

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9266 HOUSE LABOR & COMMERCE

10/13/97
12:47:15

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
PARTICIPANT LIST (ALL PARTICIPANTS)
SCHEDULED FOR: 10/13/97 13:00 TO 16:00
HOUSE LABOR & COMMERCE

TCN: 70933

PUBLIC HEARING

LOCATION: ~~KENAL BLDG~~

HB 33

MR.

RON

JOHNSON

KPBOR

10/23/97
14:00:23

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
PARTICIPANT LIST (ALL PARTICIPANTS)
SCHEDULED FOR:10/23/97 14:00 TO 17:00
HOUSE LABOR & COMMERCE

TCN:70936
PUBLIC HEARING

LTN1150
BY:KEN
FOR:KEN

LOCATION:KENAI LIO

HB 33	MR.	RON	JOHNSON	KENAI REALTORS	TESTIFY
HB 33	MR.	DAVE	FEEKEN	AAR	OBSERVE

10/23/97 14:37:55 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
MESSAGE FROM: LIOCCHR IN FAIRBANKS

LTN1120
ANC

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

MESSAGE TEXT: PLEASE WARN THE CHAIR ABOUT HER USUAL
BEHAVIOR WHEN TESTIFYING - THANKS

10/23/97
14:35:32

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
PARTICIPANT LIST (ALL PARTICIPANTS)
TCN:70936 SCHEDULED FOR:10/23/97 14:00 TO 17:00
PUBLIC HEARING HOUSE LABOR & COMMERCE

LTN1150
BY:FBX
FOR:FBX

LOCATION:FAIRBANKS

HB 33

MS.

SYBIL

SKELTON

SELF

TESTIFY

NO



Official Business

COMMITTEE:

HOUSE LABOR AND COMMERCE

DATE: October ²³ 20, 1997

SIGN-IN

Subject of meeting:

HB 33 - Real Estate Licensing

Anchorage, Alaska

PLEASE PRINT!

NAME

ADDRESS

(MAILING) & (ZIP)

PHONE

REPRESENTING

DO YOU WANT TO TESTIFY?

DAVID R. ZABOROSKI	P.O. Box 230726 A. A. 99523	244-6765	IPCA	No
DAV LAP/ANTO	1010 Nantucket Loop 99507	344-0063	W SELF	YES/NO
Brian (1 Dave) Britt, PCHM	Po Box 111358 Anchorage, AK 99511	345-4858	Pioneer Wg and Sen	YES ✓
Anita Bates	P.O. Box 241163 99524		Self + IPCA	NO
JOHN LEVY	2800 W 80 th AVE 99502	561-2220	SELF	NO
Carl Kuschwitz	2601 Blueberry Rd 99503	276 2170	Self	yes



Official Business

COMMITTEE:

HOUSE LABOR AND COMMERCE

DATE: October ²³ 20, 1997

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Anchorage, Alaska

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NAME

ADDRESS (MAILING) & (ZIP)

PHONE

REPRESENTING

DO YOU WANT TO TESTIFY?

Stephen W. Hovich	9321 Arlene ST A 8 Anchorage AK 99515	243-2624	Self -	Yes
Eric D. King	2509 E. 12th St #4 Anchorage, AK 99503	258-8586	Self	Yes
Dwight Bowden	2331 SUES WAY ANCHORAGE, AK 99516	562-3300	Self	NO
Barbara Bowden	" "	" "	" "	No
Art Clark	7740 McHenry Circle Anchorage AK 99502	345-4110	Self	Yes



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

Representative Norman Rokeberg, Chairman
House Labor and Commerce Committee
716 West Fourth Avenue
Anchorage, AK 99501

State Capitol
Juneau, AK 99801-1182

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

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).

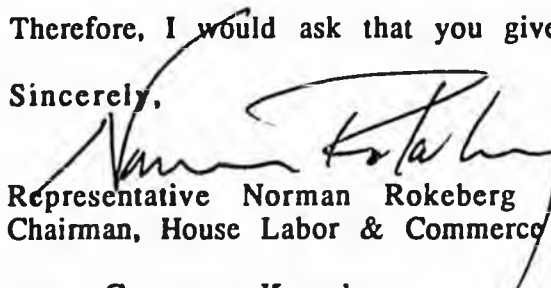
This regulation was intended to inform the public of all parties to a real estate transaction and is specifically directed at home relocation companies and firms that may wish to give a "rebate" back to members of an affinity group.

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

note: REC = Real Estate Commission
 COMMITTEE TAPE LOG

COMMITTEE: House Labor Committee DATE: 23 Oct 1997 TIME: 2:10pm
 SUBJECT: HB 33: Real Estate Licensing

MEMBERS: Rokeberg, Cooney, Sanders, Hudson (on line) Turrell Ryan
 STAFF: Shirley Armstrong, Grayce Oakley, Exec. Administrator Real Estate Commission.

SPEAKER	TAPE#	SIGNIFICANT INFORMATION
Rokeberg	117 000	2:10pm - Introduction & opening remarks
Rokeberg	010	Conflict statement
Lapoint	033	Waive testimony
B. Britt	037	Brian Britt, Pioneer Management Service
Rokeberg	085	bonding question
B. Britt	087	difference between prop. mgmt. management and community association management
		Responds to bonding question, ability of association to bond its managers
D. Britt	104	^{check spelling on sign in book} Deborah Britt, Pioneer Management.
		ATFC requirement for fidelity bonds for those associations on ATFC certified association list.
B. Britt	116	website watchdog already available
Cooney	122	How is manager hired & (and) does require?
B. Britt	127	Hired by Board of Directors of association
Cooney	129	Legal expenses
B. Britt	133	More specificity - management company wants to come out Board's domain
Cooney	138	
D. Britt	140	voting - majority rule
B. Britt	143	Board procedure & votes
Rokeberg	148	Bylaws set forth requirements
Cooney	152	recodation of bylaws, how to obtain copy
B. Britt		copy

HLC

H B 33: Real Estate Licensing

SPEAKER	TAPE #	SIGNIFICANT INFORMATION
D. Butt	155	How copies obtained; bylaws, minutes
B. Butt	162	state has copies, tell companies
Cowdery	164	
Robbery	167	bonding requirement removed
B. Butt	168	licensing of community association manager as real estate sales or brokers Explain community association manager.
Robbery	195	transition & licensing procedures.
Heider	209	needs section #2
B. Butt	212	sections 7 & 9.
Heider	214	Did get all memo.
B. Butt	216	not opposed to REC being governing body. Worried about lack of education because about what you wish for. Proposed language on section 9.
Robbery	232	former endorsement concept & why not in there.
Robbery	238	any legal restriction on anyone into business
B. Butt	241	no
Robbery	243	
B. Butt	246	doesn't mean broker's license gives any protection
Robbery	248	Community assoc trust and operating accounts
B. Butt	257	general + reserve accounts
B. Butt		
Robbery	261	general community association example
Cowdery	264	Is system broke?
D. Butt	268	Can always improve, more active in creating legislation; former fact force

HLTC HB 33 Real Estate Licensing

SPEAKER	TAPE #	SIGNIFICANT INFORMATION
D. Butt (continued)		member of R.E.C.
B. Butt	281	Question on bad practices? If no PCAM difficult to manage assoc.
D. Butt	297	Question for continuing education.
Rokelley	304	
B. Butt		Guest Dates
Thomas	315	Wici Thomas, Fortune Properties, Associate Broker - speaking for self
Rokelley	332	specialty language committee par line 3 (general rule)
Oakley	362	Thomce Oakley, Executive Administration Quirks Real Estate Commission, ^{3601 C. Code} _{Amendments} AG opinion re what can be done. Pro, disapproval question. Private parties seemed to do. Whether challenge: real estate licen official organization participation reference to legal memorandum
Rokelley	399	ad case
Rokelley	408	ad case
Rokelley	409	Back on record
Vlahovich	417	Stephen Vlahovich, assoc Broker, Assoc Brokers; Board of Directors, <u>Henderson C</u> Association
Rokelley	433	p. 24 exceptions - "without remuneration why should it be removed" reimburse
Vlahovich	441	response to question regarding man. by unit owner: without remuneration no one would do it. Horizontal law
Rokelley	458	discussion of subject & junior situation.

HHC

HB 33 Real Estate Licensing

SPEAKER	TAPE #	SIGNIFICANT INFORMATION
Robbery		maybe make clear that reimbursement is about
Vlahovich	478	
Robbery	480	reimbursement?
Vlahovich	483	corporate decision
Robbery	491	nothing inducing association
Vlahovich	493	response - some cannot be compensated; resident manager can be.
Robbery	505	Resident's margin discussion
Vlahovich	510	logical?
Robbery	514	Understand the point
Vlahovich	517	Other boards are concerned this.
Robbery		summary of this issue from opposing sides
Robbery	551	
Dyrud	554	Eric Dyrud, found Broker, Associated Brokers; Anthony Board of Realtors.
		provision for relocation when policy individual
		provision for relocation if client's license
	Tape 1	Side B
Robbery	608	side discussion re eto insurance
Dyrud	613	affinity groups. Has been held rebate could be paid to uninformed person
		Commend Mississippi language re to hb 33
Thomas	630	Neil Thomas re affinity groups to relocate Robbery question then relocation companies
Thomas	687	affinity group description - parallel to insurance companies
Robbery	719	reasons why injurious to reach
Dyrud	724	Rebate to consumer - tender trap - subsidizing market efforts
Robbery	732	discussion of competition.

SPEAKER	TAPE #	SIGNIFICANT INFORMATION
Depledge	736	in m & p & competition
Ryan	742	discussion re description - money sub of state
Depledge	747	franchises & only percentage group out of Alaska.
Ryan	753	Agreements
Clark	790	Art Clark
Rokoberg	795	different licenses for community assoc managers
Clark	811	managers don't want to sell real estate; don't appear to voluntarily agree to test
Rokoberg	818	grandfather vs. examination vs. new license
Clark	821	no grand deal of difference. Real estate exam question don't cover what first endorsement idea good for association management
Rokoberg	840	special license category
Clark		discussion re licensing + exemptions
Oakley	859	Exam & for licensing. Proposed if association manager brought into licensing
Rokoberg	869	compensation of association member
Clark	873	Smaller association: basic committee
Rokoberg	895	difference in property managers vs community association managers
Clark		
Johnson	917	Ron Johnson, Kenai maybe put association manager under
		p14 line 8 - not in there about fees & Alaska law
Rokoberg	940	no requirement
Oakley	941	Sec 263 license by endorsement provisions

HLC

HRS: Real Estate Licensing 23 Oct 1997

SPEAKER	TAPE #	SIGNIFICANT INFORMATION
Corkley (and)		such language. NO reciprocal agreement at this point
Johnson	956	Concerns about sitting in office vs. virtual office type
Rohrbach	962	and commission nothing excludes receiving office etc.
Johnson	970	p. 16, line 22-23. marketing is procurement agreement. not part
Rohrbach	986	looking at this - real estate employment code
Johnson	990	OK
Baer	1002	Bob Baer, Assoc Broker, Totem Realty. Concerns over interpretation of RAB's requirements
Rohrbach	1013	Tam Cook 10/23 rebates, affinity, relocation
Baer	1017	other fees now being paid to licensed people as result of this regulation - rebate of commissions
Rohrbach	1032	discussion / Cook's opinion & issue:
Corkley	7	rebates Cook REC to check w/ AG's
Rohrbach	1	office.
Baer	1056	also participate w/ relocation companies
Rohrbach	1057	fees for some. going up.
Baer	1060	discusses fees in relocation companies. Problem with regulation: referral fees listing in Alaska books not knowing.
Rohrbach	1096	educational background & description
Baer	7	reaffirms relocation
	Tape 2 Line A	3:42 Rep Ryan leaves
Baer	000	rebate issue & adjustments.
Rohrbach	005	Corkley to request opinion from AG
Baer	008	How long

HLH

HB 33: Real Estate Licensing

SPEAKER	TAPE #	SIGNIFICANT INFORMATION
Rokberg	010	intend to put in statute but make sure clear language
Baer	016	relocation company is offering groups local agency has all liability or relocation company bears it. Commission reduction of 30-35% and that money leaves the state. Liability of agents less representation to seller. Relates to unlicensed unprofessional (non real estate) companies
Rokberg	072	consumer attitude
Baer	075	consumer will get \$ but have funds will go to group
Rokberg	078	economic violence?
Baer	080	fun + liability + continuing education misunderstanding - too many firms. Call Mississippi to HB 33
Oakley	094	April issue of Real Estate News is offering groups - \$ impact
Baer	102	Re: Ryan's question on franchise real estate companies
HLH	113	Arbitration Fairbanks
Harrington	120	Lisa Harrington of Fortune Properties, for herself. Problem with associations, resale certificates. 34.08 provisions offering group - spinoff of relocation companies.
Rokberg	209	
Vlahovich	212	Stephen Vlahovich Assoc Broker communication with California "front" of

HHC

HR 93: Real Estate Lending

SPEAKER	TAPE #	SIGNIFICANT INFORMATION
V. V. V. V.	227	Costco. Program explanation: referral fee of 35% + 29% of what will be rebate to consumer, 9% to loan originator fees. Can stop shopping, technical interposition
Robbey	236	discussion of this program.
V. V. V. V.		
Johnson	249	Ron Johnson, Kenai. Tam Cook memo & reading. Affinity group with ERA which is owned by HHC. Rather than worrying about stopping the economy, simplify
Robbey	285	side comment.
Johnson	291	don't see where referral fee prohibited clear what cap but not want mean
Baer	300	Bob Baer - p
Johnson	304	discussion of referral fees or bid loop
Oakley	308	can be done as long as disclosed in Commission's thought.
Johnson	317	true
Baer	318	Blue Book reference.
Robbey	324	have asked Commission to seek further legal commission
Levy	331	John Levy of Anchorage, for himself relocation company/affinity groups. opportunity to defer payments. Anchorage 12-18% in commission a year 20-30K in commission. Impact on local financing. Keller's commission under HHC might realize amount of loan. Outside companies including

SPEAKER	TAPE #	SIGNIFICANT INFORMATION
Loy (cont)		local conditions without knowledge.
Robbery	377	
Simpson	380	Beth Simpson for herself (works for
		Dynamic Properties). Cost of operating
		40-50% of gross income. Any brokerage
		thinking of doing different business might
		be shot right out. Economic impact
		Relocation companies - real estate agents
		being used to fund benefits to employees
		and Mississippi law inserted in state
		law
Robbery	412	help define economic + environmental/public
		protection benefits
Robbery	419	public testimony closed today
		change title of Executive Administrator
Oakley	424	title
Robbery	430	notification for new cases 30-90 day
Oakley	435	90 day
Robbery		discussion on cases & notification +
		instructions report so REC can respond to
		questions. Not normally known - 90 day
		notice burden.
Robbery	496	agency discussion Deal agent. Supin
Oakley		found seller agent compensation.
Robbery	550	4:20 pm adjourned

HB

33

File 3

COMMITTEE TAPE LOG

Note: Transcribe Immediately

COMMITTEE: House LABOR + Commerce DATE: 13 Oct 1997 TIME: 1:20 pm

SUBJECT: HB 33: Real Estate Licensing
Teleconference! SCOTT Connelly, Off-net, Homer;

MEMBERS: Rokeberg, Sanders, Cowdery, Ryan
 Committee Assistant: Shirley Armstrong; Guests - Rep Hodgins (Kenai)

SPEAKER	TAPE#	SIGNIFICANT INFORMATION
	1A	
Rokeberg	000	Meeting starts 1:20 pm
"		Opening remarks
"	008	Rokeberg declares conflict
"	024	Version # = working document
"	032	Sundry fund section split out
"	045	Next version of bill will have sundry fund back in
	056	Cowdery joins committee meeting
Rokeberg	059	Check of teleconference sites
	071	Connelly in Homer (no version #)
	073	Ron ^{Thompson} in Kenai (Chm version #)
Rokeberg	081	Explanation of version # to committee
"	089	Sept 11 th memorandum
"	096	Ryan joins meeting (1:26 pm)
Cowdery	101	Adopt version # as document; adopted.
Rokeberg	105	Sept 11 th memo presentation + discussion of various meetings & work documents.
Cowdery	191	Comments procedure
Rokeberg	193	" " ; back to explanation
Armstrong	313	Comment on Unemployment courses
Rokeberg	315	Back to explanation (education)
Cowdery	425	Re. subsection (19) para 24 - family - question
Rokeberg	437	ability as set forth under panel of attorney
Rokeberg	468	community association issue
"	494	transmission license provisions

SPEAKER	TAPE #	SIGNIFICANT INFORMATION
Rokoberg	1B/55	Transitional licensing vs provisional licensing & timeline vs grandfathering
Rokoberg	597	Item 11 on Sept 11th memorandum
"	603	Page 6, line 29, rental collections, modifications
"	621	Recommendations from Oakley - changes to bill
"		revolving around fee sharing/relocation companies & Commission's defective regulation
Johnson, Kenai	642	Ken Johnson, Kenai Board of Realtors,
"		610 Attla Way #6, Kenai, 99611
"	658	dropped reference to licensee & using salesman
"		return to "real estate services licenses"
"		p. 1, line 13, Item 4 - certify v. approve language;
"	676	p. 3, line 18, Law to C+ED
Rokoberg	677	comments to p. 3, line 18 changes
Johnson	684	for this.
"		p. 6 line 29, rent collection - "pursue collection"
"		d rent "v." ^{accepting} "accepting rent"
"		Oakley" - policy, Manual (1989 area)
Ryon	711	question re landlord & tenant collections
Johnson	716	paid due rent or debt rather than rent due
Johnson	729	no endorsement, make appendix license
"		or limited license for condo association mgmt.
"		Endorsement concept created prevented headache
"		for some brokers.
Rokoberg	754	Limited license & provisional transactions
Johnson	758	independent to have changed regular license
Rokoberg/Johnson	770	license discussion
Connelly	788	pleased what having today; pumping
"		common sense back in.
McNall	804	Wm McNall, Esq. Addendum

HB 33: Rural Estate Licensing House Ltc

SPEAKER	TAPE #	SIGNIFICANT INFORMATION
McNall	811	Comm. Assoc. might be funded or management - self-management.
Rokberg	820	Clarification of Mr. McNall's status.
McNall	821	Community Association/Neighborhood Manager discussions. Concerned about limiting ability to bring in some type of professional manager (salary in themselves). If allow to be paid, look at assoc. documents & build in approval of members, lenders, etc. If don't pay, lien can go against whole project.
Rokberg	859	Question on issue.
McNall	861	Don't know if state wants to step in here
Ryan	865	allow muni to charge property taxes
McNall	869	Different issue. Appreciate quality of work going into this bill.
Rokberg	880	Question on transition & endorsement
McNall	886	Good reason for going endorsement. Mandatory educational requirement is what is important and think this achieves that. Discussion of "Morgan's law" & in Alaska the sex offender notification ~ what is responsibility of association manager. Education, specific, is key. Assoc. liability for acts of violence when Assoc. knows they've violated people in the project - need to avoid some of the liability issues. Special education would cover those problems.
Rokberg	927	Deep pockets for acts of violence
McNall	933	Oregon case regarding gang activities. That it knows a gang is on the premises. Owner's duty to warn.

House L+C

#13 33: Real Estate Licensing 13 Oct 1997

SPEAKER	TAPE #	SIGNIFICANT INFORMATION
McNall ^{Ryan}	948	Question re law - civil liability of owner
McNall	970	response
Ryan	986	social policy -
McNall	999	Landlord's obligations; community association's obligations.
	2A	
Robbery	000	Talking w/ McNall
McNall	010	Further discussion re sex offenders - franchise builder liability + obligation of each condo owner
Robbery	020	Members Agency ^{thru} Limited license vs professional license, transition
McNall	030	Limited license needs to be tied to education
Johnson	040	re: McNall's comments. Can live with that.
McNall	046	If can't pass exam after 2 years + all that education, should you be in business?
Robbery	051	New entries into the business? To be real estate exam
McNall	055	Rights to sue off street, request w/ commission
Robbery	060	Comment
Armstrong	062	limited license
McNall	064	limited license, endorsement concept. Community assoc. manager
Robbery		
McNall	074	Lack of education on managing community association meeting systems.
Robbery	080	Explains his use of terms.

SPEAKER	TAPE #	SIGNIFICANT INFORMATION
McNall	087	2-year bundle endorsed
Rokberg McNall	98	Continue discussion
Rokberg	109	Homebuilder changes in common ownership act - offers to promote to McNall
Johnson	115	Two things: REC suggested changes p.4 - proposal service & listing. Listing used in business. use different term - property management contract. If state does involuntary dissolution, puts corp. out of business but can bring dues account in method to reconstitute. Needs to be addressed. If corp dissolved, broker is no longer in business and all licenses same stop. When corp decides to change broker & listings are owned by broker. So have to do new contract because broker is changed?? License is 2 year term -
Rokberg	150	Amendment
Johnson	152	p.16, line 15 "worded" stick w license
Rokberg	154	agree. back to McNall
McNall	156	
Cowdery	160	p.3 line 20 - require all publications to be on department's internet
Remondy	186	electronic media probably better term.
Cowdery	194	p.4, (8) may be simpler to allow power of attorney
Cowdery	207	p.5, line 13 - should this be compulsory?
Remondy	220	permissive vs mandatory
Cowdery		line 27 p.5, grandfather clause

SPEAKER	TAPE #	SIGNIFICANT INFORMATION
Robeberg	232	course changes. Regulations & time lines
Amickon	253	talks about education & course approved after fact
Robeberg	270	education discussion & credit discussion give Commission some flexibility
Ryan	302	Commission's continuing education problems - now want to hire someone else to do that work - \$ come out of surety fund. Attempts to discuss matters with Real Estate Commission. Time lines - national organization & efforts to approve through Real Estate Commission. Disclosure problems. REC sending him the bills for good ideas. Hawaii dup for person putting out newsletter.
Robeberg	381	Cost of surety fund issue is important.
Ryan	388	surety fund problems.
Robeberg	424	call for concerns
Cowdery	444	p. 6, line 27/29, Collect rent terminology pretty broad. should be tightened up a little bit
Cowdery	454	p. 7 line 2 "assist" is too broad a word. p. 7 line 15 "attempt or effort to do" too broad line 20 "by any other provision of law" wait couple years to apply to general public
Amickon	464	new penalty system
Robeberg	465	discussion of this
Ryan	467	allowing REC to levy civil penalty which is basically what a court does. Why are we giving them this power?

SPEAKER	TAPE #	SIGNIFICANT INFORMATION
Ormsdang	470	
Repen		Regulatory agency working with civil penalties
Ormsdang	475	will add big fiscal note
Cowdery	476	p. 17 line 13 - bonding: Robbery imp will be deleted
✓		
✓		p. 22, line 30 - exceptions
Robbery	484	section 36 will be deleted also
Cowdery	484	section 37 is the pertinent - public official - discussion of what exemptions mean.
Pyan	490	subsection (9)(A) concerns.
Ormsdang	510	Employer of agent stuff - collection of rent
Robbery		discussion with Pyan.
	521	delete portion in front) look at collecting rent definition in property management + pub. in order exemptions/exceptions
Cowdery	529	p. 24 line 12 - "resident manager" redundant w/ pag 23, line. Delete 18
Robbery	543	Take out 18
Cowdery	545	p. 24 line 13 - discrimination against stepchildren
Revan	592	"extended family to second or third generation"
Robbery	604	levels of step relationships
Cowdery	614	p. 25 line 6 subsection (4), ambiguous property - does this bar from managing property for same owner on h. subject - bar from management question
		Discussion of same with Robbery + Repen.

Brith
10/23/97

OUTLINE FOR HB 33 MEETING: OCTOBER 23, 1997

PUBLIC CONCERNS:

ISSUE:

1. Licensing of hoa managers as:
 - A. Real estate salesman
 - B. Real estate brokers

PURPOSE:

1. Protection of the consumer.

BUSINESS COMMUNITY CONCERNS:

ISSUE:

1. Real Estate Commission and Industry is interested in the capturing control of a new industry for profit and to help control competition.
2. Real Estate Commission, industry, government and consumer expect that those who are in a position to manage public money, property and business interests [as it pertains to community association management per AS 34.08] operate on a professional level with adequate education and be accountable for their work.

METHOD:

1. Initial education:
 - A. AMS - Association Management Specialist (Natl. professional designation CAI)
 - B. CMS - Community Management Specialist (Natl. professional designation CAI)
 - *C. PCAM - Prof. Community Association Manager (Natl. prof. designation CAI)
 - *D. CPM - Certified Property Manager (Natl. professional designation IREM)
 - E. Qualified years active in the management of community associations
- * These two designations are the highest available in the industry and require years of education, equivalent to a masters thesis and actual years of experience.
2. Licensing by the Real Estate Commission
3. Continuing Education
4. Monitoring of qualifications and continuing education by the Real Estate Commission

Suggested new language:

Sec. 9B. AS 08.88.161 is amended to read:

Sec. 08.88.161. License required. Unless licensed as a real estate community association manager [as defined under AS 34.08] a natural person, foreign or domestic corporation, [OR] partnership, [OR] limited partnership, limited liability company, or other entity may not

(1) supervise, contract for, or arrange for the physical administrative, or financial maintenance of real estate operating as a community association governed by AS 34.08;

(2) practice, or negotiate for a contract to practice, community association management governed by AS 34.08;

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

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

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

(6) attempt or offer to do any of the things listed in this section.

October 23, 1997

To: Members of the House Labor & Commerce Committee
From: Brian P. Britt, PCAM

Re: HB 33 Work draft O-LS0197H[Regarding Community Association Management]

Dear Members:

I have grievous concerns regarding three sections of the current language with HB 33. The three sections that need further discussion and investigation are:

1. Initial and continuing education
2. Section 9 - License required
3. Section 20 - Bonding requirements

It appears from many hours of discussion that the primary focus on HB 33 is to protect the consumer and the industry. Making a person obtain a real estate license as a salesman or a broker does not require any experience or education directly related to the management of a community association as it pertains to AS 34.08. Anyone who has the ability to take a test is capable to obtain a real estate license. There are any number of real estate companies or real estate brokers who guarantee or your money back that if you take their course that you can get a real estate salesman or broker license. In the guarantee there are no assurances to the consumer that the licensed person has any practical knowledge or experience in the business. This is by no means intended to diminish the professional industry of real estate salesman or brokers. The bottom line is that the sales, leasing and management of real estate is not in any way related to the management of community associations.

The community association management industry needs to have a watchdog organization like the Real Estate Commission to ensure that the consumer may feel confident that the managers are educated, professional and accountable. It would be easy if the House Labor and Commerce Committee enacted legislation that set up under Occupational Licensing a new commission for community association management. However, this is not practical as we do not need to add more agencies to the state government. The Real Estate Commission is highly regarded and very capable of the administration of community association management but not as defined in HB 33.

I recommend that a third license under the Real Estate Commission be established titled: "Real Estate Community Association Manager". The management of community associations is not the management of real estate. The management of a community association is the management of the business affairs for the association.

The remainder of the my text will outline the duties of a community association manager.

DUTIES OF A COMMUNITY ASSOCIATION MANAGER

- Advise and provide administrative, managerial and operational counsel to the association governing body.
- Prepare and oversee the financial functions of the community association: Monthly billings of assessments, accounts payable, accounts receivable, monthly financial statements, reserve analysis, annual budget, reserve budget, monthly and cash requirements.
- Present and explain association financial reports.
- Solicit and evaluate bids for association services.
- Participate in the preparation, implementation and supervision of all contracts: grounds and building maintenance, capital reserve replacement (ie: roof, asphalt, paint, etc.).
- Perform site inspections.
- Supervise association personnel.
- Direct the enforcement of restrictive covenant.
- Supervise the design and delivery of association recreational programs.
- Solicit, evaluate and assist in insurance purchases and claims.
- Participate and recommend amendments and the initial preparation of bylaws and CC&R's.
- Supervise maintenance activities and contractor performance.
- Participate and cooperate with the CPA in the preparation and production of the audit or review of the association financial records and in the tax return.
- Prepare material and facilitate at the meetings of the association.
- Participates risk management for the association.

These are only an over view of the many duties of a community association manger. A CAM prepares to perform these duties by obtaining educational skills and experience through national organizations such as CAI (Community Association Institute). They provide a variety of educational training through a certification program. Many states have already incorporated many of the educational courses offered and developed by CAI. These programs are available all over the country including Alaska. Two of the programs are as follows: National Manger Certification Program and the Professional Community Association Program.

National Manager Certification Program

CAI created NBC-CAM and the national manager certification program to prevent the confusion between a community association manager, a property manager and a real estate salesman or broker. NBC-CAM grants the Certified Manager of Community Associations (CMCA) credential only to those individuals who have demonstrated a fundamental knowledge and expertise in community association management. The National Certification Examination which candidates must pass in order to obtain the CMCA does not test skills in buying, selling or leasing real estate. Instead, it test knowledge necessary to manage community associations.

Professional Community Association Management - PCAM

This program is extensive and provides a national professional designation that is recognized world wide (CAI and this program is now being utilized in United States, Canada, Australia, Japan and South Africa). Those persons who have obtained the PCAM designation are the leaders of this fast growing industry. See attached information.

The education and the continuing education is vastly different than that of someone who is involved in the real estate busiiness of property management, real estate salesman and broker.

CAI PROFESSIONAL COMMUNITY ASSOCIATION MANAGER (PCAM®)* DESIGNATION

WHAT IS THE PCAM® DESIGNATION?

The PCAM® designation is a credential available to community association managers who have chosen to demonstrate a commitment to continuing education and to practice management in an ethically prescribed manner. This designation carries greater qualification prerequisites than the AMS®* designation.

WHAT ARE THE PREREQUISITES FOR THIS DESIGNATION?

- Three (3) years of service as a community association management professional
- Successful completion of the entire Professional Management Development Program (PMDP)
- Hold a CAI professional membership in good standing
- Completion of the PCAM® application form
- Submission of application fees.
- Successful completion of the PCAM® Case Study

HOW DO YOU PURSUE THE PCAM® DESIGNATION?

1. Successfully complete each of the PMDP courses.
2. Request an application from your Chapter or National office to become familiar with the application requirements.
3. Concurrently, and as identified in the application criteria, volunteer to assist your local chapter with committee work or in organizing a chapter education program. Write articles for publication through the chapter newsletter or through *Common Ground*. Assist with National Conferences, assist CAI by reviewing articles for *Common Ground*.
4. Submit the PCAM® application, with \$175.00 non-refundable fee, to: Designation Programs Coordinator at the National Office, 1630 Duke Street, Alexandria, VA 22314. All applications must be accompanied by payment.
5. When your application has been approved, you will be eligible to enroll in the PCAM® Case Study program.

WHAT HAPPENS AFTER THE DESIGNATION IS EARNED?

PCAM® designees must maintain a current professional membership in CAI. You will be notified when you must renew your designation (every three years). You will be required to attend one advanced course, CEO-MC Retreat or Large Scale Managers Conference in order to be approved for redesignation. PCAM® members must use the designation logo correctly, pay an annual membership fee (\$125.00) and adhere to CAI's Professional Manager Code of Ethics.

CAI reserves the right to modify the PCAM® fees and criteria as stated above

* registered in U.S. Patent and Trademark Office.

1998 PMDP National Course Schedule



Date	Location	Class
JANUARY, 1998		
16-18	Destin, FL	100
23-24	San Francisco, CA	CASE
23-24	Virginia Beach, VA	201
30-31	Newport Beach, CA	203
30-01	Hartford, CT	100

FEBRUARY, 1998		
06-07	Miami, FL	204
06-08	Tucson, AZ	100
06-08	Iselin, NJ	100
12-13	Honolulu, HI	201
27-28	Chicago, IL	206
27-01	Myrtle Beach, SC	100

MARCH, 1998		
06-07	Cincinnati, OH	202
06-08	Jacksonville, FL	100
06-08	Falls Church, VA	100
13-14	Los Angeles, CA	201
13-14	Denver, CO	206
13-14	Seattle, WA	202
20-21	Atlanta, GA	203
20-21	San Francisco, CA	310
20-22	San Diego, CA	100
26-27	Honolulu, HI	204
27-28	Boston, MA	201
27-28	Iselin, NJ	204

APRIL, 1998		
03-04	Manchester, NH	205
03-04	Houston, TX	205
03-05	Richmond, VA	100
03-05	Newport Beach, CA	100
17-18	Alexandria, VA	202
20-21	Texas Spring Conference	100
20-21	Texas Spring Conference	201
20-21	Texas Spring Conference	204
20-21	Texas Spring Conference	330
20-21	Texas Spring Conference	340
30-21	Texas Spring Conference	CASE

Date	Location	Class
MAY, 1998		
01-03	Sacramento, CA	100
01-03	Las Vegas, NV	100
08-09	Phoenix, AZ	205
08-09	Destin, FL	203
15-16	Palm Desert, CA	206
15-16	Boston, MA	202
15-16	Falls Church, VA	204
15-17	St. Louis, MO	100
29-30	San Francisco, CA	201
29-30	Tampa, FL	202
29-30	Raleigh, NC	206
29-31	Pittsburgh, PA	100

JUNE, 1998		
05-06	Chicago, IL	203
05-06	Las Vegas, NV	CASE
05-06	Princeton, NJ	350
05-06	Allentown, PA	205
11-12	Honolulu, HI	205
12-13	Denver, CO	203
12-14	Sarasota, FL	100
12-14	Boston, MA	100
26-27	San Francisco, CA	204
26-28	Riverside, CA	100

JULY, 1998		
17-18	Plymouth Meeting, PA	204
17-19	Indianapolis, IN	100
24-25	Denver, CO	201
24-25	Alexandria, VA	203

AUGUST, 1998		
07-08	Chicago, IL	350
21-22	Charleston, SC	201
21-22	Dallas, TX	202
21-23	Baltimore, MD	100
28-29	Newport Beach, CA	330
28-30	Bloomington, MN	100

SEPTEMBER, 1998		
11-12	San Diego, CA	202
11-12	Phoenix, AZ	201
11-13	Miami, FL	100
11-13	Detroit, MI	100
18-19	Ft. Myers, FL	205
18-19	Atlanta, GA	202
18-19	Allentown, PA	202
18-20	Houston, TX	100
24-26	Honolulu, HI	100
25-26	Sacramento, CA	205
25-26	Denver, CO	204
25-27	Los Angeles, CA	100

Date	Location	Class
OCTOBER, 1998		
02-03	Hilton Head, SC	204
02-04	Orlando, FL	100
02-04	Valley Forge, PA	100
02-04	Seattle, WA	100
16-17	Reno, NV	202
16-18	Palm Desert, CA	100
16-18	Manchester, NH	100
23-24	Boston, MA	203
26-27	Fall Conference (Virginia)	201
26-27	Fall Conference (Virginia)	205
26-27	Fall Conference (Virginia)	206
26-27	Fall Conference (Virginia)	310
26-27	Fall Conference (Virginia)	320
26-27	Fall Conference (Virginia)	CASE

NOVEMBER, 1998		
06-07	Tampa, FL	206
06-07	Baltimore, MD	201
13-14	Los Angeles, CA	205
13-14	Jacksonville, FL	204
13-14	Pittsburgh, PA	206
13-15	Wilmington, NC	100
20-21	West Palm Beach, FL	201
20-21	Iselin, NJ	205
20-21	Houston, TX	203

DECEMBER, 1998		
04-05	Newport Beach, CA	204
04-05	Dallas, TX	206
04-06	Virginia Beach, VA	100
10-11	Honolulu, HI	206
11-12	Ft. Myers, FL	203
11-13	Ventura, CA	100
11-13	Stockton, CA	100



Please note: You must use a 1998 PMDP Registration Form to enroll in classes held during the 1998 calendar year.

Questions?
Call (703) 548-8600

Also available

1100 HomeStudy



Professional Community Association Manager (PCAM®) Redesignation Instructions

I. Overview:

Your PCAM® designation is valid for a three year period. At the end of each three year period, you will be required to renew your designation. Your assigned renewal date will occur in conjunction with either a Spring or Fall National Conference based on when your designation was awarded. This process involves completing a four page redesignation form and submitting your completed form with any necessary attachments to the CAI National office by the deadline date.

These instructions are part of a complete redesignation information package. This package contains three separate items:

- A. A letter indicating the deadline date for all renewal materials.
- B. Instructions on how to complete the redesignation process and paperwork.
- C. The redesignation form which must be completed and returned to the National Office by the deadline date indicated in the letter.

If you did not receive any part of these materials please contact the National Office immediately.

II. Redesignation Form:

The minimum point total for redesignation is 100 points. Please keep in mind though that 75% of the activities listed must be CAI specific, 25% may be on behalf of related national organizations. All information included on the redesignation form should be for the past three year period. Activities from prior redesignation periods will not be credited toward this redesignation period.

Please remember that points are given for both CAI and related organization activities. A related organization is defined as an organization national in its scope involved in the community association industry in a variety of ways. Some examples of related national organizations include: BOMA - Building Owners and Managers Association, IREM - Institute of Real Estate Management, NAHB - National Association of Home Builders, etc.

III. Redesignation Criteria:

- A. **Work Experience:** Designees receive points for each year of experience. Community association management experience is defined as direct community association management duties, supervision of community association managers or an executive level position responsible for supervising the community association management functions of several managers and associations. Related experience is defined as real estate development, sales, consulting, banking, finance or construction activity.
- B. **Continuing Education:** CAI believes that all PCAM® members must stay in touch with the profession and expand educationally, therefore, all PCAM® members are required to successfully complete one of the continuing education alternatives listed in Section II: Continuing Education portion of the redesignation form. Please refer to the form for the list of approved course activities. Please remember to attach verification of attendance to your redesignation form.

- C. **Service Activities:** Designees receive points for both CAI and related national organization activities. This section is divided into five separate categories which include leadership, instruction, authorship, participation and other CAI service. If listing activities for related organization service, please remember to indicate the name of the national organization and the name of the committee on which you served or the program attended. If listing activities in the authorship category please remember to submit copies of published works.
- D. **Professional Growth:** There is a maximum number of points allowed in this section. Designees receive points in this category for earning designations, licenses and advanced degrees during the time of this redesignation period. Please remember to indicate the sponsoring agency and the name of the designation earned.

IV. Conclusion:

It is important that you meet these redesignation requirements to maintain your designation. The committee has developed procedures for removal of the designation for failure to comply with the above requirements. Designation removal has and will occur with approval from the Board of Trustees.

Please contact the CAI Education Department with any question or concerns regarding the completion of these requirements.

June 1995

II. Continuing Education, continued

_____ *Successful completion of 15 classroom hours of courses leading to the designation Certified Property Manager (CPM)*

_____ *15 points per 15 hours (attach verification)*

_____ *Successful completion of a course of studies resulting in a master or doctoral degree*

_____ *15 points per degree (attach verification)*

III. Service Activities (CAI or Related National Organization)

A. Leadership

Number of Terms	Total Point Value
_____ CAI Executive Committee 25 points per year	_____
_____ CAI Trustee, Council Chair, Regional Representative 15 points per term	_____
_____ CAI Research Foundation Board Member 15 points per term	_____
_____ CAI Chapter President 12 points per year	_____
_____ CAI Committee Chair, Vice-Chair, Chapter Officer 10 points per year	_____
_____ CAI Chapter Board Member 7 points per year	_____
_____ CAI Committee Member 5 points per year	_____
_____ Related National Org. Chapter President 12 points per year	_____
_____ Related Nat'l Org. Committee Chair, Vice Chair, Chapter Officer 10 points per year	_____
_____ Related Nat'l Org. Chapter Committee Member 5 points per year	_____

Name of related Nat'l Org. (s) _____ Name of Committee(s) _____

Name of related Nat'l Org. (s) _____ Name of Committee(s) _____

B. Instruction/Lectures

Number of Terms or assignments	Total Point Value
_____ CAI PMDP Faculty 15 points for first presentation	_____
_____ CAI National Conference Speaker 10 points per assignment	_____
_____ CAI LTP/FOCAM Speaker, CAI Chapter speaker 5 points per assignment	_____
_____ CAI Chapter LTP/FOCAM/Workshop Coordinator 7 points per seminar/workshop	_____
_____ CAI National Conference Moderator 3 points per assignment	_____
_____ CAI National Conference Monitor 1 point per assignment	_____
_____ Speaker for related Nat'l Org. (not less than three hours) 5 points per assignment	_____

Organization _____ Seminar Title _____

Organization _____ Seminar Title _____

C. Authorship

Number of articles	Total Point Value
_____ Monograph or Special Report 20 points (attach copy)	_____
_____ CAI Periodical Article (1,500 words) 20 points (attach copy)	_____
_____ Industry Related Periodical Article (1,500 words) 20 points (attach copy)	_____
_____ CAI Periodical Article (1,000 words) 15 points (attach copy)	_____
_____ Industry Related Periodical Article (1,000 words) 15 points (attach copy)	_____
_____ CAI Periodical Article (500 words) 10 points (attach copy)	_____
_____ Industry Related Periodical Article (500 words) 10 points (attach copy)	_____

D. Participation

Number attended	Total Point Value
_____ CAI National Conference 10 points per conference attended	_____
_____ CAI Chapter -One Day Program 3 points each	_____
_____ CAI Chapter program (not less than 3 hours) 1 point each	_____
_____ Related Nat'l Org.-One Day Program 3 points each	_____
_____ Related Nat'l Org. Program (not less than 3 hours) 2 points each	_____
_____ National Housing-related Community Service program 10 points per assignment	_____

E. Other CAI Service

	Total Point Value
_____ Assist National Staff in developing CAI Workshop 15 points each	_____
_____ Reviewer - CAI Publications 5 points per project	_____
_____ Specialist - CAIRs Program 5 points	_____
_____ Write or review outline(s) for PMDP revitalization project 20 points	_____

IV. Professional Growth

A. Additional Education (earned in the past three years)

	Total Point Value
_____ Associate Degree 10 points	_____
_____ Bachelors Degree 15 points	_____

B. Industry Related Designation - National Organization (earned in the past three years)

_____ 15 points each (list the sponsoring organization and designation title below)	_____
--	-------

Name: _____

Organization: _____

TOTAL POINTS EARNED
100 POINT MINIMUM REQUIRED

(11)

Answer the following questions as they relate to the past three years:

YES NO

Have you declared personal bankruptcy or has a company in which you hold or have held a majority interest declared bankruptcy in the past three years?
If yes, attach a detailed explanation

YES NO

Have you been involved in either civil or criminal proceedings as a defendant in which there were allegations of fraud, misrepresentation, misappropriation of funds or property, etc?
If yes, attach a detailed explanation

YES NO

Have you been refused bonding in these three years?
If yes, attach a detailed explanation

YES NO

Were you subject to disciplinary action by any other professional organization or state licensing bureau?
If yes, attach a detailed explanation

Please read the following before signing below:

All of the information provided by me is complete and correct to the best of my knowledge and belief. If I made or, at any time, make any statement with knowledge of its falsity, I understand that it shall be cause for revocation of the PCAM® designation.

All additional information requested by CAI shall be supplied by me upon request.

I shall conduct myself in accordance with the CAI Professional Manager Code of Ethics and shall be bound by the bylaws and regulations of CAI and the PCAM® Committee as they are now or as they may be amended from time to time.

I agree that CAI may censure, suspend or revoke or otherwise terminate my designation in accordance with the adopted policies of CAI; and CAI may disclose actions, in full or part, to the members of CAI and the general public.

I shall pay annual fees as set by the PCAM® Committee and CAI.

I waive and forever release all claims and demands, or causes of action that I may have now or may in the future have against CAI, its members, Trustees, officers, and employees, for any act or omission of CAI, its members, Trustees, officers and employees in awarding the PCAM® designation, failing to award the PCAM® designation or in censuring, suspending or revoking the PCAM® designation.

DATE: _____

SIGNATURE: _____

Return to:

CAI

Education Department

1630 Duke Street

Alexandria, VA 22314

Phone: (703) 548-8600

Fax: (703) 684-1581

MA310 MA330 MA340 MA350

ADVANCED PMDP COURSES FOR PCAM DESIGNATION RENEWAL

Any of the
 300 Series courses
 will fulfill the
 education
 requirement for
 PCAM® renewal.

M-310: Management Office Management

This course provides executive level managers and CEOs an opportunity to learn from the experience of their peers. If you run your own business, or aspire to, this course will give you the skills and knowledge to improve the efficiency and effectiveness of your management office. Learn how to market your services, manage and train your staff, and develop additional sources of income.

M-330: Advanced Insurance and Risk Management

This course is an in-depth examination of insurance and risk management issues. You will have the opportunity to evaluate properties, review inspection reports used by insurance companies, and study insurance policy details. Exploring the intricacies of the insurance industry, you will discover the importance of a variety of insurance coverage including workers' compensation, fidelity bonds/crime coverage, professional liability for managers, directors and officers coverage, and equipment and property coverage.

M-340: Managing the Large-Scale Association

This on-site course will show you the special needs of large-scale associations and give you tips on how to meet these needs. Explore the relationships between large-scale associations and municipalities and between master associations and sub-associations. You'll learn to recognize the various types of property: open, commercial and residential. *For this course a large-scale association is defined as an association with more than 750 lots or units and a budget in excess of \$1 million.*

M-350: Manager and the Law

This is a follow-up course for M-204. You will have the opportunity to review cases pertinent to community associations, understand how the legal system works and review step-by-step the anatomy of a case. Learn about how the law impacts managers and their day-to-day operations. You'll discover realistic ways to deal with the challenges these laws and regulations create for you on the job.

1996 COURSE SCHEDULE

Locations below indicate the area in which the course will be held. Actual hotel location will be specified in your confirmation letter.

M-310	Jun 5-6 Oct 7-8	Miami, FL Palm Springs, CA	M-340	Oct 7-8	Palm Springs, CA
M-330	Mar 22-23 May 6-7	Iselin/East Brunswick, NJ New Orleans, LA	M-350	May 6-7	New Orleans, LA

25

25

SAVE \$25.00

OFF THE M-100 OR ANY 200 SERIES COURSE

Return this coupon and registration form to receive a \$25 discount off the cost of one M-100 or 200 Series course.

COMMUNITY ASSOCIATIONS INSTITUTE

1630 DUKE STREET ALEXANDRIA VA 22304 (703) 548-8600

OFFER EXPIRES MARCH 31, 1996

25

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3 EASY WAYS TO REGISTER:



CALL CAI at (703) 548-8600 (VISA, MasterCard or American Express only)



MAIL registration with payment to CAI P.O. Box 26506, Richmond, VA 23260-6506 (Checks payable to "CAI")



FAX order form with credit card information to (703) 684-1581

Please Print or Type

CAI Member? No Yes, member # _____

Name: _____

Firm/Association: _____

Street Address: _____

City/State/Zip+4: _____

Phone: _____ Fax: _____

Course(s) Date(s) and Location(s) _____

M-100 HOME STUDY

Check here if you need the California edition of the M-100 manual

Member	\$170	\$ _____
Non-Member	\$220	\$ _____

M-100 SEMINAR

Member	\$295	\$ _____
2nd or Additional Registrations	\$245	\$ _____
Non-Member	\$395	\$ _____

PMDP 200 SERIES

Member	\$295	\$ _____
2nd or Additional Registrations	\$245	\$ _____
Non-Member	\$395	\$ _____

PMDP 300 SERIES

Member	\$345	\$ _____
Non-Member	\$395	\$ _____

Payment Method

Check Payable to CAI Visa/MasterCard/AMEX TOTAL \$ _____

Name on Card: _____

Account #: _____

Expiration Date: _____ Signature: _____

*Please see the reverse side for information regarding corporate and individual discounts.

NOTICE

SPONSOR:

HOUSE LABOR AND COMMERCE

TOPIC:

HB 33 - Real Estate Licensing

DATE: 10-13-97
TIME: 1:00 pm
PLACE: Room 220
TESTIMONY: 10 minute time limit

DRAFT

STATE OF ALASKA
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL Licensing
REAL ESTATE COMMISSION

DRAFT

3501 C Street, Suite 700
Anchorage, Alaska

Work Session Minutes
October 15, 1997

By authority of AS 08.01.070(2) and in compliance with the provisions of AS 44.62 Article 6, the Real Estate Commission held a work session via teleconference on Wednesday, October 15, 1997 to consider the provisions of the work draft currently being proposed as a committee substitute for HB33, an act relating to real estate licensing.

Roll Call

The meeting was called to order by Ruth Blackwell, chairperson at 2:00 p.m.

Commission members and staff present in the Anchorage office were:

Eleanor Oakley, associate broker	Palmer
Clair Ramsey, associate broker	Anchorage
Grayce Oakley, executive administrator	Anchorage
Terry McGillivray, information officer	Anchorage

Also present was Representative Norman Rokeberg, sponsor of HB33.

Participating by teleconference were Commission members:

Ruth Blackwell, associate broker	Juneau
Audrey Foldoe, broker	Fairbanks
Larry Spencer, broker	Juneau
Annette Kreutzer, legislative assistant to Sen. Loren Leman.	

Commission members Linda Freed and Gordon Severson were excused.

The work draft under consideration had been distributed to the members near the end of the quarterly meeting of the Commission in September. This work session was requested by E. OAKLEY to discuss the revisions contained within it, identify areas of concern and suggest modifications or alternatives so that supporting action could be taken at the regular meeting of the Commission in December.

The group proceeded page by page through the draft with comments about specific sessions as identified by page and line number indicated below (when an entire section is discussed, only the first line of the section is listed)

P-1: No comments

P-2, L-18 substitute "a licensee" for "an agent"

- P-3 No comments
- P-4 No comments
- P-5 No comments
- SAB* P-6, L-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.
- P-6, L-11 Suggested to read: technology courses that are specially designed to be useful for persons who are performing real estate activities.
- P-6, L-14 College courses –qualified by credit units rather than "half-semester" in length.
- P-6, L-17 Recognized as a good first step in lieu of endorsement.
- HAS* P-6, L-25 Staff to draft substitute language to clarify that only natural persons are licensed.
- P-6, L-27,28 Delete "auction" from list because it is covered by the provisions of AS 08.88.165. Also delete "auction" from line 4 on page 7.
- HAS* P-6, L-29 Suggest language to distinguish between passively accepting rent and providing receipt and actively seeking to collect rent from tenants.
- P-7 No comments
- HAS* P-8, L-28 Corresponding changes relative to licensing only natural persons to be coordinated with changes in AS 08.88.161.
- P-10, L-30 Suggest annual premium of \$150 with CPI attachment
- P-10, L-31 Suggest changing "submit premium payments to the commission" to "submit proof of coverage to the commission"
- TLM to get letters* P-11, L-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.
- P-11, L-12 Make first line read: "A licensee may obtain additional or alternative errors and omissions . . ."

- HAS* P-12, L-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.
- P-14, L-12 Entire section to be deleted
- P-15 ??? *(still need to check tape on this one.)*
- HAS* P-16, L-23 Staff to redraft using "all real estate contracts" in place of "personal service contracts.
- P-17, L-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.
- HAS* P-17, L-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.
- HAS* P-18, L-11 Change "personal services contract" language to correspond to changes on page 16.
- HAS* P-18, L-16 Suggested possible redraft, but no great heartburn here
- P-19, L-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.
- P-20, L-12 Need to define in the statute how a person acting as a dual agent is limited.
- P-21 No comments
- P-22, L-14 Delete entire section 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.
- P-23, L-8 Commission favors existing language over the proposed language in this section, thus keeping this exemption specific to attorneys.

- P-23, L-16 Make definition compatible with suggested changes to AS 08.88.161 & .171 (pages 6 and 8 of work draft)
- P-23, L-29 Add accounting function in lieu of broadening the section beginning on line 3 to include CPA's.
- P-24, L-7 Change "another" to "others" to preclude a person from doing up to four units for several different persons.
- P-24, L-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 record; 2) requiring the relationship with the owner to be identified in the POA. A questions 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.

- YAS* P-25, L-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.

*Questions asked
but no direction.*

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?

- P-26 Transition provisions: Rep. Rokeberg suggested that he saw two alternatives for the transition period. One would be limited community association manager license that could extend indefinitely with activity being restricted to management of community associations. The second would be a provisional license for a specified transition period, probably 2 years, with all community association managers having to pass the license exam and obtain a license by the end of the transition period.

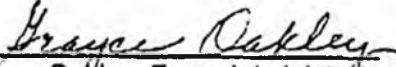
With either plan, the accommodation of new hires, new association management businesses, and upgrading from entry level to broker level need to be addressed and be compatible with AS 08.88.171.

References to rent collection need to be carefully word-smithed so that collection of association homeowners' dues are also covered.

It was noted that the seven pages of surety fund provisions, found after page 27 of the work draft would be reinserted into the bill so that the sequence of the existing statute would remain intact.

No motions were introduced throughout the work session.

The work session adjourned at 4:15 p.m.



Grayce Oakley, Exec. Administrator

Date approved

Ruth Blackwell, Chair

FAX TRANSMITTAL

0-20-97-1443 RC.1

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 Robenberg DATE: 10-20-97

COMPANY: _____

FAX NO.: 258-2916

FROM: Grayce Oakley, Executive Secretary, Real Estate Commission

NUMBER OF PAGES INCLUDING COVER: 4

HARD COPY TO FOLLOW? YES NO

RE: Here is a draft copy of minutes from the
work session. I have initialed the ones where
I was to work on draft language according to my
notes. I should have a copy of that for you
later today and will be circulating (printing) it
to the Commission members as well.

Grayce

If fax does not transmit properly, please call
(907) 269-8160 immediately

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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.

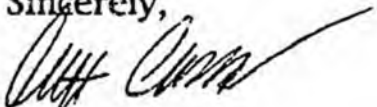
We feel the special "commercial" endorsements are unnecessary. Anchorage is probably the only market in the state that a real estate agent can make a career out of commercial sales only. We feel it is an unnecessary burden on the outlying areas to have to take extra time and money for an endorsement 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

cc:Mail for: Janet Seitz

Subject: Re: received
From: Janet Seitz 10/16/97 8:46 AM
To: Cathy Wood at LAA_JNU

Thanks for the message. Rep. Hudson, a committee member who could not attend the meeting, requested that the meeting tape be transcribed.

Rep. Rokeberg would also like them transcribed for the record as this bill has another hearing this interim AND will be heard again the first part of the session. This is also true for the next two hearings on other matters the House Labor & Commerce Committee will be holding this month. ALL matters will be up before the committee again during the first part of the session.

Janet

Subject: received
From: Cathy Wood at LAA_JNU
Date: 10/15/97 10:47 AM

I received the tapes, notes and file for the October 13 meeting. Thank you for sending everything. I noticed you had a note to transcribe immediately. Ken Freeman will be talking to Speaker Phillips tomorrow regarding our priorities. We have been getting many requests to transcribe all kinds of meetings and we haven't even finished up over 40 tapes from session. We're currently working on subsistence. Last session was the most tapes we've ever had. I can't tell you when they'll be transcribed as I'm waiting to hear from the Speaker. Thanks - Cathy

From: Eric Dyrud
23 Oct 1997

Sec 08.88071

If a licensed Broker or Associated Broker is convicted of a felony, his or her license as a broker will be revoked for a period of seven years from the date of completion of the sentence.

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. Norman Rokeberg

DATE: October 21, 1997

COMPANY: _____

FAX NO: 258-2916

FROM: Grayce Oakley, Executive Administrator, Real Estate Commission *GAO*

NUMBER OF PAGES INCLUDING COVER: 7

HARD COPY TO FOLLOW? YES NO

RE: These are my efforts on the sections where I was to try to put the REC's thoughts into draft language. I have faxed it to the REC members, but have not had any feedback from them as yet. For the time being, I abandoned the normal delete and add format in the interests of making it easier to read for content. I plan to be at the hearing on Thursday afternoon.

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(907) 269-8160 immediately

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DRAFT**Note to REC Members:**

These are the sections which you asked me to draft revisions or new language. I have included the page and line numbers for your reference and comparison. I purposely have written only the language as it would read if this draft were to be adopted and underlined my suggested additions. Stricken language is indicated only where that is the only change. - Grayce

Staff draft of substitute language for page 6, beginning at line 8:

(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;

(2) technology courses directly related to real estate practice and designed to enhance the skills and performance of a licensed real estate practitioner.

(3) courses offered by an accredited college or university as part of a real estate curriculum and available for a minimum of 1 quarter hour or ½ semester hour of academic credit.

(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.

Note: The preceding subsections of AS 08.88.091 have given the Commission the authority to set the number of hours by regulation. To set the number of hours in the core curricula (required courses) seems to eliminate any discretion gained in earlier sections.

Staff draft of substitute language for page 6, beginning at line 23:

The stricken language in this section and the additions in section .171 as well as the changes in definitions # 1 & 9 of section .900 are the suggested tightening of licensing for corporation employees referred to by Rep. Rokeberg during the worksession.

Sec. 08.88.161. License required. Unless licensed as a real estate broker, associate real estate broker, or real estate salesman, a natural person, ~~foreign or domestic corporation, 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.

DRAFT

(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 results or is calculated to result in the sale, exchange, rent, lease, ~~auction~~ or purchase of real estate.

(6) - (11) no changes

Note: I could not find another suitable word to substitute for collect in (3) that made the suggested distinction, so it is addressed as an additional exemption.

Staff draft of substitute language for page 8, beginning at line 16:

Sec. 08.88.171. Entitlement to license. (a) A natural person qualifies for a real estate broker license if the person passes the broker's examination, applies for a license within six months after passing the examination, furnishes satisfactory proof of successful completion of the education requirements of AS 08.88.091, has had at least 24 months of active and continuous experience as a licensed real estate salesperson within the last 36 months immediately preceding application for the broker license, 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 is an owner of a real estate business or employed as a real estate broker by a foreign or domestic corporation, 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, 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, partnership, limited partnership, or limited liability company; or

(2) the broker is employed by another broker as an associate broker, in which case the real estate broker license shall be returned to the commission by the broker, and the commission shall issue an associate broker license.

(b) A natural person qualifies for a real estate associate broker license if the person passes the brokers examination, applies for a license within six months after passing the examination, submits satisfactory proof of successful completion of the education requirements of AS 08.88.091, has had at least 24 months of active and continuous experience as a licensed real estate salesperson within the 36 months immediately preceding application for the broker license, 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 is employed by a licensed real estate broker as an associate real estate broker. Unless the associate broker fails to renew the license or unless the

DRAFT

associate broker's license is suspended or revoked, the associate broker's license continues in effect as 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 broker's license shall be returned to the commission by the associate broker, and the commission shall issue the licensee a broker's license.

Staff draft of substitute language for page 12, beginning at line 7:

(2) application for the examination, ~~accompanied by the proper filing fee~~, may be transmitted by the applicant 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.

Staff draft of substitute language for page 15, beginning at line 29

I missed mentioning this one during the teleconference, but Norm had asked me previously to see if I could clarify how and where licenses are to be displayed. My suggestion is to repeal section .321 and replace with:

Sec. 08.88.321. 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.

Staff draft of substitute language for page 16, beginning at line 23:

Sec. 08.88.341. Real estate employment contracts. All real estate employment contracts must be in writing and must be signed by the broker 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. All real estate employment contracts 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 representative.

DRAFT

Staff memo re: transaction records referenced in page 17, beginning at line 9:

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.

Staff draft of substitute language for page 18, beginning at line 8:

Sec. 08.88.361. When commission or other fee is earned. An obligation to pay a commission, management fee, or other compensation to a real estate broker must be based on the terms of a written real estate employment 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.

Staff draft of substitute language for page 18, beginning at line 16:

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

Staff draft of substitute language for page 19, beginning at line 14:

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 the licensee

DRAFT

(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.

Also add a definition of "dual agent" in AS 08.88.900.

"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.

Note: although there was some discussion of defining "limited dual agent" and specifying the nature of the limitations during the teleconference, there was no direction given regarding this.

Staff draft of substitute language for page 23, line 1, and beginning at line 16 (to make definitions compatible with changes regarding licensing individuals, but not corporations et al):

(1) a natural person who is not licensed under this chapter . . .

(9) ~~a domestic or foreign corporation, a general or limited partnership, or a partner or regular~~ an employee of a domestic or foreign corporation, a general or limited partnership, or a limited liability company, when performing an act described in AS 08.88.161 incidental to the regular course of business. The exemption under 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 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.

() 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 monies are delivered to the real estate office by a tenant or community association member.

DRAFT

Staff draft of substitute language for page 25, beginning at line 13:

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.

(5) "community association management" means an activity undertaken for a Homeowner's Association others with regard to . . . (remainder of definition same as on page 25).

AGENDA
October 13, 1997

Good Afternoon

This Meeting Of The House Labor & Commerce Committee Is Called To Order
On October 13, 1997 At 1:00 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 Has a prior commitment and ill not be in attendance
Rep. Joe Ryan
Rep. Jerry Sanders
Rep. Tom Brice Has a prior commitment and ill not be in attendance
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.

- **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 March 24, 1997, during the legislative session. This is the 4th 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 Chair would entertain a motion to adopt a new draft, Draft Version H for HB 33 as the House Labor and Commerce Committee's working document.

Any objections - hearing none Draft H for HB 33 is adopted

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 10 minutes. Written testimony will be accepted at 716 West 4th 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: There is another hearing on HB 33 on Thursday, October 23, 199, at 2:00 pm, in this same meeting room. Members of the public who would like to send in written testimony - my FAX number is 258-2916.

THIS COMMITTEE STANDS AJOURNED AT (time)

FAX TRANSMITTAL



10-06-97 10:37 RC/D

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. Norman Rokeberg DATE: October 3, 1997

COMPANY: _____

FAX NO: 258-2916

FROM: Grayce Oakley *YAO*

NUMBER OF PAGES INCLUDING COVER: 2

HARD COPY TO FOLLOW? YES NO

RE: OREGON Statute 183.090 is the statute I was referring to which provides the ability to lien a person's property if they engage in unlicensed activity are found guilty and then fail to pay the assessed fine. Just passing this on for your information with respect to (f) of the civil penalties section on page 8, lines 9-12 in the work draft we discussed Monday.

If fax does not transmit properly, please call
(907) 269-8160 immediately

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183.090 Civil penalty procedures; notice; hearing; judicial review; exemptions; recording; enforcement. (1) Except as otherwise provided by law, an agency may only impose a civil penalty as provided in this section.

(2) A civil penalty imposed under this section shall become due and payable 10 days after the order imposing the civil penalty becomes final by operation of law or on appeal. A person against whom a civil penalty is to be imposed shall be served with a notice in the form provided in ORS 183.415. Service of the notice shall be accomplished in the manner provided by ORS 183.415.

(3) The person to whom the notice is addressed shall have 20 days from the date of service of the notice provided for in subsection (2) of this section in which to make written application for a hearing. The agency may by rule provide for a longer period of time in which application for a hearing may be made. If no application for a hearing is made within the time allowed, the agency may make a final order imposing the penalty. A final order entered under this subsection need not be delivered or mailed to the person against whom the civil penalty is imposed.

(4) Any person who makes application as provided for in subsection (3) of this section shall be entitled to a hearing. The hearing shall be conducted as a contested case hearing pursuant to the applicable provisions of ORS 183.413 to 183.470.

(5) Judicial review of an order made after a hearing under subsection (4) of this section shall be as provided in ORS 183.400 to 183.497 for judicial review of contested cases.

→ (6) When an order assessing a civil penalty under this section becomes final by operation of law or on appeal, and the amount of penalty is not paid within 10 days after the order becomes final, the order may be recorded with the county clerk in any county of this state. The clerk shall thereupon record the name of the person incurring the penalty and the amount of the penalty in the County Clerk Lien Record.

(7) This section does not apply to penalties:

- (a) Imposed under the tax laws of this state;
- (b) Imposed under the provisions of ORS 646.760 or 652.332;
- (c) Imposed under the provisions of ORS chapter 654, 656 or 659; or
- (d) Imposed by the Public Utility Commission.

(8) This section creates no new authority in any agency to impose civil penalties.

(9) This section does not affect:

- (a) Any right under any other law that an agency may have to bring an action in a court of this state to recover a civil penalty; or
- (b) The ability of an agency to collect a properly imposed civil penalty under the provisions of ORS 305.830.

(10) The notice provided for in subsection (2) of this section may be made part of any other notice served by the agency under ORS 183.415.

(11) Informal disposition of proceedings under this section, whether by stipulation, agreed settlement, consent order or default, may be made at any time.

(12)(a) Upon the recording of an order in the manner provided by subsection (6) of this section, an agency may initiate proceedings to enforce the order by filing in the circuit court for the county where the order is recorded a certified copy of the civil penalty order and a certified copy of the recording made in the County Clerk Lien Record. Subject to any other requirements that may apply to the enforcement proceedings sought by the agency, the court shall then proceed as with judgments issued by the court.

(b) Enforcement proceedings available to the agency after the filing provided for in paragraph (a) of this subsection include:

Oct-13-97 12:07 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>
19074652864	OK	06	Sent	Oct-13	12:03P	00:03:59	002585030022

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) 258-8181
FAX: (907) 258-2916

SESSION:
STATE CAPITOL
JUNEAU, AK 99801-1182
PHONE: (907) 465-4868
FAX: (907) 465-2040

Representative Norman Rokeberg

JUST THE FAX

Date: 10/13/97

TO: LAA - Teleconferencing
phone
FAX: 465-4648 *FAX*
Telephone: 465-2864

FROM: Representative Norman Rokeberg */Shirley*

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

Number of Pages: 19 (including this page)

Comments: Here is some more info
for the hearing today at 1:00pm *HLA*
HB33

Have a Nice Day

1To: Rep. Norm Rokeberg
 From: Grayce Oakley
 Date: Sept. 30, 1997

Suggested language for specific sections of work draft for HB33 as discussed Monday, Sept. 29. Copy is typed exactly as in the work draft, with my suggested deletions indicated by ~~strike through~~, and additions in *bold italics*.

<u>Pa - Ln - AS08.88</u>	<u>Suggested changes to address the licensing requirements for corporation employees:</u>
--------------------------	---

6 23 .161 License required. Unless licensed as a real estate broker, associate real estate broker, or real estate salesman, a natural person, ~~foreign or domestic corporation, [OR] partnership, [OR] limited partnership, 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;

(6) - (11) --no changes

AND

<u>Pa - Ln - AS08.88</u>	<u>Suggested changes</u>
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8 - 16 - .171(a) Entitlement to license. (a) A natural person qualifies [IS ELIGIBLE] for a real estate broker license if the person passes the [REAL ESTATE] brokers examination, [IF THE PERSON] applies for a license within six months after 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 corporation or a partnership, 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*.

(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~~ [SALESWAN] 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 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 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, or a partnership, [;] limited partnership, or limited liability company, in which case the associate broker's [ASSOCIATE REAL ESTATE BROKER] license shall be [IS] returned to the commission by the associate broker, and the commission shall issue [ISSUES] the broker an associate real estate broker license.

(c) - no change except to change salesman to salesperson

AND

Pg - Ln - AS08.88

Suggested changes

22 - 30 - .900

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 TRANSACTION INVOLVES LAND DEFINED IN AS 34.55.044(7) THAT IS NOT IN ALASKA];

(2) - (8) no changes

(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.

(10) - (18) no changes

Pg - Ln - AS08.88	<u>Suggested changes to address listings and management contracts</u>
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16 - 23 - .341 **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.

AND

<u>Pa - Ln - AS08.88</u>	<u>Suggested changes to address listings and management contracts</u>
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18 - 8 - .361 change "personal service contracts" to listings and management contracts on lines 11 and 12.

<u>Pa - Ln - AS08.88</u>	<u>Suggested changes to office locations, branch offices and display of licenses</u>
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15 - 1 - .291 No changes

15 - 21 - .311 No changes

15 - 29 - .321 Repeal and replace with the 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.***

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.



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) 258-2916

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).

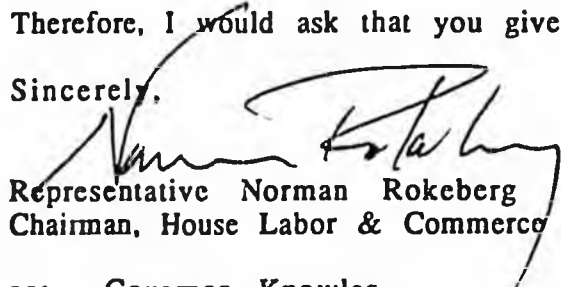
This regulation was intended to inform the public of all parties to a real estate transaction and is specifically directed at home relocation companies and firms that may wish to give a "rebate" back to members of an affinity group.

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

ALASKA STATE LEGISLATURE

House of Representatives

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INTERIM:
716 WEST 4TH AVENUE, SUITE 640
ANCHORAGE, AK 99501
PHONE: (907) 258-8181
FAX: (907) 258-2916

SESSION:
STATE CAPITOL, ROOM 24
JUNEAU, AK 99801-1182
PHONE: (907) 485-4954
FAX: (907) 465-2040

Labor and Commerce Committee

MEMORANDUM

TO: Susie Lowell, Chief Clerk

FROM: Representative Norman Rokeberg, Chairman *Norman Rokeberg*
House Labor and Commerce Committee

DATE: October 8, 1997

SUBJECT: House Labor & Commerce Committee Meeting Schedule

**** CORRECTED PUBLIC NOTICE ****

Monday, October 13, 1997, at 1:00 pm, Room 220, 716 West Avenue, Anchorage, Alaska

 HB 33 Real Estate Licensing
Teleconference

Wednesday, October 15, 1997, at 1:00 pm, Room 220, 716 West Avenue, Anchorage, Alaska

MEETING CANCELLED

Thursday, October 16, 1997, at 11:00 am, Room 220, 716 West Avenue, Anchorage, Alaska

State Recorder's Office Hearing Update

Monday, October 20, 1997, at 1:00 pm, Room 220, 716 West Avenue, Anchorage, Alaska

HB 178 Uniform Commercial Code: Letters of Credit
HB 142 Business Practice Regulations
Teleconference

Thursday, October 23, 1997, at 2:00 pm, Room 220, 716 West Avenue, Anchorage, Alaska

HB 33 Real Estate Licensing
Bills Previously Heard
Teleconference

AGENDA
October 13, 1997

Good Afternoon

**This Meeting Of The House Labor & Commerce Committee Is Called To Order
On October 16, 1997 At 11:00 AM**

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.

- **Declare a Conflict - State --"For the benefit of the public I would like to state for the record that I am a customer of Motznik Computer Services. 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 the overview of the State Recorder's Office. The last hearing on this was May 5, 1997, during the legislative session. This is the 2th hearing on subject

State Recorder's Office Hearing Update

Representative Cowdery's office provided the committee with a number of documents that are contained in your binder. Committee staff has gathered a number of documents since session that are also included in your binder.

**Anyone Wishing To Testify On this issue and Who Has Not Already Done So
Please Come Forward**

Take Testimony In Order, Recognizing Each Witness By Name:

Other Legislators (Ask Other Legislators To Join The Committee At The Table)

Individuals With Time Constraints

Individuals In Order On Witness List.

Teleconferenced Testimony Should Be Rotated Between Locations.

Teleconference Moderator Will Provide You With A List Of Witnesses

At The Various Locations)

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

**At the end of committee business announce: Labor & Commerce Committee will
be meeting Monday October 20, 1997, at 1:00pm in this same meeting room to HB
142 - Business Practice Regulations and HB 178 - Uniform Commercial Code:
Letters of Credit.**

THIS COMMITTEE STANDS AJOURNED At (time)



Fortune Properties, Inc.
2525 C Street, Suite 100
Anchorage, Alaska 99503
(907) 562-SOLD (7853)
Niel Thomas Direct 265-9106
FAX: (907) 276-4514
email: nielt@ptialaska.net
Web Site. www.ptialaska.net/~nielt

Memo

Date: October 16, 1997
To: Rep. Norm Rokeberg
via Bill Brady, Re/Max, Realtor's Legislative Committee
From: Niel Thomas, CCM, CRS
Associate Broker
Subject: HB 33 draft "H"

A handwritten signature in dark ink, appearing to read "Niel Thomas".

Here's are a few questions and comments, from the draft that Bill sent me yesterday. The references are to the page and line(s) in the work draft.

Page/Line	Subject	Questions/Comments
3/6	Speciality	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 certifications issued by professional groups, just facts about the nature of an agent's book of business.
4/9, 7/8	Civil fines	Are civil fines only 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.
5/3	Courses 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 to give a course to FSBO's!
6/10	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?

- | | | |
|----------------|--------------------------------------|--|
| 16/23;
18/8 | Personal services contracts | <p>In earlier discussions there has been talk of exempting commercial buyers (many of which are corporations) from personal services contracts. I don't find that provision here. Do you still mean to include it?</p> <p>Does any of this speak to a personal services contract in dual agency situations?</p> <p>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?</p> <p>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.</p> |
| 20/1 | Buyer agent; confirmation of contact | <p>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.</p> |
| 20/9 | Disclosure of who pays buyer's agent | <p>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.</p> <p>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.</p> |
| 21/25 | Wages to assistants | <p>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.</p> |