

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 86/2

9265 HOUSE LABOR & COMMERCE

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

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

9 \* Sec. 52. AS 08.88.111 is repealed.

10 \* Sec. 53. TRANSITIONAL PROVISIONS. (a) Notwithstanding AS 08.88.161(7), a  
11 person may practice, or negotiate a contract to practice, community association management  
12 without a license issued under AS 08.88 until January 1, 1999.

13 (b) Notwithstanding other provisions of this Act, a natural person qualifies for a  
14 limited license to practice community association management until January 30, 2002, if the  
15 person

16 (1) applies by January 1, 1999;

17 (2) pays the required fees;

18 (3) demonstrates to the commission's satisfaction that the person has engaged  
19 in the practice of community association management, as defined in AS 08.88.990, as  
20 amended by this Act, for at least 24 months before the effective date of this Act; and

21 (4) meets other requirements that may be established by the Real Estate  
22 Commission in its regulations.

23 \* Sec. 54. REVISOR'S INSTRUCTION. Wherever in the Alaska Statutes and the Alaska  
24 Administrative Code the term "salesman" is used in a context relating to real estate salesmen  
25 licensed under AS 08.88, it shall be read as "salesperson" when to do so would be consistent  
26 with changes made by this Act. Under AS 01.05.031, the revisor of statutes shall implement  
27 this section in the statutes, and, under AS 44.62.125, the regulations attorney shall implement  
28 this section in the administrative code.

29 \* Sec. 55. This Act takes effect immediately under AS 01.10.070(c).

# ALASKA STATE LEGISLATURE

## House of Representatives

COMMITTEE ASSIGNMENTS:

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



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

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

### Representative Norman Rokeberg

#### JUST THE FAX

Date: 25 NOV 1997

TO: Joe Hayes Rep Brice's office

FAX: 451-9293 Telephone: \_\_\_\_\_

FROM: Representative Norman Rokeberg

FAX: (907) 258-2916 Telephone: (907) 258-8191

Number of Pages: 35 (including this page)

Comments: 10/13/97 Tape Log = 8 pages

10/23/97 " " = 9 pages

Handouts 10/23/97 Cook memo = 2 ✓

Mississippi language = 1 page

10/23/97 Britt memo = 13 pages

10/23/97 Dyrud amendment = 1 page

JAN 114  
p. 211-end

*Have a Nice Day*

Nov-25-97 10:24 AM

---

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
19074519293	Error on page 24	23	Sent	Nov-25	10:08A	00:16:32	002586030012553

---

HP OfficeJet  
Personal Printer/Fax/Copier

Fax Log Report

Nov-25-97 10:38 AM

---

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
190745633469	OK	14	Sent	Nov-25	10:30A	00:07:52	002586030022

---

2.0.0

HP OfficeJet  
Personal Printer/Fax/Copier

Fax Log Report

Nov-25-97 10:29 AM

---

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
19074519293	No answer	00	Sent	Nov-25	10:29A	00:00:00	002080000000

---

HP OfficeJet  
Personal Printer/Fax/Copier

Fax Log Report

Nov-25-97 10:27 AM

---

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
19074519293	No answer	00	Sent	Nov-25	10:27A	00:00:00	002080000000

---

7.0.0

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE ASSIGNMENTS:

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



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

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

## Representative Norman Rokeberg

November 20, 1997

Dale Tyree, President  
Anchorage Board of Realtors, Inc.  
741 Sesame Street, Suite 100  
Anchorage, AK 99503

FAX TO: (907) 563-8476  
Hard Copy Follows via Mail

Dear Dale:

Unfortunately, I will be out of town and will be unable to attend the Anchorage Board's forum on December 1st. Therefore, I would appreciate it if you could relay to our friends and colleagues some of the following information:

•**Affinity Groups:** It is my understanding that the Assistant Attorneys General working on the legal opinion which I requested from Attorney General Bruce Bothelo believe that a statutory change will be necessary to prohibit any rebates to affinity group members. While the legislative legal counsel and other private attorneys I have discussed this matter with disagree with that opinion, the Alaska Real Estate Commission (AREC) is bound to following the Attorney General's advice. As a result, I ask that everyone in the real estate community attend and/or submit written testimony to the AREC at its December 4th meeting

Dale Tyree, President  
November 20, 1997  
Page 2

regarding the newly revised language on compensation disclosure.

It is my intention to put the Mississippi language or its equivalent into House Bill 33; however, the AREC has a duty to enforce its regulations until the effective date of a new statute.

•**Agency:** The existing statute on principal/agent relationship requires that a licensee have that relationship stipulated in a written document prior to showing property. As a practical matter much of the time this does not take place (and for good reason). It is my belief that a law that will not be observed because it is impractical should be revised to reflect common practice but at the same time protect the consumer. At this point my approach to this problem will be to limit the duty of a real estate licensee to the point of initial financial contracts unless a better solution can be suggested. Your thoughts are appreciated.

•**Referral Fees (relocation companies):** A number of brokers have asked that I consider limiting the amount of referral fees that can be paid by one broker to another or to a licensed relocation company to 25% of one side of the transaction or a total of 125 basis points. In addition even a relocation company would have to be licensed to do business in the state of Alaska. However, interoffice, interstate referrals or referral fees paid to a licensed independent broker would still be allowed but subject to the 25% limitation. Is the provision worth the controversy? I would like to have everyone's opinion on this.

•**House Bill 33 (real estate licensing):** I will forward to you the most current draft of House Bill 33 as soon as I receive it. I believe substantial progress has been made on the bill and am confident that most areas of controversy have been dealt with except for those mentioned about together with the issue of E&O insurance and perhaps some items relating to continuing education. I will work very hard with everyone to overcome any problems with this legislation as soon as possible because it is my

Dale Tyree, President  
November 20, 1997  
Page 3

desire to move and pass the bill as quickly as possible after returning to Juneau in January.

*It is absolutely essential that everybody get behind House Bill 33 -- support it and lobby for it -- if we are to accomplish what you want particularly as it relates to affinity groups. Your help in educating my legislative colleagues about the seriousness of this problem is needed.*

Sincerely,

A handwritten signature in black ink, appearing to read 'Norman Rokeberg', with a long horizontal flourish extending to the right.

Norman Rokeberg  
State Representative  
House District 11



Official Business

# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

Representative Norman Rokeberg, Chairman  
House Labor and Commerce Committee  
716 West Fourth Avenue  
Anchorage, AK 99501  
Telephone: (907) 258-8191; FAX: (907) 258-2910

State Capitol  
Juneau, AK 99801-1182

October 28, 1997

Bruce Botelho, Attorney General  
Department of Law  
PO Box 110300  
Juneau, AK 99811-0300

FAX: (907) 465-2075 (HARD COPY FOLLOWS VIA MAIL)

Dear Attorney General Botelho:

During its October 23, 1997, meeting regarding real estate licensing, the House Labor and Commerce Committee discussed 12 AAC 64.130(4) as adopted by the Real Estate Commission and AS 08.88.161(5).

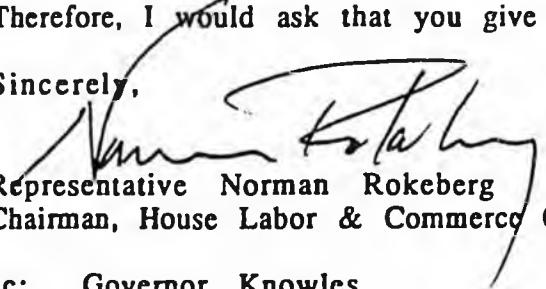
This regulation was intended to inform the public of all parties to a real estate transaction and is specifically directed at home relocation companies and firms that may wish to give a "rebate" back to members of an affinity group.

A controversy has developed because the present regulations regarding referral fees and rebates seem to imply that affinity group rebates and/or relocation company referral fees are allowed under Alaska statute. I recently received a legal opinion from our Legislative Counsel that it was prohibited but the Real Estate Commission's understanding is that it is allowed as long as the payment is disclosed.

Resolution of this conflict is urgent as the Real Estate Commission and members of the real estate community are struggling with the interpretation and implementation of this new regulation. Moreover, large national corporations such as COSTCO are presently interviewing real estate brokers for participation in affinity group "rebates", which I believe are prohibited by law and, at the least, would have an extraordinarily negative impact on the commerce of the state of Alaska.

Therefore, I would ask that you give this matter your earliest attention.

Sincerely,

  
Representative Norman Rokeberg  
Chairman, House Labor & Commerce Committee

cc: Governor Knowles  
Real Estate Commission

**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**

October 23, 1997

**SUBJECT:** Regulation of the Real Estate Commission regarding disclosure of certain rebates (Work Order No. 20-LS1195)

**TO:** Representative Norman Rokeberg, Chair  
House Labor and Commerce Committee  
Attn: Janet Seitz

**FROM:** Tamara Brandt Cook *TBC*  
Director

You have asked whether 12 AAC 64.130(4) adopted by the Real Estate Commission conflicts with AS 08.88.161(5). In my opinion it does not. AS 08.88.161(5) provides:

Unless licensed as a real estate broker, associate real estate broker, or real estate salesman, a natural person, foreign or domestic corporation, or partnership, or limited partnership, or other entity may not... (5) assist in or direct the procuring of prospective buyers or the negotiation of a transaction which results or is calculated to result in the sale, exchange, rent, lease, auction, or purchase of real estate. . .

The regulation at issue does not grant authority to pay an unlicensed person or receive compensation from an unlicensed person in connection with a real estate transaction. Rather, it is a disclosure requirement. 12 AAC 64.130(4) provides:

The following acts, in addition to those specified elsewhere in this chapter, are grounds for revocation or suspension of a license: . . . (4) any payment or receipt of any rebate or compensation from any licensee or any unlicensed person, entity, or association in a real estate transaction without disclosing the specific names and amounts, in writing, to the principals of that transaction at the time that the following documents are signed:

- (A) the listing contract;
- (B) the receipt and agreement to purchase;
- (C) the settlement statement.

The regulation makes the failure to disclose certain payments by or to persons other than the principals of a real estate transaction independent grounds for the revocation or suspension

Representative Norman Rokcberg, Chair

October 23, 1997

Page 2

of a license regardless of whether the payments are, themselves, permitted under the law. Obviously, the disclosure of payments could, in some circumstances, reveal a violation of AS 08.88.401(b) which is a class A misdemeanor. That subsection states:

A person

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

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

TBC:glc  
97-383.glc

# The downside of affinity deals

*Who's in control? Who really benefits? Who takes the heat if it fails?*

*by Susan Heck-French*



Free offers of frequent flyer points, discounts on products or services, or dollars to spend at wholesale clubs are becoming increasingly common in real estate, apparently with little thought toward how they impact the consumer and others in the deal.

Let's take a look at several examples and determine who is benefitting: the consumer, the broker, or the third-party company?

## *Example A*

A typical sale goes like this: A consumer wants to sell her house and a neighbor refers her to a realty company. The broker charges a 6% fee, but the seller feels it will be worth it, knowing she will get the attention and service she needs. The broker sets the process rolling, and the sale of her home lives up to the quality reputation the office has worked to maintain.

In the end, the consumer receives a \$97,000 contract, just slightly less than the asking price of \$100,000. The broker receives \$5,820 for services. The consumer nets out \$91,220.

## *Example B*

Now let's change the scenario: Another consumer also has a house to sell, but she sees an ad that says she'll get \$440 "club dollars" just for listing her house through a particular wholesale shoppers club.

The club, of course, doesn't list the house. It has an arrangement with a real estate company to handle the sale.

The seller has all sorts of things she wants to buy for her next home, so she is really excited about receiving \$440 in "fun" money. In fact, she is so excited, she forgets to get details about the real estate firm. It seems like a bonus without any effort on her part.

Is she getting a good deal?

First, is she really getting the \$440? The answer is "no". Since the \$440 will be considered income, she will pay \$88 in income tax, assuming her family is in the 20 percent tax bracket. Also, since wholesale club dollars are not retail dollars, she is not getting their full value. The club really benefits because this is

a deductible expense, and the dollars are worth less to them.

The consumer, in this case, nets a total of \$91,660 (\$91,220 from the house, plus the \$440 in taxable dollars).

But let's not forget the broker. The broker usually charges six percent, but in this case the broker pays the club a 30 percent referral fee — meaning that since the club is providing the vehicle to obtain the listing of the house, it gets about a third of the commission. Therefore, when the broker sells the house for \$97,000, and receives a \$5,820 commission, \$1,940 goes to the club. In hard dollars, the broker receives \$3,880 for the sale — a four percent commission.

## *Example C*

Another home owner wants to sell a \$100,000 house, but elects to bypass the club promotion and go back to the broker she's used before. They agree to a five percent commission. Taking the same house with a \$97,000 selling price, the broker makes \$4,750 in commission. The seller nets out \$92,250. By negotiating, this homeowner gets a better value than the affinity deals could offer, and the broker also benefits.

## *Example D*

Our final \$100,000-home-selling consumer sees an ad that offers 20,000 Frequent Flyer Points on an airline if she lists her house with a particular brokerage firm. That's enough points for a free, cross-country ticket to visit her family

during the holidays. The house sells quickly, and she nets a total of \$91,720 (91,220 + \$500 value for the ticket).

She's elated, until she reads the fine print. First, she can't use her ticket over the holidays because of the "blackout period," and second, the airline just reduced the cross-country fare to \$350.

In reality, the value of the offer was not as positive as she thought. She also noted that her 20,000 Frequent Flyer Points kept reducing in value. By the time she used them, she had to add 10,000 points to receive a free domestic ticket. This consumer feels deceived by both the broker and the airline. She tells her family and friends about the disappointment.

Again in this case, the broker receives \$3,880 (\$5,820 minus \$1,940) in commission — a net of 4 percent. But also, the broker has an unhappy consumer who will neither repeat nor refer to them, plus negative word-of-mouth.

### *Conclusion*

There are some accurate reflections of reality in these scenarios: Consumers often buy into offers without reviewing the details. If they expect one thing and get another, they will spread the word.

Consumers also will suffer in the long run, because payments to third party companies reduce the funds available for the broker to serve the consumer.

Ultimately, if the consumer feels

he or she needs some kind of bottom-line relief, there has always been an opportunity to negotiate fees directly with the broker — and accommodation there is far more likely to be lucrative for both parties than working third party angles.

For brokers, the realities are more stark.

They lose more control over their business, because the consumer is buying into an offer that is delivered by the third party.

The broker becomes vulnerable to the third party, and even more so as these kinds of deals proliferate. What's to prevent the third party from increasing its 30 percent to 40 percent and then to 50 percent?

In a somewhat more abstract negative, it may be a mistake for brokers to rely too heavily on another business to promote the broker's interest. Even if the broker took

half the referral fee percentage and used it to promote his own business, he might be better off than sending it to a third party.

A broker with \$40 million in annual sales would receive \$2.4 million in commissions. If one-third of that was being re-distributed as referral fees, that's \$800,000 paid out to third parties. Just half of that — \$400,000 — would be a large advertising budget for a small business.

Finally, brokers will see an erosion of profits, because they are working from a smaller piece of the pie — yet will be expected to provide the same level of service.

*Susan Heck-French is a freelance writer in St. Louis. This article is reprinted with permission from ALQ Real Estate Intelligence Report, Winter 1997 Vol. 8, No. 1. 1-800-299-9961.*

---

## *Frequent Flyers (continued from page 1)*

expire before they are used — in fact, more than half never get used.

"No wonder the airlines love it," he said. "They've taken your money, and there's a good chance they'll never have to deliver a ticket. Even if they do have to deliver a ticket, it's an 'unsold' ticket on a plane that's going to that destination anyway."

One important part of the frequent flyer story is that the airlines get to decide when and how frequent flyer seats are available on an aircraft.

If 20 seats are unsold, the airline can declare those seats eligible for frequent flyers. But if the flight is sold out, it doesn't have to accommodate any frequent flyers.

# 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

October 23, 1997

**SUBJECT:** Regulation of the Real Estate Commission regarding disclosure of certain rebates (Work Order No. 20-LS1195)

**TO:** Representative Norman Rokeberg, Chair  
House Labor and Commerce Committee  
Attn: Janet Seitz

**FROM:** Tamara Brandt Cook *TBC*  
Director

You have asked whether 12 AAC 64.130(4) adopted by the Real Estate Commission conflicts with AS 08.88.161(5). In my opinion it does not. AS 08.88.161(5) provides:

Unless licensed as a real estate broker, associate real estate broker, or real estate salesman, a natural person, foreign or domestic corporation, or partnership, or limited partnership, or other entity may not... (5) assist in or direct the procuring of prospective buyers or the negotiation of a transaction which results or is calculated to result in the sale, exchange, rent, lease, auction, or purchase of real estate. . .

The regulation at issue does not grant authority to pay an unlicensed person or receive compensation from an unlicensed person in connection with a real estate transaction. Rather, it is a disclosure requirement. 12 AAC 64.130(4) provides:

The following acts, in addition to those specified elsewhere in this chapter, are grounds for revocation or suspension of a license: . . . (4) any payment or receipt of any rebate or compensation from any licensee or any unlicensed person, entity, or association in a real estate transaction without disclosing the specific names and amounts, in writing, to the principals of that transaction at the time that the following documents are signed:

- (A) the listing contract;
- (B) the receipt and agreement to purchase;
- (C) the settlement statement.

The regulation makes the failure to disclose certain payments by or to persons other than the principals of a real estate transaction independent grounds for the revocation or suspension

Representative Norman Rokcberg, Chair

October 23, 1997

Page 2

of a license regardless of whether the payments are, themselves, permitted under the law. Obviously, the disclosure of payments could, in some circumstances, reveal a violation of AS 08.88.401(b) which is a class A misdemeanor. That subsection states:

A person

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

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

TBC:glc  
97-383.glc

# MISSISSIPPI

their existing homes and the purchase of new homes. PHH collects a referral fee from the real estate broker at the closing of the sale or purchase of a member's home.

In order to gain more clients, PHH offers programs of cash rebates and/or cash discounts in the form of frequent flyer miles to consumers who use its services. The rebates or discounts are provided to the consumers from the referral fee PHH receives after the sale of the consumer's property. Thus, in effect, the consumer receives a portion of the real estate fee from the sale of the property. The affinity groups, such as USAA Relocation Services, Inc. and American Airlines/Sabre, notify their members through direct mail or advertising of the cash rebate/discount program offered by PHH.

On August 13, 1996, the Mississippi Real Estate Commission ("MREC"), the Defendant in this action, adopted an amendment to MREC Rule IV.A.5.<sup>1</sup> See Exhibit A to Defendant's Motion. The amended rule provides as follows:

No licensee shall pay any part of a fee, commission, or other compensation received by such licensee in buying, selling, exchanging, leasing, auctioning, or renting any real estate except to another licensee through the licensee's responsible broker.

No licensee shall knowingly pay a commission or other compensation to a licensed person knowing that licensee will in turn pay a portion or all of that which is received to a person who does not hold a real estate license.

---

<sup>1</sup>According to PHH, the amendment became effective approximately 30 days later on September 9, 1996.

FAX TRANSMITTAL

STATE OF ALASKA  
DEPARTMENT OF  
COMMERCE  
AND ECONOMIC  
DEVELOPMENT

WILLIAM L. HENSLEY  
COMMISSIONER



DIVISION OF  
OCCUPATIONAL  
LICENSING  
3601 C STREET, SUITE 722  
ANCHORAGE, AK 99503-5986  
TELEPHONE: (907) 269-8160  
FAX: (907) 269-8156

TO: Rep. Norm Rokeberg  
Janet Seitz

DATE: 11/17/97

Re: HB 33

FAX NO.: 258-2916

FROM: Perry McGilvary, Alaska Real Estate Comm.

NUMBER OF PAGES INCLUDING COVER: 6

HARD COPY TO FOLLOW? YES  NO

RE: Norm/Janet:

Here is the E&O information from  
Frontier Insurance. There are two  
carriers in the market. The other is also  
sending info. Will forward when we  
get it. Please let me know if there's

anything. If fax does not transmit properly, please call  
else we send. (907) 269-8160 immediately

Thanks.

*Perry*

The information contained in this FAX is CONFIDENTIAL and/or PRIVILEGED. This FAX is intended to be reviewed by the individual named above. If the reader of this transmittal page is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of this FAX or the information contained herein, is prohibited. If you received this FAX in error, please immediately notify the sender by telephone, and return this FAX to the sender at the above address. Thank you.



November 17, 1997

Ms. Terry McGilivray  
Division of Occupational Licensing  
Real Estate Commission  
3601 'C' Street, Suite 722  
Anchorage, Alaska 99503

Dear Terry,

It was a pleasure speaking to you today. We are please that the State of Alaska is studying the concept of mandatory errors and omissions coverage for real estate licensees and offer our assistance in providing any information that may help you in this endeavor.

**Mandated Programs.** Frontier currently provides coverage and administers real estate E&O claims for the mandated group policy contracts in seven of the ten states which currently have mandated programs. These are Kentucky, Tennessee, Iowa, Mississippi, Rhode Island, South Dakota and Idaho. We also have provided the mandated group coverage in Louisiana in the past.

Enclosed is a chart which lists pertinent information regarding the mandated program in each of our seven state programs. This chart lists the Per Claim Limit, Aggregate Limit, Deductible Amount, Policy Period, Premium Amount and Who Collects the Premium. I am enclosing a copy of a recent draft policy form for use in a mandated state.

When comparing the coverages provided by the different state programs, keep in mind that the mandated carrier responds to detailed bid specifications set forth by the state. The state has the capability of determining which coverages it desires for its licensees. For example, if you want to include coverage for all property management by real estate licensees (even though a real estate license is not required for residential property managers), then the bid specifications must comply with the specifications established. Of course, you do not want to require coverage so broad that no insurance carriers are willing to provide it at a reasonable price.

**Premiums.** Mandatory insurance programs are designed to bring down the cost of errors and omissions insurance for the individual. That means lower premiums and lower deductibles for the mandated states. Our annual premium per licensee for a policy featuring limits of \$100,000 per claim ranges for \$59 per year for a \$1,000 loss only deductible in Tennessee to \$103 with no deductible in Iowa.

Of course, the deductible can be an effective risk reduction tool. If there is a deductible, there is more of an incentive for licensees to try to avoid claims. Utilization of a deductible also helps keep the premium cost down.

**Individual Coverage Is Provided.** Mandatory errors and omissions insurance programs alleviate many problems relating to individual coverage. Since insurance is generally available to firms only, individuals who change firms may find themselves unprotected by their new firm's policy. Most firm policies only cover claims against members of the firm for acts of the licensee while employed by that firm.

Ms. Terry McGillivray  
November 17, 1997  
Page Two

If an employee of Firm A is sued for an act which occurred while a licensee was working for Firm B, Firm A's insurance may not cover this act. Depending on the type of insurance that each firm has (with respect to prior acts coverage and extended reporting periods) and individual may find himself/herself without coverage. Also, since some firms do not carry insurance, an individual working for that firm has no ability to obtain insurance for himself/herself. Mandatory insurance programs are designed to provide the individual with coverage that will follow him or her when the individual changes real estate firms.

When comparing individual coverage with firm coverage, it is important to note that the limits for the individual coverage apply to each licensee. For example, individual limits of \$100,000 per claim / \$500,000 aggregate would provide those limits separately for each of the licensees. If there were three people at a real estate firm involved in a claim, then each of the licensees would have \$100,000 available for a total of up to \$300,000 for all three licensees. A firm policy with \$100,000 per claim / \$300,000 aggregate limits would apply this limit to all members of the firm so all three licensees would share the \$100,000 limit for the claim.

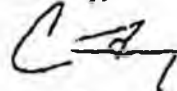
*Coverage For Prior Acts Is Available.* In the current mandated states where we do business, the policies provide coverage on a claims-made basis, covering claims which are first made during the individual policy period. These policies provide that a claim is made when the insured first receives a written demand for money or services, or receives a lawsuit or arbitration proceeding naming the insured. These policies provide that claims made during the licensee's policy period resulting from prior acts are covered if the licensee has been insured continuously from the date of the alleged error to the effective date of the coverage. There is no additional charge for prior acts protection for those with continuous coverage in the current mandated states.

If you want to include prior acts coverage, for those licensees who have had continuous coverage, you should include this provision in the bid specifications.

*The Consumer Is Protected.* The purchase of a home is the largest investment most consumers make in a lifetime. An undisclosed problem or misrepresentation will likely have an adverse effect on that consumer and, if the licensee who caused the damages is uninsured, it is likely that the consumer will be without recourse. Mandatory insurance legislation protects consumers from honest mistakes and omissions by licensees.

I hope this information is helpful to you. Since we have assisted other states in the successful implementation of mandated programs, we may have information which could benefit you during your planning stages. We would be happy to assist you in any way. Please let us know if you have any questions regarding the existing mandatory programs. We look forward to talking with you soon.

Sincerely,



Cindy Rice Grissom  
Second Vice President

CRG/ikb

Enclosures



## WHY MANDATORY ERRORS AND OMISSIONS INSURANCE IS IMPORTANT TO THE REAL ESTATE LICENSEE

### 1. Coverage Is More Affordable.

Errors and omissions insurance in the voluntary market is costly for real estate licensees to obtain. Premiums often range from \$300 to \$500 per licensee, depending on the type of real estate activities performed and is generally only sold only on a firm basis. The entire firm must purchase a policy and individual licensees do not have the option to obtain insurance. It is simply not affordable for many brokers to purchase insurance for the entire firm at these prices. Many insurance companies have minimum premiums for firm policies. The minimum premium amount may be \$1,000 - \$2,000. Many small companies may not be able to afford this minimum premium and therefore, must go without any insurance coverage. Mandatory insurance programs are designed to bring down the cost of errors and omissions insurance for the individual. That means lower premiums and lower deductibles.

### 2. Better Coverage Is Provided.

Mandatory errors and omissions insurance programs alleviate many problems relating to individual coverage. Since insurance is generally available to firms only, individuals who change firms may find themselves unprotected by their new firm's policy. Most firm policies only cover claims against members of the firm for acts of the licensee while employed by that firm. If an employee of Firm A is sued for an act which occurred while a licensee was working for Firm B, Firm A's insurance may not cover this act. Depending on the type of insurance that each firm has (with respect to prior acts coverage and extended reporting periods) an individual may find himself/herself without coverage. Also, since some firms do not carry insurance, an individual working for that firm has no ability to obtain insurance for himself/herself. Mandatory insurance programs are designed to provide the individual with coverage that will follow him/her even if the individual changes firms.

### 3. Coverage For Prior Acts Is Available.

Most errors and omissions policies provide coverage on a claims-made basis, covering claims which are first made during the individual policy period. A claim is made when the insured first receives a written demand for money or services or is in receipt of a lawsuit or arbitration proceeding naming the insured. Claims made during your policy period resulting from prior acts are covered if you have been insured continuously from the date of the alleged error to the effective date of your coverage.

### 4. The Consumer Is Protected.

The purchase of a home is the largest investment most consumers make in a lifetime. An undisclosed problem or misrepresentation will likely have an adverse effect on that consumer and, if the Realtor who caused the damages is uninsured, it is likely that the consumer will be without recourse. Mandatory insurance legislation protects consumer from honest mistakes and omissions by licensees.

*This information is provided to you by Frontier Insurance Company, administrator for Bankers Multiple Line Insurance Company. A leader in mandated Errors and Omissions insurance for real estate licensees, Frontier is the provider for seven of the ten states currently using mandated programs in the country. Frontier is domiciled in New York and licensed in 50 states. The E&O division is based in Louisville, Kentucky and operated by an experienced staff of policy and claims specialists. Frontier is rated A+ by Standard and Poors for claims-paying ability and rated A- by A.M. Best. Please call our toll-free line (800) 637-7319 if you have questions or would like additional information regarding our mandated programs.*



**RESPONSES TO FREQUENTLY ASKED QUESTIONS REGARDING  
A MANDATORY PROGRAM FOR ERRORS AND OMISSIONS INSURANCE  
FOR REAL ESTATE LICENSEES**

1. *What are the reasons which cause a state to consider a mandatory errors and omissions program?*

There are three problems which mandatory errors and omissions insurance is designed to address. The first reason for implementing mandatory insurance legislation is to protect consumers from errors and omissions of real estate licensees. The purchase of one's home is the largest investment most consumers make in a lifetime. An undisclosed problem or misrepresentation will likely have an adverse effect on that consumer and if the realtor who caused the damages is uninsured, it is likely that the consumer will be without recourse.

The second reason for mandatory errors and omissions insurance is that this coverage is costly for real estate licensees to obtain. Premiums may range from \$300 to \$500 per licensee, depending on the type of real estate activities performed. Insurance on the open market is generally only sold on a firm basis. The entire firm must purchase a policy and individual licensees do not have the option to obtain insurance. It is simply not affordable for many brokers to pay for insurance for the entire firm at these prices. Many insurance companies have minimum premiums for firm policies. The minimum premium amount may be \$1,000 - \$2,000. Many small companies may not be able to afford this minimum premium and therefore, must go without any insurance coverage.

A third problem that mandatory errors and omissions insurance may alleviate relates to individual coverage. Since insurance is generally available to firms only, individuals who change firms may find themselves unprotected by their firm's policy. Most firm policies only cover claims against members of the firm for acts of the licensee while employed by that firm. If an employee of Firm A is sued for an act which occurred while a licensee was working for Firm B, Firm A's insurance will not cover this act. Depending on the type of insurance that each firm has (with respect to prior acts coverage and extended reporting periods) an individual may find himself/herself without coverage. Also, since some firms do not carry insurance, an individual working for that firm has no option available to obtain insurance for himself/herself. Mandatory real estate errors and omissions insurance is designed to address these problems.

2. *What might a proposed policy include? What about the minimum limits of liability, deductible amounts and anticipated costs (for residential and commercial practitioners)?*

The typical mandated policy has \$100,000 coverage per occurrence, per insured licensee. The deductible amounts vary. Several mandated policies offer zero deductible for legal expenses and \$1,000 deductible for claims loss (judgments or settlements). Some policies offer a \$1,000 combined deductible. Some offer a \$1,000 deductible for legal expenses and \$2,500 for claims loss. The deductible amount is usually determined by the Real Estate Commission and bid upon by interested insurance carriers. The prices in mandated states vary from \$64 to \$103. Most states include a "cap" of \$100 to \$125 per licensee as the maximum premium for such coverage in the legislation.

3. *How is the program administered? What are the projected costs?*

The premiums for the group plan may be collected by the Real Estate Commission along with the license fees, or the insurer can collect the premium and send a list or computer diskette containing the names of all licensees who have paid the required premium to the Real Estate Commission to determine compliance. Licensees who opt to obtain their own insurance will send in a certificate of coverage to the Real Estate Commission with their license fees.

Since the Real Estate Commission already collects the license fee, the additional steps to verify coverage are minimal and should not create a distinguishable increase in man hours or cost. A survey of other Real Estate Commissions could verify this statement.

4. *What are the consequences if the real estate licensee fails to carry the required coverage?*

The legislation in mandated states typically provides that a licensee may not renew his/her license without purchasing the group plan or providing evidence of other insurance coverage which meets the minimum statutory requirements. Failure to carry the required coverage would mean a licensee would be unable to obtain his/her license or would lose his/her license until the required coverage is obtained.

5. *Most states have a recovery fund for claims against real estate licensees, shouldn't this protect consumers wronged by licensees?*

The recovery fund is designed to protect consumers from fraud by licensees. Errors and omissions insurance is designed to protect consumers from honest mistakes and omissions by licensees.

The additional burden on the recovery fund, from including claims other than fraud, could wipe out funds available to consumers for fraud claims. Fraud claims are not eligible for coverage under any insurance policy. The recovery fund was established to cover claims for which no other means of recovery exist. Insurance is a relatively inexpensive means of protecting against honest mistakes of real estate licensees.

Also, the utilization of recovery fund monies for negligence claims would basically turn the Real Estate Commission into another tribunal and claimants would bring actions to the Commission instead of going to court.

*This information is provided to you by Frontier Insurance Company, administrator for Bankers Multiple Line Insurance Company. A leader in mandated Errors and Omissions insurance for real estate licensees, Frontier is the provider for six of the ten states currently using mandated programs in the country. Frontier is domiciled in New York and licensed in 50 states. The E&O division is based in Louisville, Kentucky and operated by an experienced staff of policy and claims specialists. Frontier is rated A+ by Standard and Poors for claims-paying ability and rated A- by A.M. Best. Please call our toll-free line (800) 637-7319 if you have questions or would like additional information regarding our mandated programs.*

**FRONTIER PRICING FOR MANDATED STATES  
1997**

	<u>Limits/Aggregate</u>	<u>Price (Dates)</u>	<u>Deductible (Loss/Legal)</u>
Idaho	\$100,000/\$500,000	\$194 (10/1/96 - 10/1/98) (2 year premium)	\$1,000 / Zero
Iowa	\$100,000/\$100,000	\$103 (1995 - 1997)	Zero Deductible
Kentucky	\$100,000/No Aggregate	\$ 69 (4/1/95 - 4/1/98)	Zero Deductible
Mississippi	\$100,000/\$500,000	\$ 61 (10/1/97 -10/1/98)	\$1,000 Combined
Rhode Island	\$100,000/No Aggregate	\$148 (4/30/92-4/30/98) (2 year premium)	\$2,500 / \$1,000
South Dakota	\$100,000/\$500,000	\$ 80 (1/1/96 - 1/1/98)	\$1,000 / \$ 500
Tennessee	\$100,000/No Aggregate	\$118 (1/1/97 -1/1/99) (2 year premium)	\$1,000 / Zero

# ALASKA STATE LEGISLATURE

## House of Representatives

**COMMITTEE ASSIGNMENTS:**

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



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

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

### Representative Norman Rokeberg

#### JUST THE FAX

Date: 10/8/97

TO: see below

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

FROM: Representative Norman Rokeberg *15hulog*

FAX: (907) 258-2916 Telephone: (907) 258-8191

Number of Pages: 2 (including this page)

*House Labor & Commerce*

- Comments:**
- |                                      |                                     |
|--------------------------------------|-------------------------------------|
| <u>Rep Brice 451-9293 ✓</u>          | <u>Comm Shively 269-8918 -</u>      |
| <u>Rep Bowdery 258-8727 ✓</u>        | <u>Bob Motznik 344-1759 ✓</u>       |
| <u>Rep Davis 283-3075 ✓</u>          | <u>Nico Bus 465-2102 ✓</u>          |
| <u>Rep Hudson 465-2273 ✓</u>         | <u>Sharon Young 269-8912 ✓</u>      |
| <u>Rep Kubina 835-2097 ✓</u>         | <u>Cate Reme 278-9300 ✓</u>         |
| <u>Rep Ryan 258-8722 ✓</u>           | <u>Daveed Schwartz 276-8554 ✓</u>   |
| <u>Rep Sanders 258-3602</u>          | <u>Chrystal Smith 465-2075 ✓</u>    |
| <u>Suzie Lowell 465-5334 ✓</u>       | <u>Helen Beisme 345-1294 (ph) ✓</u> |
| <u>House Records 465-2267 ✓</u>      | <u>Judy Beeman 345-7655 (ph) ✓</u>  |
| <u>AAA Teleconferencing 465-2864</u> | <u>Jenny Weiser 265-2141 ✓</u>      |
| <u>FAI LIO 456-3346 ✓</u>            | <u>David Barrison 277-3451 -</u>    |
| <u>JUN LIO</u>                       | <u>Art Peterson 586-3777 -</u>      |
| <u>MAFSU LIO 376-4180 ✓</u>          | <u>Jenny Kurtz 258-6051 ✓</u>       |
| <u>Kenai 283-3075 ✓</u>              | <u>Melody Little 263-2597 ✓</u>     |
| <u>Valdez 835-2111 ✓</u>             |                                     |

TO:

- ✓ Grayce Oakley, Real Estate Commission, FAX: (907) 269-8196
- ✓ Dea Turner, Alaska Association of Realtors, FAX: (907) 561-1779
- ✓ Sandy Forst, Anchorage Board of Realtors, FAX: (907) 563-8476
- ✓ Juneau Realtors, c/o Jim Wakefield, FAX: (907) 789-7038
- ✓ Kenai Realtors, c/o David Feeken, FAX: (907) 283-5388
- ✓ Randy Boyd, FAX: (907) 562-3550
- ✓ Don Hilligas, FAX: (907) 272-4146
- ✓ Greg Gunderson, FAX: (907) 762-3189
- ✓ Chris Stephens, FAX: (907) 561-8929
- ✓ William McNall, Esq., FAX: (907) 279-8527
- ✓ Bernd Hoffman, FAX: (907) 561-2151
- ✓ Dale Price, FAX: (907) 333-8194
- ✓ BOMA, FAX: (907) 345-7184
- ✓ Randy Souser, FAX: (907) 265-3497
- ✓ Mark Rowley, FAX: (907) 258-9300
- ✓ Kristan Tanner, FAX: (907) 376-6515
- ✓ Marsha Jackson, FAX: (907) 279-3765
- ✓ Carol Meyers, FAX: (907) 373-3628
- ✓ Mike Layton, (907) 562-6276
- ✓ Ben Marsh, (907) 276-8801
- ✓ Larry Koch, (907) 279-6862
- ✓ Stephen Vlahovich, (907) 276-5696
- ✓ Anna Johns, (907) 776-5815
- ✓ Al Romaszewski, (907) 696-0214
- ✓ Shyamadcvva Dandapani, (907) 561-8929
- ✓ PeggyAnn McConnochie, (907) 586-4491
- ✓ JoAnna Littan, (907) 274-9616
- ✓ R. Eric Dyrud, (907) 276-5696
- ✓ Wiley Brooks, (907) 272-4821
- ✓ Bob Baer, (907) 274-9616
- ✓ Ron Johnson, (907) 283-8103
- ✓ Scott Connelly, (907) 235-4031
- ✓ Terry Yager, (907) 235-4031
- ✓ Greg McNeil, (907) 279-6862
- ✓ Carol Jensen, (907) 376-5471
- ✓ Mark Korting, (907) 276-4429
- ✓ Randy Souser, (907) 265-3497
- ✓ Michael Martin, (907) 265-3497
- ✓ Shane Osowski, (907) 278-7001
- ✓ Doug Lamphere, (907) 563-9135
- ✓ Jess Holliday, (907) 562-0699
- ✓ Debra Britt, (907) 562-3200

David Burrison

**National Conference of Commissioners on Uniform State Laws**  
676 North St. Clair Street, Suite 1700, Chicago, IL 60611 • 312/915-0105 • FAX 312/915-0187

John M. McCabe  
Legislative Director/  
Legal Counsel

## MEMO

To: Arthur H. Peterson  
Deborah E. Behr  
From: John M. McCabe *J.M.C.*  
Subject: Amendments to F.B. 178, UCC Article 5  
Date: April 29, 1997

Jim Barnes, the letter of credit expert at Baker and MacKenzie, agrees with me that the proposed amendments are a serious problem. If adopted, he asserts that nobody would use Alaska law for letters of credit. Let me amplify concerns a little bit in this memo:

1. Amendment to Page 5, line 2. The effect of this amendment is to bring so-called perpetual letters of credit back. There is universal abhorrence of perpetual letters of credit. The rule of five year termination, no variance by agreement is the sensible rule. The substituted section, 45.05.106(c) makes no sense, either.
2. Section 5, line 14. These are unnecessary title changes.
3. Page 5, line 16. This amendment throws out the possibility of non-document letters of credit, which defeats one of the principal grounds for revised Article 5. In addition, the amended requirements make no sense. Why the signature of a beneficiary, since the letter is issued by an issuer? Why the signature of the issuer, and then two signatures if the issuer is a bank? Jim Barnes comment was that this provision is an invitation to forgery, but its real problem is that it makes no sense whatsoever.
4. Page 5, line 16. It is unclear what this provision intends? Enforced arbitration? What is the relationship to 5-111 on remedies? There is no reasonable answer to any reasonable question about this amendment.
5. Page 5, line 29 through page 6, line 2. This amendment deletes rather core principles of letter of credit law that are not controversial in-so-far as can be ascertained. They outline those things that can be addressed by agreement. In addition, striking page 6, lines 3 through 6 contradicts the first proposed amendment on Page 5, line 2.
6. Page 7, lines 7 through 14. This amendment substantially changes the rules for honor of a presentation under a letter of credit. The deleted language is the international standard under the

Arthur H. Peterson  
Page 2  
April 29, 1997

Uniform Customs and Practices (UCP) 500. The standard proposed in the amendment would mean nobody would issue a letter of credit under Alaska law.

7. Page 11, all amendments from line 10 through 20. This set of amendments totally scrambles the concept of transfer of a letter of credit. In addition, it conflicts with Section 45.05.114, which deals with assignment of proceeds. Transfer and assignment are totally different concepts, and scrambling them simply scrambles the accepted law. Again, nobody will do letters of credit in Alaska if these amendments are adopted.

8. Page 11, line 22 following "(a)". This amendment makes no sense. It puts apples together with oranges, and has no rational meaning.

9. Page 12, line 3. Again the confusion about a transfer of a letter of credit. A transfer jeopardizes the issuer, not the beneficiary. It is inappropriate to list the beneficiary in the provision.

Oct-08-97 04:03 PM

Automatic Log

*lat 10*

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
2698196	OK	01/01	Sent	Oct-08	03:25P	00:00:43	002525030022
5611779	OK	01/01	Sent	Oct-08	03:26P	00:00:43	002525030022
5638476	OK	01/01	Sent	Oct-08	03:27P	00:00:54	002024030020
19077897038	OK	01/01	Sent	Oct-08	03:28P	00:00:43	002425030022
19072835388	OK	01/01	Sent	Oct-08	03:36P	00:01:02	002024230020
5623550	OK	01/01	Sent	Oct-08	03:37P	00:00:57	002524030022
2724146	OK	01/01	Sent	Oct-08	03:30P	00:01:01	002124230020
19077623189	Busy	00/01	Sent	Oct-08	04:03P	00:00:00	002020000000
5618929	OK	01/01	Sent	Oct-08	03:32P	00:00:36	002526030022
2798527	OK	01/01	Sent	Oct-08	03:33P	00:00:36	002526030022

*see last page sent*

Oct-08-97 03:47 PM

Automatic Log

*2nd 10*

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
5612151	OK	01/01	Sent	Oct-08	03:46P	00:00:35	002526030022
3338194	OK	01/01	Sent	Oct-08	03:35P	00:00:36	002426030022
3457184	OK	01/01	Sent	Oct-08	03:36P	00:00:48	002125230020
2653497	OK	01/01	Sent	Oct-08	03:38P	00:00:35	002526030022
2589300	OK	01/01	Sent	Oct-08	03:39P	00:00:35	002526030022
19073766515	OK	01/01	Sent	Oct-08	03:40P	00:00:36	002526030022
2733765	OK	01/01	Sent	Oct-08	03:41P	00:00:35	002526030022
19073733628	OK	01/01	Sent	Oct-08	03:41P	00:01:01	002124230020
5626276	OK	01/01	Sent	Oct-08	03:43P	00:01:03	002125430020
2768801	OK	01/01	Sent	Oct-08	03:44P	00:00:36	002526030022

Oct-08-97 04:05 PM

Automatic Log

*3rd 10*

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
2796862	OK	01/01	Sent	Oct-08	03:53P	00:00:36	002526030022
2765696	OK	01/01	Sent	Oct-08	03:54P	00:01:02	002024230020
19077765815	OK	01/01	Sent	Oct-08	03:55P	00:01:01	002124230020
6960214	OK	01/01	Sent	Oct-08	03:57P	00:00:49	002125230020
5618929	OK	01/01	Sent	Oct-08	03:58P	00:00:36	002526030022
19075864491	OK	01/01	Sent	Oct-08	03:59P	00:01:01	002124230020
2749616	OK	01/01	Sent	Oct-08	04:01P	00:00:44	002525030022
2765696	OK	01/01	Sent	Oct-08	04:02P	00:01:02	002024230020
2724821	OK	01/01	Sent	Oct-08	04:03P	00:00:36	002526030022
2749616	OK	01/01	Sent	Oct-08	04:04P	00:00:44	002525030022

HP OfficeJet  
Personal Printer/Fax/Copier

Fax Log Report

Oct-08-97 04:11 PM

---

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
7623189	OK	01	Sent	Oct-08	04:11P	00:00:50	002185230020

---

7.00

TO:

- ✓ Grayce Oakley, Real Estate Commission, FAX: (907) 269-8196
- ✓ Dea Turner, Alaska Association of Realtors, FAX: (907) 561-1779
- ✓ Sandy Forest, Anchorage Board of Realtors, FAX: (907) 563-8476
- ✓ Juneau Realtors, c/o Jim Wakefield, FAX: (907) 789-7038
- ✓ Kenai Realtors, c/o David Feeken, FAX: (907) 283-5388
- ✓ Randy Boyd, FAX: (907) 562-3550
- ✓ Don Hilligas, FAX: (907) 272-4146
- ✓ Greg Gunderson, FAX: (907) 762-3189
- ✓ Chris Stephens, FAX: (907) 561-8929
- ✓ William McNall, Esq., FAX: (907) 279-8527
- ✓ Bernd Hoffman, FAX: (907) 561-2151
- ✓ Dale Price, FAX: (907) 333-8194
- ✓ BOMA, FAX: (907) 345-7184
- ✓ Randy Souser, FAX: (907) 265-3497
- ✓ Mark Rowley, FAX: (907) 258-9300
- ✓ Kristan Tanner, FAX: (907) 376-6515
- ✓ Marsha Jackson, FAX: (907) 279-3765
- ✓ Carol Meyers, FAX: (907) 373-3628
- ✓ Mike Layton, (907) 562-6276
- ✓ Ben Marsh, (907) 276-8801
- ✓ Larry Koch, (907) 279-6862
- ✓ Stephen Vlahovich, (907) 276-5696
- ✓ Anna Johns, (907) 776-5815
- ✓ Al Romaszewski, (907) 696-0214
- ✓ Shyamadeva Dandapani, (907) 561-8929
- ✓ PeggyAnn McConnochie, (907) 586-4491
- ✓ JoAnna Litten, (907) 274-9616
- ✓ R. Eric Dyrud, (907) 276-5696
- ✓ Wiley Brooks, (907) 272-4821
- ✓ Bob Baer, (907) 274-9616
- ✓ Ron Johnson, (907) 283-8103
- ✓ Scott Connelly, (907) 235-4031
- ✓ Terry Yager, (907) 235-4031
- ✓ Greg McNeil, (907) 279-6862
- ✓ Carol Jensen, (907) 376-5471
- ✓ Mark Korting, (907) 276-4429
- ✓ Randy Souser, (907) 265-3497
- ✓ Michael Martin, (907) 265-3497
- ✓ Shane Osowski, (907) 278-7001
- ✓ Doug Lamphere, (907) 563-9135
- ✓ Jess Holliday, (907) 562-0699
- ✓ Debra Britt, (907) 562-3200

ALASKA STATE LEGISLATURE  
House of Representatives

COMMITTEE ASSIGNMENTS:

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



INTERIM:  
718 WEST 4TH AVENUE, SUITE 640  
ANCHORAGE, AK 99581  
PHONE: (907) 258-8181  
FAX: (907) 258-2916

SESSION:  
STATE CAPITOL  
JUNEAU, AK 99801-1182  
PHONE: (907) 485-4868  
FAX: (907) 485-2040

Representative Norman Rokeberg

JUST THE FAX

Date: 10/8/97

TO: Norm

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

FROM: Representative Norman Rokeberg

FAX: (907) 258-2916 Telephone: (907) 258-8191

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

Comments: Please do the Westside Pulse  
article tonight so it can be faxed and typed  
in the morning. I have an electric cardigan  
at Providence at 1:00 pm I will be back after so  
if you do bright pad fax I can type & send it  
in the morning. Attached is the list of  
people the committee announcement was sent to today,  
for HB 33. All committee members Shirley  
lets were faxed the revised  
notice.

Have a Nice Day

HP OfficeJet  
Personal Printer/Fax/Copier

Fax Log Report

Oct-08-97 06:12 PM

---

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
2487309	OK	05	Sent	Oct-08	06:09P	00:02:19	002586030022

---

7.0.0

Oct-08-97 05:42 PM

---

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
2487309	No answer	00	Sent	Oct-08	05:42P	00:00:00	002080000000

---

Oct-08-97 05:40 PM

---

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
2487309	No answer	00	Sent	Oct-08	05:40P	00:00:00	002080000000

---

Oct-08-97 04:56 PM

---

Automatic Log

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
2698918	OK	01/01	Sent	Oct-08	04:43P	00:00:34	002526030022
3441759	OK	01/01	Sent	Oct-08	04:49P	00:00:44	002525030022
19074652102	OK	01/01	Sent	Oct-08	04:44P	00:00:35	002526030022
2698912	OK	01/01	Sent	Oct-08	04:45P	00:00:34	002526030022
2768554	OK	01/01	Sent	Oct-08	04:46P	00:00:35	002526030022
19074652075	OK	01/01	Sent	Oct-08	04:55P	00:00:35	002526030022

FROM: Representative Norman Rokeberg, Chairman  
House Labor & Commerce Committee

RE: House Bill 33 hearing (Real Estate Licensing)

Please be advised that House Bill 33 will be heard by the House Labor & Commerce Committee as follows:

**Monday, October 13, 1997, 1:00-4:00 p.m.,**  
Anchorage Legislative Information Office, 716 West Fourth Avenue, #220,  
Anchorage, Alaska.

~~Thursday~~  
**Wednesday, October 23, 1997, 2:00-5:00**  
**p.m.,** Anchorage Legislative Information Office, 716 West Fourth Avenue,  
#220, Anchorage, Alaska.

The hearings will be teleconferenced to locations outside of Anchorage and testimony will be taken from those sites. Testimony will be limited to a maximum of ten minutes. Extended comments should be put in writing and received by Rep. Rokeberg by October 6, 1997. This information needs to be distributed to committee members living outside of Anchorage. Check with your local Legislative Information Office for any changes.

A new WORK DRAFT version of the bill has been prepared and is available at your local Legislative Information Office.

Questions regarding the hearings should be directed to Shirley Armstrong, Committee Aide.



# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

1

Official Business

### MEMORANDUM


State Capitol  
Juneau, AK 99801-1182

TO: House Labor & Commerce Committee Members

FROM: Rep. Norman Rokeberg  
Chairman, House Labor & Commerce Committee

DATE: October 23, 1997

RE: **PROPOSED CHANGES, QUESTIONS AND COMMENTS  
TO DRAFT CSHB 33 version H**



For your convenience, I have combined all the various requests for amendment to Version H which have been received in my office. The page and line references below are to Version H.

For your additional assistance, I have indicated in the "SOURCE" line who requested the change, and date (if known).

**1. Page 2, line 18:** substitute "a licensee" for "an agent"

SOURCE: Real Estate Commission Work Session Minutes, 15 October 1997, page 1 (DRAFT).

**2. Page 3, line 6:** Concerning "specialty": If it is to be illegal for a licensee to claim to hold a "specialty", is one prohibited from saying one specializes in "new construction sales," "first-time buyers," "luxury home marketing," etc. even if the claim is factual. These are not certificates issued by professional groups, just facts about the nature of an agent's book of business.

SOURCE: Niel Thomas, CCIM, CRS, Associate Broker, Fortune Properties.

**3. Page 4, line 9 and Page 7, line 18.** Civil fines. Would civil fines only be applicable to unlicensed activity? If the Commission is to be given the authority to fine people for more than that, this provision will spark debate.

SOURCE: Niel Thomas, CCIM, CRS, Associate Broker, Fortune Properties.

**4. Page 5, line 3:** Course for the "general public". The Commission is already being criticized for spending surety fund money on things that go beyond what many believe the thrust of the fund is supposed to be. If the Commission is now to be giving courses to the "general public," this will further dilute the Commission's mandate to protect the public by supervising activities that require a license. Arguably this gives the Commission [authority] to give a course to FSBO's.

SOURCE: Niel Thomas, CCIM, CRS, Associate Broker, Fortune Properties.

**5. Page 6, line 8:** Need alternative language that allows for a streamlined approval process for designation courses, prepared and offered by national organizations within the real estate industry, and providing for specific organizations to be identified in regulations to allow for more expedient updating. (Oakley to work on draft language).

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, page 2 (DRAFT).

SUGGESTED LANGUAGE: (1) courses that are developed by national organizations, which shall be identified in regulations, and provided the courses are delivered by nationally certified instructors, and required to earn professional designations in specialized areas of licensed real estate practice [SPONSORED BY THE NATIONAL ASSOCIATION OF REALTORS, THE BUILDING OWNERS AND MANAGERS ASSOCIATION, OR OTHER RECOGNIZED NATIONAL ORGANIZATIONS];

(2) technology courses directly related to real estate practice and [APPROVED BY THE COMMISSION FOR COMPUTER TRAINING THAT IS SPECIALLY] designed to enhance the skills and performance of a licensed real estate practitioner [TO BE USEFUL FOR PERSONS WHO ARE PERFORMING REAL ESTATE ACTIVITIES]; and

(3) courses [FROM, OR SPONSORED BY,] offered by an accredited college or university as part of a real estate curriculum and available for a minimum of 1 quarter hour or 1/2 semester hour of academic credit [; A COURSE UNDER THIS PARAGRAPH MUST BE A COURSE THAT IS AT LEAST ONE-HALF SEMESTER IN LENGTH].

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

SOURCE: Grayce Oakley to Real Estate Commission Members, copy to Rep. Rokeberg dated 21 October 1997, page 2 (Not yet approved by REC members).

**Page 6, line 10.** Courses by national organizations. You are correct in your cover memo that this needs to be tightened. Would it be enough to limit the list initially to NAR (and its institutes like CIREI) and BOMA? Could the Commission be given the mandate to accept courses that lead to designations that are offered by other real estate trade groups when those groups might apply in the future?

SOURCE: Niel Thomas, CCIM, CRS, Associate Broker, Fortune Properties.

**Page 6, line 17.** Recommended as a good first step in lieu of endorsement.

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, page 2 (DRAFT).

**6. Page 6, line 23 Oakley redraft: License required.** Unless licensed as a real estate broker, associate real estate broker, or real estate salesperson [SALESMAN] a natural person [, FOREIGN OR DOMESTIC CORPORATION, PARTNERSHIP, LIMITED PARTNERSHIP, LIMITED LIABILITY COMPANY OR OTHER ENTITY] may not

(1) sell, exchange, rent lease, [AUCTION] or purchase real estate;

(2) list real estate for sale, exchange, rent, lease, [AUCTION] or purchase;

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

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

(A) options in real estate; or

(B) options in improvements to real estate;

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

(6)-(11) no change from H version

SOURCE: Grayce Oakley to Real Estate Commission Members, copy to Rep. Rokeberg dated 21 October 1997, page 2 (Not yet approved by REC members).

**Page 6, line 23. Change .161 to read: License required.** Unless licensed as a real estate broker, associate real estate broker, or real estate salesman, a natural person, [FOREIGN OR DOMESTIC CORPORATION, OR PARTNERSHIP, OR LIMITED PARTNERSHIP, OR LIMITED LIABILITY COMPANY, OR OTHER ENTITY] may not:

(1) sell, exchange, rent, lease, [AUCTION] or purchase real estate;

(2) list real estate for sale, exchange, rent, lease, [AUCTION], or purchase;

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

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

(A) options in real estate; or

(B) options in improvements to real estate;

(5) assist in or direct the procuring of prospective buyers or the negotiation of a transaction that [WHICH] results or is

calculated to result in the sale, exchange, rent, lease, [AUCTION,] or purchase of real estate.

SOURCE: Gracye Oakley, 30 September 1997 memorandum to Rep. Rokeberg.

**7. Page 6, line 29.** Suggest language to distinguish between passively accepting rent and providing receipt and actively seeking to collect rents from tenants. (Oakley to provide)

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, page 2 (DRAFT)

Covered by exemption on 21 October 1997. Rep. Rokeberg.

**8. Page 7, line 4** Delete "auction".

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, page 2 (DRAFT).

**9. Page 7, line 5.** "supervise . . . physical . . . maintenance". Is this is broad that one would need a license for routine property management functions like hiring painters, landscapers and snow plow services?

SOURCE: Niel Thomas, CCIM, CRS, Associate Broker, Fortune Properties.

**10. Page 8, line 16 redraft. Entitlement to license.** (a) A natural person qualifies [IS ELIGIBLE] for a real estate broker license if the person passes the [REAL ESTATE] broker's examination, [IF THE PERSON] applies for a license within six months after passing the [PERSON HAS TAKEN THE REAL ESTATE BROKERS] examination, [IF THE PERSON] furnishes satisfactory proof of successful completion of the education requirements of AS 08.88.091, [IF THE PERSON] has had at least 24 months of active and continuous experience as a licensed real estate salesperson [SALESMAN] within the 36 months immediately preceding application for the broker license, [IF THE PERSON] is not under indictment for, or seven years have elapsed since the person has completed a

sentence imposed upon conviction of, forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving moral turpitude, and [IF THE PERSON] is an owner of a real estate business or employed as a real estate broker by a foreign or domestic corporation or a partnership, limited partnership, or limited liability company. [AND IF THAT CORPORATION OR PARTNERSHIP DOES NOT HAVE AN EXISTING LICENSED BROKER. UNLESS THE BROKER FAILS TO RENEW THE LICENSE [PAY THE BIENNIAL RENEWAL FEE] OR UNLESS THE BROKER'S LICENSE IS SUSPENDED OR REVOKED UNDER AS 08.88.071(A)(3), THE REAL ESTATE BROKER'S LICENSE CONTINUES IN EFFECT AS [SO] LONG AS THE BROKER IS AN OWNER OF A REAL ESTATE BUSINESS, OR THE BROKER IS EMPLOYED AS A REAL ESTATE BROKER BY A FOREIGN OR DOMESTIC CORPORATION, [OR A] PARTNERSHIP, LIMITED PARTNERSHIP OR LIMITED LIABILITY COMPANY.] If the broker stops being an owner of a real estate business [,] or stops being employed as a real estate broker by a foreign or domestic corporation, [OR] partnership, limited partnership or limited liability company, the broker's license is suspended from the time the broker stops until

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

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

(b) A natural person qualifies [IS ELIGIBLE] for a real estate associate broker license if the person passes the [REAL ESTATE] brokers examination, [IF THE PERSON] applies for a license within six months after passing the [PERSON HAS TAKEN THE REAL ESTATE BROKERS] examination, [IF THE PERSON] submits satisfactory proof of successful completion of the education requirements of AS 08.88.091, [IF THE PERSON] has had at least 24 months of active and continuous experience as a licensed real estate salesperson [SALESMAN] within the 36 months immediately preceding application for the broker license, [IF THE PERSON] is not under

indictment for, or five years have elapsed since the person has completed a sentence imposed upon conviction of, forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving moral turpitude, and [IF THE PERSON] is employed by a licensed real estate broker as an associate real estate broker. Unless the associate\_broker fails to renew the license [PAY THE BIENNIAL RENEWAL FEE] or unless the associate\_broker's license is suspended or revoked [UNDER AS 08.88.071(a)(3)], the associate [REAL ESTATE] broker's license continues in effect as [SO] long as the associate broker is employed by a licensed real estate broker as an associate broker. If the associate broker stops being employed by a licensed real estate broker, the associate broker's license is suspended from the time the associate broker stops until

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

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

SOURCE: Grayce Oakley to Real Estate Commission Members, 21 October 1997 memorandum to Rep. Rokeberg, page 3 (Not yet approved by REC members)

**11. Page 10, line 25 through Page 11, line 22.**  
Section 12. Insurance requirement. May be deleted in final version.

SOURCE: Rep. Rokeberg, 13 October 1997 House Labor and Commerce Committee meeting.

October 23, 1997. Leave in. Rep. Rokeberg.

**12. Page 10, line 30.** Suggest annual premium of \$150 with CPI attachment.

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, Page 2 (DRAFT).

**13. Page 10, line 31.** Suggest changing "submit premium payments to the commission" to "submit proof of coverage to the commission".

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, Page 2 (DRAFT).

**14. Page 11, line 3.** Section outlining coverages needs to include requiring "tails", i.e. coverage for present claims on previous actions, including those which were covered by previous E & O policy.

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, Page 2 (DRAFT).

**15. Page 11, line 12.** Make first line read: "A licensee may obtain additional or alternative errors and omissions. . ."

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, Page 2 (DRAFT).

**16. Page 12, line 7.** Staff to redraft per suggestion to change subsection to indicate that "application is to be made directly to the national testing service, with specifics to be provided in regulation". (Oakley to provide language).

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, Page 3 (DRAFT).

SUGGESTED LANGUAGE: (2) application for [THE] an examination [, ACCOMPANIED BY THE PROPER FILING FEE,] may be transmitted by the application directly to the national testing service. Payment of examination fees shall be directly to the national testing service's designated representative prior to taking the exam.

SOURCE: Grayce Oakley to Real Estate Commission Members, 21 October 1997 memorandum to Rep. Rokeberg, page 3 (Not yet approved by REC members)

**17. Page 14, line 8.** Reciprocal licensing. Does any of this bill address two hot issues: consumer rebates and relocation companies? In the former, Costco (and other groups) are marketing their memberships to consumers which include the opportunity to get a discount or rebate from real estate agents affiliated with the affinity organization. In the latter, relocation companies are securing fees from real estate agents who work with transferring buyers and sellers, even if the buyer or seller chose the agent independent of any "referral" from the relocation service. The Real Estate Commission in Alaska has not addressed the affinity group question, but a federal court in Mississippi just upheld a regulation of the Commission there that outlaws the practice. As for relocation companies, the Alaska Commission recently required by regulation that such fee payments be disclosed on the listing, the purchase agreement and at closing. They have stopped short of forbidding the practice. Both practices send income out of Alaska to faceless corporate entities. This is revenue that would otherwise be spent for the direct benefit of Alaska's consumers. That revenue also ensures the local real estate industry's financial viability, a fact that is good for consumers also.

SOURCE: Niel Thomas, CCIM, CRS, Associate Broker, Fortune Properties.

**18. Page 14, lines 12-30, Section 20.** Bonding requirement. Delete entire section.

SOURCE: Rep. Rokeberg, 13 Oct 1997 House Labor & Commerce Committee meeting.

**Page 14, line 12.** Entire section (20) to be deleted.

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, Page 3 (DRAFT).

**19. Page 15, lines 7-9.** Business location. The language appears to prevent an agent from meeting clients or doing other business from a home office, or new construction sales center. The technology makes remote and mobile operations more viable. Why discourage it, if the broker still has supervisory responsibility.

SOURCE: Niel Thomas, CCIM, CRS, Associate Broker, Fortune Properties.

**20. Page 15, line 29.** Delete .321 as in version H and replace with following:

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

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

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

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

SOURCE: Grayce Oakley, 30 September 1997 memorandum to Rep. Rokeberg.

SOURCE: Grayce Oakley to Real Estate Commission Members, 21 October 1997 memorandum to Rep. Rokeberg, page 3 (Not yet approved by REC members)

**21. Page 16, line 23.** Staff to redraft using "all real estate contracts" in place of "personal service contracts." (Oakley to provide language)

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, Page 3 (DRAFT).

REDRAFT: SUGGESTED LANGUAGE: Sec. 08.88.341. Real estate employment contracts [LISTINGS]. All real estate employment contracts [LISTINGS] must be in writing and must be signed by the broker [SELLER] or employed licensee of the broker and by the client or an authorized representative of the client for whose benefit the real estate licensee will act. [BY AN AGENT OF THE SELLER]. All real estate employment contracts [EXCLUSIVE LISTINGS] must have a definite expiration date that may be renewed or extended only by a written agreement signed by the client or the client's authorized agent.

SOURCE: Grayce Oakley to Real Estate Commission Members, 21 October 1997 memorandum to Rep. Rokeberg, page 3 (Not yet approved by REC members)

Page 16, line 23 and page 18, line 8. Personal Services contracts. In earlier discussions there has been talk of exemption commercial buyers (many of which are corporation) from personal services contracts. I don't find that provision here. Do you still mean to include it? Does any of this speak to a personal services contract in dual agency situations? Are you really committed to the concept that every real estate buyer has to sign a contract with a real estate agent, no matter how simple the transaction? Since fees almost always come from a split off the listing commission, what does a contract with a buyer gain the buyer's agent? Maybe it answers some procuring cause issues, and having a contract would help in those situations. A contract with a buyer might be good business for a prudent buyer's agent, but I don't see why the Legislature needs to make it mandatory.

SOURCE: Niel Thomas, CCIM, CRS, Associate Broker, Fortune Properties.

Page 16, line 23: Change .341 to read as follows:  
Listings and management contracts. [PERSONAL SERVICE CONTRACTS][LISTINGS]. All real estate listings and management

contracts [PERSONAL SERVICE CONTRACTS][LISTINGS] must be in writing and must be signed by the broker, [SELLER] or [BY] a licensee employed by [an authorized agent of] the broker as well as by the client or an authorized agent of the client for whose benefit the real estate licensees will act [SELLER]. All real estate listings and management [PERSONAL SERVICE] contracts [EXCLUSIVE LISTINGS] must have a definite expiration date that may be renewed or extended only by a written agreement signed by the client or the client's authorized agent.

SOURCE: Grayce Oakley, 30 September 1997 memorandum to Rep. Rokeberg

**22. Page 17, line 3.** There was a consensus to delete the phrase "at least". A question was raised as to whether three years was long enough to require transaction records to be maintained. Staff was asked to find what is required by other boards; also to provide for the Commission's consideration, the requirement(s) for maintaining public records vs. private, and for records for transactions vs. records for IRS.

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, Page 3 (DRAFT).

**23. Page 17, line 9.** Compare to original draft and provide memo to Rep. Rokeberg on question of whether this should be changed so that it is not limited to trust account records. (Oakley to accomplish).

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, Page 3 (DRAFT).

The language of lines 9-17 is identical to the language forwarded from the Task Force. Lines 14-17 clearly refer to both trust account records and all other documents that the Commission might require for either an investigation or a trust account audit.

SOURCE: Grayce Oakley to Real Estate Commission Members, 21 October 1997 memorandum to Rep. Rokeberg, page 4 (Not yet approved by REC members)

24. Page 18, line 8. Sec. 08.88.361. When commission or other fee is earned. An obligation to pay a [A] commission, management fee, or other compensation to a real estate broker must be based on [IS EARNED WHEN THE REAL ESTATE BROKER FULFILLS] the terms of a written real estate employment [PERSONAL SERVICES] contract. Other than through enforcement of the terms of a written real estate employment contract, a licensee has no right under law to enforce collection of a commission or other fee for a service that requires a real estate license.

SOURCE: Grayce Oakley to Real Estate Commission Members, 21 October 1997 memorandum to Rep. Rokeberg, page 4 (Not yet approved by REC members)

Page 18, line 11. Change "personal services contract" language to correspond to changes on page 16. (Oakley to provide language).

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, Page 3 (DRAFT).

25. Page 18, line 16. Suggested possible redraft, but no great heartburn here. (Oakley to provide redraft).

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, Page 3 (DRAFT).

Sec. 08.88.381. Signs. A [LICENSED] real estate broker shall maintain a sign at each of the [REAL ESTATE] broker's registered real estate offices [,] prominently showing the name of the real estate [BROKER'S] business as registered with the commission. The required size, content and location of signs under this section may be determined by the commission under regulations. However, the sign regulations must allow offices located on premises with

more restrictive sign requirements than those adopted by the commission to comply by 1) meeting the individual premise/building requirements and 2) submitting a copy of the premise requirements to the commission.

SOURCE: Grayce Oakley to Real Estate Commission Members, 21 October 1997 memorandum to Rep. Rokeberg, page 4 (Not yet approved by REC members)

26. Page 19, line 14 through Page 20, line 21. Section 32. Disclosure of agency to prospective buyers and sellers. This section needs to be reviewed.

SOURCE: Rep. Rokeberg, 13 October 1997 House Labor & Commerce Committee meeting.

Replace current 08.88.396 with the following:

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

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

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

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

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

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

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

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

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

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

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

ADD DEFINITION OF DUAL AGENT TO 08.88.900 AS FOLLOWS:

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

SOURCE: Grayce Oakley to Real Estate Commission Members, 21 October 1997 memorandum to Rep. Rokeberg, pages 4 & 5 (Not yet approved by REC members)

Page 19, line 14. Rep. Rokeberg believes it needs to be redrafted to something that is workable, but has not suggested any specific language to date other than to make the initial written disclosure be at the time the offer is presented.

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, Page 3 (DRAFT).

**Page 20, line 1.** Buyer agent; confirmation of contract. This requirement has never worked well and merits revision. No buyer's agent when showing a house when the seller is present shoves a disclosure under the seller's nose and gets it signed. Indeed it's usually pretty late in the process that seller's agents get buyers to sign a disclosure, although verbal disclosures early on are common.

**line 9.** Disclosure of who pays buyer's agent. This question is confused by the fact that the buyer brings the money to the table but the accounting of it on a settlement statement show it as paid by the seller. Maybe the requirement in all cases should simply be that the method of payment be disclosed, to get the focus off the misleading concept of "who" pays. For a buyer it means that he or she will see that the buyer's agent is being paid an amount from the listing commission. For a seller it means he or she will see that the seller's agent is being paid the amount of the listing commission that remains after the split to the buyer's agency. In dual agency situations the buyer and seller would see what the agency was paid to handle both sides of the deal. In all cases allowable referral fees would be disclosed.

**SOURCE:** Niel Thomas, CCIM, CRS, Associate Broker, Fortune Properties.

**Page 20, line 12.** Need to define in the statute how a person acting as a dual agent is limited.

**SOURCE:** Real Estate Commission, Work Session Minutes, 15 October 1997, Page 3 (DRAFT).

**27. Page 20, Line 22 through Page 21, line 4.** Licensed assistants. Section 33. Added at request of Real Estate Commission.

**SOURCE:** Rep. Rokeberg, 13 October 1997 House Labor & Commerce Committee meeting.

**28. Page 21, line 25.** Wages to assistants. Does the use of the word "wages" preclude paying assistants a portion of the agent's earned commission? This is a common practice for all or part of the assistant's compensation agreement.

SOURCE: Niel Thomas, CCIM, CRS, Associate Broker, Fortune Properties.

**29. Page 22, line 14.** Delete entire section [Section 36] because the only change included is not necessary with the deletion of the separate bonding requirements for community association managers. See page 14, line 12.

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, Page 3 (DRAFT).

**30. Page 22, line 30.** Change .900 to read as follows:  
**Exceptions. The provisions of this [THIS] chapter that require licensure do [DOES]** not apply to

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

{ SUBSECTIONS (2) - (8) - NO CHANGES FROM H VERSION OF BILL }

\*\*\*\*\*NOTE: FOR SUBSECTION (9) SEE #33 FOR

**UPDATED LANGUAGE:** (9) a domestic or foreign corporation, a general or limited partnership, or a partner or regular employee of a domestic or foreign corporation, [OR] a general or limited partnership, or a limited liability company, when performing an act described in AS 08.88.161 incidental to [IN] the regular course of business, or as an incident to [,] the management, sale, or other disposition of real estate owned by the corporation, [OR] partnership, limited partnership or limited liability company; the exemption under [PROVIDED IN] this paragraph does not apply to a person, employed by a foreign or domestic corporation, partnership, limited partnership, or limited liability

company. who performs an act described in AS 08.88.161 [, UNLESS ALLOWED FOR UNLICENSED PERSONS UNDER AS 08.88.165] either

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

{SUBSECTIONS (10) - (18) NO CHANGES FROM H VERSION OF BILL}

SOURCE: Grayce Oakley, 30 September 1997 memorandum to Rep. Rokeberg

**31. Page 23, line 1:** change to read: (1) a natural person . . .

SOURCE: Grayce Oakley to Real Estate Commission Members, 21 October 1997 memorandum to Rep. Rokeberg, page 5 (Not yet approved by REC members)

**32. Page 23, line 8.** Commission favors existing language over the proposed language in this section, thus keeping this exemption specific to attorneys.

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, Page 3 (DRAFT).

**33. Page 23, line 16.** Make definition compatible with suggested changes to AS 08.88.161 and 171 (pages 6 and 8 of work draft).

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, Page 4 (DRAFT).

SUGGESTED LANGUAGE: (9) [A DOMESTIC OR FOREIGN CORPORATION, A GENERAL OR LIMITED PARTNERSHIP, OR A PARTNER OR REGULAR] an employee of a domestic or foreign corporation, [OR] a general or limited partnership, or a limited liability company. when performing an act described in AS 08.88.161 incidental to [IN] the regular course of business[, OR

AS AN INCIDENT TO, THE MANAGEMENT, SALE, OR OTHER DISPOSITION OF REAL ESTATE OWNED BY THE CORPORATION OR PARTNERSHIP; the]. The exemption under [PROVIDED IN] this paragraph does not apply to a person employed by a foreign or domestic corporation, partnership, limited partnership, or limited liability company, who performs an act described in AS 08.88.161 [UNLESS ALLOWED FOR UNLICENSED PERSONS UNDER AS 08.88.165] either

(A) as a vocation; or

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

Add new subsection ( ) to provide as follows within Exceptions:

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

SOURCE: Grayce Oakley to Real Estate Commission Members, 21 October 1997 memorandum to Rep. Rokeberg, page 5 (Not yet approved by REC members)

**34. Page 23, line 29.** Add accounting function in lieu of broadening the section beginning on line 3 to include CPA's.

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, Page 4 (DRAFT).

**35. Page 24, line 13.** Still seems like too many relatives, but no recommendations as to which ones should be dropped. The Commission discussed several other options such as 1) requiring the power of attorney (POA) to be recorded so that it would be a matter of public records; 2) requiring the relationship with the owner to be identified in the POA. A question was raised as to whether privacy

rights would be violated and whether stating the relationship would invalidate the POA. No one present could answer these questions.

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, Page 4 (DRAFT).

Add in stepchild only.

SOURCE: House Labor & Commerce Committee, 13 October 1997 meeting.

**36. Page 25, line 13.** Check to make sure the "community association" language is consistent with "common interest community" language of AS 34.08 so that there are no residual loopholes. (Oakley to provide any draft language).

Also need to address the issue of compensation for a member of a community association which is being self-managed. Question: should pay for management be capped?

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, Page 4 (DRAFT).

SUGGESTED LANGUAGE: Insert an additional definition as follows:

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

Change (5), Page 25, line 12 to read as follows:

(5) "community association management" means an activity undertaken for a Homeowner's Association with regard to (remainder of definition remains as set forth in Version H, page 25, lines 12-18).

SOURCE: Grayce Oakley to Real Estate Commission Members, 21 October 1997 memorandum to Rep. Rokeberg, page 6 (Not yet approved by REC members)

**37. Page 26.** Transition provisions: Rep. Rokeberg suggested that he saw two alternatives for the transition period.

One would be a limited community association manager license that would extend indefinitely with activity being restricted to management of community associations.

The second would be a provisional license for a specified transition period. In order that we give a sufficient amount of time and meet the biennial licensing system, the period extended would be the current cycle plus one following two-year cycle which would mean everybody would have to be licensed by 30 January 2001. This would mean that all community association managers would have to pass the license exam and obtain a license by the end of the transition period.

With either plan, the accommodation of new hires, new association management businesses, and upgrading from entry level to broker level need to be addressed and be compatible with AS 08.88.,171. References to rent collection need to be carefully word-smithed so that collection of association homeowners' dues are also covered. General consensus is to adopt the latter version for transition provisions.

SOURCES: Real Estate Commission, Work Session Minutes, 15 October 1997, Page 4 (DRAFT).  
Rep. Rokeberg

**38. ADD BACK IN REAL ESTATE SURETY FUND LANGUAGE** as contained in Work Draft LS1115A, Lauterbach, 9/8/97 (attached hereto).

SOURCE: Rep. Rokeberg.

SOURCE: Real Estate Commission, Work Session Minutes, 15 October 1997, Page 4 (DRAFT).

**DRAFT**

**DRAFT**

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE ROKEBERG

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (2) the amount of the alleged loss;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (6) "real estate transaction"

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

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

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

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

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

FAX TRANSMITTAL  
FROM  
BAY REALTY INC.

331 EAST PIONEER AVE  
HOMER, AK 99603  
PHONE: (907)-235-6183  
FAX: (907)-235-4031  
EMAIL: bayrealt@xyz.net

DATE: October 9, 1997

TIME: 6:40 PM

FROM: SCOTT CONNELLY

TO:           

ATTENTION: Norman Rokeberg

FAX #: (907) ~~465-2040~~ 258-2916

TOTAL NUMBER OF PAGES INCLUDING THIS PAGE: 3

IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL BACK AS SOON AS POSSIBLE.

COMMENTS:

Norman,

FOLLOWING IS A LETTER I WAS ASKED TO DRAFT BY OUR BOARD. PLEASE FEEL FREE TO CALL WITH ANY QUESTIONS. I UNDERSTAND OUR L.I.O. IS GOING TO BE CLOSED ON THE 13TH, BUT I AM GOING TO TRY AND CALL IN TO LISTEN. THANKING YOU IN ADVANCE FOR YOUR CONSIDERATION.

SCOTT

*Kachemak Board of Realtors*

P. O. Box 2660

HOMER, ALASKA 99603

October 9, 1997

Chairman Norman Rokeberg  
State Capitol  
Juneau, AK 99801-1182

Dear Norman,

I am writing this letter at the request of the membership of the Kachemak Board of Realtors to make suggestions regarding HB33. The general feeling amongst our members is that HB33 is going to unnecessarily complicate our lives. Following are some of the comments I've fielded from our board.

We don't object to the special endorsements for Property Managers and Community Association Managers.


We feel the special "commercial" endorsements are unnecessary. Anchorage is probably the only market in the state that a real estate agent can make a career out of commercial sales only. We feel it is an unnecessary burden on the outlying areas to have to take extra time and money for an endorsement we may only use once or twice a year. The unpleasant scenario that outlying areas may have no commercially endorsed realtors, thus forcing sellers to be represented by agents in Anchorage who are unfamiliar with the local economics, zoning, trends, etc hardly sounds like it is in the general public's best interest.

We would rather not have mandated E&O insurance. With increasing licensing, education, and insurance costs we feel we're being nickel and dimed out of business.

In closing, the most important point I have been asked to convey is that you provide us with realistic avenues for following your mandates. If you are going to require more classes, make them easily and cheaply available

to all real estate agents. I don't want to be flying to Anchorage two or three times a year for classes. Let's broadcast them to local colleges or combine classes with Title Insurance officers, Surveyors, Appraisers, etc. If you are going to require mandatory E&O insurance make sure it is cheap. More and more I hear agents complain that they are spending more and more time maintaining their licenses and less and less time actually selling real estate. Please, let's keep it simple!

Sincerely,



Scott Connelly  
President  
Kachemak Board Of Realtors

cc:Gail Phillips  
John Torgerson  
Grace Oakley  
Carol Meyer

**Hoffmann Commercial, Inc.**

**Real Estate Services**

3000 A Street  
Suite 400  
Anchorage, Alaska 99503



FACSIMILE TRANSMISSION

DATE: 10-10-97

TO: Norman Rokelsberg

FAX #: 258-2914

FROM: Chrystal  
Hoffmann Commercial, Inc.  
3000 A Street, Ste. 400  
Anchorage, Ak 99503

THERE ARE 2 NUMBER OF PAGES (including cover) IN THIS TRANSMISSION, PLEASE CONTACT Chrystal IF YOU HAVE ANY QUESTIONS REGARDING THIS TRANSMISSION AT 563-2171.

OUR FAX NUMBER IS: (907) ~~563-2151~~ 562-3200

MESSAGE:

Hoffmann Commercial recieved this fax  
on 10-8. This company does not have an  
employee by the name of Susie Lowell  
Please direct this fax to the correct number.

Thanks,

Chrystal

THANK YOU AND HAVE A NICE DAY!!

*10/10/97  
Called & explained  
memo was hearing  
note & should  
be given in person  
to Mr Hoffmann  
Janet*

Telephone (907) 563-2171

Fax (907) 561-2151

Oct-09-97 04:52 PM

---

Automatic Log

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
19075863777	OK	04/04	Sent	Oct-09	04:46P	00:02:23	002425030022
2586051	OK	04/04	Sent	Oct-09	04:49P	00:02:30	002024030020

---

10/23/97 15:35:11 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM  
MESSAGE FROM: LIOCGHM IN ~~KENAI-LIO~~

LTN1120  
ANC

RE TCN: 70936 SCHEDULED FOR:10/23/97 14:00 TO 17:00  
SPONSOR: HOUSE LABOR & COMMERCE PURPOSE: PUBLIC HEARING

MESSAGE TEXT: CAN WE GET A COPY OF T.COOK'S MEMO ON  
REBATES/FEEES?

**AGENDA**  
**October 23, 1997**

**Good Afternoon**

**This Meeting Of The House Labor & Commerce Committee Is Called To Order  
On October 23, 1997 At 2:00 PM**

**For The Record The Committee Members Present or on Teleconference are:**

**Rep. Norman Rokeberg, Chairman - On Teleconference at the  
Rep. John Cowdery, Vice Chairman  
Rep. Bill Hudson  
Rep. Joe Ryan  
Rep. Jerry Sanders  
Rep. Tom Brice  
Rep. Gene Kubina**

**If A Committee Member Arrives Late Announce:  
Representative (Name) Has (Joined) (Left) The Committee At (Time).**

**A Quorum ( Is ) ( Is Not ) Present.  
HB 33 Real Estate Licensing**

- Declare a Conflict - State --"For the benefit of the public I would like to state for the record that I am a Real Estate Broker. Although, I do not have a conflict - members of the public may perceive that I have a conflict of interest."**

**On Today's Calendar --- We are continuing the public hearing on HB 33. The last hearing on this bill was last Monday October 13, 1997. This is the 5<sup>th</sup> hearing on this bill as well as have been 2 work sessions. In addition over the summer legislative break - I have spoken to various groups about problem areas. Today the hearing will be conducted much like a work session to allow each of you to make suggestions to improve the bill.**

**HB 33 Real Estate Licensing**

**The committee adopted a draft, Draft Version H for HB 33 as the House Labor and Commerce Committee's working document on Monday October 13, 1997.**

**I am not sure how many witnesses will want to testify to day, if there is a large turnout --Witness Testimony Will be Limited To a maximum of 5 minutes. Written testimony will be accepted at 716 West 4<sup>th</sup> Avenue, Suite 640, Anchorage, AK 99501 or can be FAXED to 258-2916.**

**Anyone Wishing To Testify On CS HB 33 and Who Has Not Already Done So Please Come Forward**

**Take Testimony In Order, Recognizing Each Witness By Name:**

- 1. Other Legislators (Ask Other Legislators To Join The Committee At The Table)**
- 2. Individuals With Time Constraints**
- 3. Individuals In Order On Witness List.**
- 4. Teleconferenced Testimony Should Be Rotated Between Locations.  
(Teleconference Moderator Will Provide You With A List Of Witnesses  
At The Various Locations)**

**At the end of committee business announce: The final committee hearing on HB 33 will be in January in Juneau.**

**Members of the public who would like to send in written testimony - my FAX number in Anchorage is 258-2916.**

**THIS COMMITTEE STANDS AJOURNED AT (time)**

03/24/97

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

15:39:45

PARTICIPANT LIST (TESTIFIERS ONLY)

BY:JNU

TCN:70507

SCHEDULED FOR:03/24/97 15:15 TO 17:00

FOR:ALL

PUBLIC HEARING

HOUSE LABOR & COMMERCE

LOCATION: ANCHORAGE

HB 33	✓ GRAYCE	OAKLEY	(ANS ?S)	TESTIFY
HB 33	WILEY	BROOKS		TESTIFY
HB 33	✓ DWIGHT	BOWDEN		TESTIFY
HB 33	✓ E. ERIC	DYRUD		TESTIFY
HB 33	✓ PAT	STEPHEN		TESTIFY
HB 33	✓ DAVID	GARRISON		TESTIFY

LOCATION: FAIRBANKS

HB 33	○ MR.	JERRY	ADAMS	TESTIFY
-------	-------	-------	-------	---------

LOCATION: HOMER

HB 33	✓ MR.	SCOTT	CONNELLY	KACHEMAK BOARD TESTIFY
-------	-------	-------	----------	------------------------

LOCATION: KENAI LID

HB 33	MR.	RON	JOHNSON	REALTORS TESTIFY
-------	-----	-----	---------	------------------

LOCATION: MATSU

HB 33	MS.	TERRE	MEYER	TESTIFY
-------	-----	-------	-------	---------



Oct-08-97 15:28

---

Automatic Log

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
19072838103	OK	01/01	Sent	Oct-08	14:56	00:00:36	002526030022
19072354031	OK	01/01	Sent	Oct-08	14:57	00:00:44	002525030022
19073765471	Busy	00/01	Sent	Oct-08	15:28	00:00:00	002020000000
2796862	OK	01/01	Sent	Oct-08	14:58	00:00:36	002526030022
2764429	OK	01/01	Sent	Oct-08	14:59	00:00:35	002426030022
2653497	OK	01/01	Sent	Oct-08	15:00	00:00:35	002526030022
2787001	OK	01/01	Sent	Oct-08	15:01	00:00:36	002526030022
5639135	OK	01/01	Sent	Oct-08	15:02	00:00:48	002125230020
5620699	OK	01/01	Sent	Oct-08	15:04	00:00:36	002526030022
5623200	OK	01/01	Sent	Oct-08	15:05	00:00:36	002426030022

Oct-08-97 03:06 PM

---

Automatic Log

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
19074519293	OK	02/02	Sent	Oct-08	02:51P	00:01:00	002526030022
19072833075	OK	02/02	Sent	Oct-08	02:52P	00:01:27	002125230020
19074652273	OK	02/02	Sent	Oct-08	02:54P	00:01:19	002426030022
19078352097	OK	02/02	Sent	Oct-08	02:56P	00:01:02	002526030022
19074655334	OK	02/02	Sent	Oct-08	02:58P	00:01:02	002526030022
19074652267	OK	02/02	Sent	Oct-08	02:59P	00:01:02	002526030022
19074652864	OK	02/02	Sent	Oct-08	03:05P	00:01:15	002525030022
19074563346	OK	02/02	Sent	Oct-08	03:01P	00:01:00	002526030022
19073766180	OK	02/02	Sent	Oct-08	03:02P	00:01:01	002426030022

Oct-08-97 03:01 PM

---

Automatic Log

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
2588727	OK	02/02	Sent	Oct-08	02:54P	00:01:07	002426030022
2588722	OK	02/02	Sent	Oct-08	02:55P	00:01:02	002526030022
2583602	OK	02/02	Sent	Oct-08	02:57P	00:01:02	002526030022
19074652864	OK	02/02	Sent	Oct-08	02:58P	00:01:16	002525030022
19078352111	No answer	00/02	Sent	Oct-08	03:01P	00:00:00	002020030000

---

Oct-08-97 06:29 PM

---

<u>Identification</u>	<u>Result</u>	<u>Pages</u>	<u>Type</u>	<u>Date</u>	<u>Time</u>	<u>Duration</u>	<u>Diagnostic</u>
2773451	OK	01	Sent	Oct-08	06:28P	00:00:36	002586030022

---

# **NOTICE**

**SPONSOR:**

**HOUSE LABOR AND  
COMMERCE**

**TOPIC:**

**HB 33 - Real Estate Licensing**

**DATE: 10-23-97**  
**TIME: 2:00 pm**  
**PLACE: Room 220**  
**TESTIMONY: 10 Minute Time Limit**



