION, A GENERAL
3 OR LIMITED PARTNERSHIP, OR A PARTNER OR REGULAR] employee of a
4 domestic or foreign corporation, [OR A] general or limited partnership, or limited
5 liability company when performing an act described in AS 08.88.161 incidental to
6 [IN] the regular course of business [, OR AS AN INCIDENT TO, THE
7 MANAGEMENT, SALE, OR OTHER DISPOSITION OF REAL ESTATE OWNED
8 BY THE CORPORATION OR PARTNERSHIP]; the exemption under [PROVIDED
9 IN] this paragraph does not apply to a person employed by a foreign or domestic
10 corporation, partnership, limited partnership, or limited liability company who
11 performs an act described in AS 08.88.161 [, UNLESS ALLOWED FOR
12 UNLICENSED PERSONS UNDER AS 08.88.165.] either

13 (A) as a vocation; or

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

17 (10) a resident manager;

18 (11) a bookkeeper or accountant performing bookkeeping or
19 accounting functions;

20 (12) a secretary or receptionist in a real estate office who accepts
21 rent or association fees and provides a written receipt for the rent or fees when
22 a tenant or community association member delivers the rent or fees to the real
23 estate office;

24 (13) tradesmen or vendors of services performing maintenance and
25 repair functions;

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

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

31 (16) a person who manages a total of four or fewer residential units

1 for another:

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

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

8 (19) an attorney in fact who, for a relative, acts under a power of
9 attorney that authorizes the consummation of a specific real estate transaction;

10 in this paragraph, "relative" means a spouse or a great grandparent,
11 grandparent, parent, uncle, aunt, sibling, child, nephew, niece, grandchild, or
12 great grandchild by the whole or half blood or by marriage but does not include

13 a relative who is only related through a step relationship, such as a stepbrother
14 or the child of a stepbrother, except that "relative" includes a stepchild [OF

15 RENTED REAL ESTATE IF THE RESIDENT MANAGER'S DUTIES ARE
16 LIMITED TO THE NEGOTIATION OF LEASES AND RENTAL AGREEMENTS
17 AND THE COLLECTION OF RENT FOR THE USE OF THE REAL ESTATE AND
18 IF THE RESIDENT MANAGER IS

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

20 OR

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

23 * Sec. 48. AS 08.88.990(1) is amended to read:

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

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

27 (3) "real estate" means an interest or estate in land, corporeal or
28 incorporeal, except that it does not include a unit in a hotel, motel, boarding house,
29 rooming house, or other transient lodging facility, or a unit in a warehouse, mini-
30 storage facility, or other facility the function of which is limited to warehousing
31 purposes:

1 * Sec. 50. AS 08.88.990(4) is amended to read:

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

7 * Sec. 51. AS 08.88.990 is amended by adding new paragraphs to read:

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

16 (6) "employed" includes being an independent contractor with an
17 employer:

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

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

25 (9) "real estate transaction"

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

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