

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

10827 HOUSE JUDICIARY

In regard to page 5, section (g) of the bill; attempting to trivialize the requirement of AS 08.88.396 as technical violation is simply absurd. Most would not consider disclosing, who you work for and how you're paid a trivial technical violation. All states classify undisclosed dual agency as fraud, deceit, and misrepresentation.

Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion.

Sincerely,

Debbie Barnhardt

Subject: Yes on H257

Date: Tue, 22 Apr 2003 17:06:12 EDT

From: Susanpcock@aol.com

To: Representative_Lesil_McGuire@legis.state.ak.us

As a Realtor and active agent I have been hoping for some changes to the current statues. I believe H257 is a start. Please vote for it. Susan Peacock

Subject: HB 257

Date: Tue, 22 Apr 2003 17:41:30 -0800

From: Patrick Tufts <ptufts@alaska.com>

To: Lesil McGuire <representative_lesil_mcguire@legis.state.ak.us>

<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

Dear Representative _____ Lesil McGuire _____,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

My professional association, the Alaska Association of REALTORS cannot support the following issues of HB 257:

Required Disclosure of Conflict of Interest – Regarding dual agency, on in-house transactions, whether commercial or residential. If it can be shown that the actions of the sales agent encourages a belief that the sales agent represented the buyer/lessee/tenant, then an undisclosed, and therefore illegal, dual agency probably has been created.

Removing the requirement of disclosure is an act of fraud. How can misleading the public in issues as important as fiduciary duty be anything but fraud?

Common Law of Agency - If these principles do not apply, then what does? The reality of abrogating common law is that the states that have attempted it, have attempted to define the duty of the agent and penalties for non compliance. No state has been successful in this endeavor, and the National Association of REALTORS does not recommend abrogation of common law. Simply, it works as a balance of consumer protection and defining acceptable professional conduct.

Fiduciary Duty - This provision is simply embarrassing to professionals that endorse the National Association of REALTORS Code of Ethics. You can interpret this as; Citizen of Alaska, I will be honest, fair, and act in good faith, but you can't trust me.


In regard to page 5, section (g) of the bill; attempting to trivialize the requirement of AS 08.88.396 as technical violation is simply absurd. Most would not consider disclosing, who you work for and how you're paid a trivial technical violation. All states classify undisclosed dual agency as fraud, deceit, and misrepresentation.

Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in <?xml:namespace prefix = st1 ns = "urn:schemas-microsoft-com:office:smarts" />Alaska. **I have attached a copy of the Code of Ethics for your review to understand this position.**

Thank you so much for considering my opinion.

Sincerely,

Patrick Tufts

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|  <u>2003%20COE.pdf</u> | <p>Name: 2003%20COE.pdf
Type: Acrobat (application/pdf)
Encoding: base64
Download Status: Not downloaded with message</p> |
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I would like to ask for your support for...57 relating to the real estate industry.

Subject: I would like to ask for your support for HB 257 relating to the real estate industry.

Date: Wed, 23 Apr 2003 10:05:04 -0800

From: "Rita Stuckart" <RStuckart@jackwhite.com>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

I would like to ask for your support for HB 257 relating to the real estate industry.

Rita Stuckart
Residential Manager
Prudential Jack White Real Estate
1-800-770-2001

Subject: HB 257

Date: Wed, 23 Apr 2003 14:15:33 -0800

From: "Beckie Brocies" <bbrocies@alaska.net>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

CC: <Representative_Tom_Anderson@legis.state.ak.us>, <Representative_Jim_Holm@legis.state.ak.us>, <Representative_Dan_Ogg@legis.state.ak.us>, <Representative_Ralph_Samuels@legis.state.ak.us>, <Representative_Les_Gara@legis.state.ak.us>, <Representative_Max_Gruenberg@legis.state.ak.us>

Representative McGuire:

I am writing to you as the Chair of the House Judiciary Committee, to urge that you do NOT support HB 257. As an Anchorage Realtor who fights the daily battle to improve the reputation of members of my industry, this legislation is clearly special interest, and will not in any way protect the public.

The Attorney General's office is currently reviewing new regulations which should clear up some of the issues associated with dual agency in the real estate industry and under which we can operate until the entire statute can be re-written, a project that I understand is currently underway.

HB 257 is, at best, nothing - and at the worst, appears to have been designed to protect someone other than the general public.

Thank you for your consideration,

Beckie Brocies
Realtor
Dynamic Properties
3111 C Street
Anchorage, AK 99503
(907) 440-6939

Subject: HB 257

Date: Wed, 23 Apr 2003 14:16:50 -0800

From: "Bill Mehner" <Bill@BonnieMehner.com>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

Lesil,

I SUPPORT HB 257. . . AND HOPE YOU WILL TOO!

This House Bill is very important to the health of the real estate industry State-wide. Your support is needed to **insure passage this session**. There are many important issues confronting real estate agents and brokers especially where agency disclosure is concerned. I have gained some expertise recently in this area and was hoping to have a Bill submitted that would help resolve some of the problems for **all** real estate agents.

The Anchorage and Alaska Board of REALTORS has started that effort with a task force to address a total rewrite of the current statutes. This is a lengthy process and consensus has been frustrating at this point.

Rep. Rokebergs' HB 257 sends a message and points the direction for later legislation. But we need this interim step now to safeguard consumers and to keep our industry strong. We are concerned about agents' ability for timely compliance to the current statutes and the exposure the industry has for loss of E & O insurance coverage. It is in the best interest of consumers to have realistic disclosure procedures and limit exposure to class actions that could cripple the real estate industry.

I would like to ask for your help to pass this House Bill and would make myself available if you have questions or reservations.

I also have a draft that you may want to consider for additional statute changes and would appreciate your involvement to direct this important process.

Thank you for your help!

Bill Mehner

(907)317-0710 cell

(907)248-0254 home

(907)762-3108 work

Subject: HB 257

Date: Wed, 23 Apr 2003 14:35:49 -0800

From: island@alaska.net

To: Representative_Lesil_McGuire@legis.state.ak.us

Please do not pass this bill - it does NOT serve the public as Realtors are pledged to do. Whether it is Commercial or Residential, disclosure of who I'm working for is mandatory and if I have deceived a former client I should be held accountable. This "get out of jail" free card can only protect an agent who has not previously followed the rules.

Susan Nix, ABR, GRI
Ricker & Associates Real Estate

Subject: HB257: PLEASE VOTE YES!

Date: Wed, 23 Apr 2003 18:29:11 -0800

From: Sallie Nickerson <callme@gci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

Dear Representative McGuire:

The Alaska Association of Realtors is all wet! There are a few people on a committee trying to build a camel -- they've been working on their "proposed legislation" for almost a year and have yet to come to internal agreement. I am a licensed real estate agent #3886, since 1976, and urge you to support this legislation. If this bill doesn't pass, I'm told our E&O insurance is in danger of disappearing from the State of Alaska. We must protect our consumers by being able to obtain E&O and an easier way of disclosing agency in who we represent. This can do it until the "camel builders" get their act together!. Thank you for your help. Sallie Nickerson, Anchorage.

Subject: House Bill 257

Date: Fri, 25 Apr 2003 16:58:38 -0800

From: "Dan Wolf" <danwolf@alaska.net>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

April 25, 2003

The Honorable Lesil McGuire

House of Representatives

Alaska State Capitol

Juneau, AK 99801-1182

Dear Representative McGuire,

I'm writing you to request your support of HB 257. The purpose of this legislation is to be a "stop gap" measure to prevent lawsuits against real estate agencies and individual agents until a new regulation can be agreed upon and enacted into law. The current law surrounding the disclosure of dual agency is unclear and is very unpractical for the way real estate really functions in today's real estate environment.

Recently lawyers have learned how to exploit dual agency transactions on 'technical violations' where no person has been wronged or harmed, but formal agency notice was not given in strict accordance to the existing statutes.

The real estate industry is under threat from particular lawyers who hope to muster enough buyers and sellers who bought or sold in transactions where the same real estate company represented both parties to the transaction. There is no way to show any harm was done to parties. The only issue is the timing of the 'dual agency' disclosure. Dual agency is very common in small communities where there are few real estate companies and occurs in about 40% of the transactions in the Anchorage area.

If attorneys can gain enough support for a class action suit against real estate agents and offices, the Errors and Omission (E & O) insurance carriers will undoubtedly drop Alaska from further coverage and this will be very harmful to the real estate industry as well as to the public at large.

The Alaska Association of Realtors has been working on proposed legislation for nearly a year but is still not quite in agreement. This bill, although maybe not perfect or fully comprehensive will provide temporary relief from suits on a technical violation.

Thank you,

Dan Wolf

Re/Max Properties, Inc

Anchor age, AK

(907) 257-0114

Subject: HB 257

Date: Sat, 26 Apr 2003 19:12:52 -0800


From: Pauline Hofseth <pauline@gci.net>

To: 'House Judiciary' <Committee@legis.state.ak.us>

I am a licensed Realtor in Anchorage with 17 years of real estate practice and my license number is 11220. I am also a member of the Anchorage Board of Realtors and the Alaska Association of Realtors. The subject matter of the HB 257 is an important one to Realtors and to the general public. The changes proposed in HB 257 are important, because no matter how well we work to do our jobs by the letter of the law, there are people who feel it is okay to profit from ambiguities. And that's not fair, nor do I believe that was the purpose of creating any law. Thanks for your consideration in support of HB 257. If I can answer any questions, please feel free to contact me.

Sincerely,

Pauline Hofseth, CRS, ABR, RECS "Daring to Care
Associate Broker www.PaulineHofseth.com
[Mailto:pauline@PaulineHofseth.com](mailto:pauline@PaulineHofseth.com)
Prudential Vista Real Estate (907) 562-5485 (fax)
4241 B Street Anchorage AK 99503
(907) 273-7274/ (907) 229-4007/ (800) 909-6464

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Encoding: base64 |
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Prudential

Prudential Jack White Real Estate
3201 C Street, Suite 200
Anchorage, AK 99503
Bus 907 563-5500 Fax 907 762-3189
www.jackwhite.com

April 21, 2003

The Honorable Lisel McGuire
House of Representatives
Alaska State Capital
Juneau, AK 99801-1182

Dear Representative McGuire:

I am a registered voter and I would like to ask for your support for the passage of Representative Rokeberg's HB 257 relating to the real estate industry. I am a licensed Realtor and a member of the Anchorage Board of Realtors and the Alaska Association of Realtors. My license number is 15608.

As a licensed and informed Realtor I would like you to know that I strongly support this bill and hope you will as well.

Thank you for your support. If you have any questions, please feel free to contact me at 762-5874.

Sincerely,

A handwritten signature in cursive script that reads "Michelle Croswhite".

Michelle Croswhite
Realtor

4/24/03

Dear Representative MCGUIRE:

I would like to ask for your support for HF 257 relating to my profession, the real estate industry. I am especially supportive of the provision to treat an untimely agency disclosure as a conflict of interest.

I am a licensed real estate agent in the Mat-Su Valley, a member of the Valley Board of Realtors and the Alaska Association of Realtors.

Thank you for your support. If you have any questions, please feel free to contact me at 907 376-2414.

Sincerely,

Betsy Kay

Too late,

but oh well.

Just for your

records. :)



Fax Cover Sheet

To..... The Honorable Lesil McGuire
Fax #..... 907-465-6592
Date 04-18-03
Pages 1

RE: HB 257

The Honorable Lesil McGuire
House of Representatives
Alaska State Capitol
Juneau, AK 99801-1182

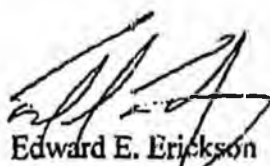
*not a
constituent*

Dear Representative McGuire:

I am a member of your legislative district and I would like to ask for your support for the passage of Representative Rokeberg's HB 257 relating to the real estate industry. I am a licensed Realtor and a member of the Anchorage Board of Realtors and the Alaska Association of Realtors. My license number is 15937.

Thank you for your support. If you have any questions, please feel free to contact me at (907) 689-6464.

Sincerely,


Edward E. Erickson
Realtor

4241 "B" Street
Anchorage, AK 99503
Office (907) 582-6464
Fax (907) 562-5485

16635 Centerfield Dr.
Eagle River, AK 99577
Office (907) 889-6464
Fax (907) 889-6499

1365 E. Parks Hwy.
Wasilla, AK 99554
Office (907) 376-2414
Fax (907) 376-5471

Fax Cover Sheet

To.....**The Honorable Lesil McGuire**
Fax #.....**907-465-6592**
Date**04-18-03**
Pages.....**1**

RE: HB 257

The Honorable Lesil McGuire
House of Representatives
Alaska State Capitol
Juneau, AK 99801-1182

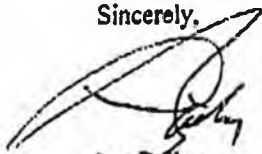
not registered

Dear Representative McGuire:

I am a member of your legislative district and I would like to ask for your support for the passage of Representative Rokeberg's HB 257 relating to the real estate industry. I am a licensed Realtor and a member of the Anchorage Board of Realtors and the Alaska Association of Realtors. My license number is 13143.

Thank you for your support. If you have any questions, please feel free to contact me at (907) 689-6464.

Sincerely,



Les Bailey
Realtor



Fax Cover Sheet

To.....The Honorable Lesil McGuire
Fax #907-465-6592
Date.....04-21-03
Pages.....1

RE: HB 257

The Honorable Lesil McGuire
House of Representatives
Alaska State Capitol
Juneau, AK 99801-1182

not const.

Dear Representative McGuire:

~~I am a member of your legislative district~~ and I would like to ask for your support for the passage of Representative Eikeberg's HB 257 relating to the real estate industry. I am a licensed Realtor and a member of the Anchorage Board of Realtors and the Alaska Association of Realtors. My license number is 15165.

Thank you for your support. If you have any questions, please feel free to contact me at (907) 689-6464.

Sincerely,

Craig Bennett
Craig Bennett
Realtor

4241 "B" Street
Anchorage, AK 99503
Office (907) 562-6434
Fax (907) 562-5488

16635 Canterbury Dr.
Eagle River, AK 99577
Office (907) 689-6464
Fax (907) 689-6499

1365 E. Parko Hwy.
Wasilla, AK 99853
Office (907) 376-4414
Fax (907) 376-5471

4/24/03

Dear Representative McGuire :

I would like to ask for your support for HP 257 relating to my profession, the real estate industry. I am especially supportive of the provision to treat an untimely agency disclosure as a conflict of interest.

I am a licensed real estate agent in the Mat-Su Valley, a member of the Valley Board of Realtors and the Alaska Association of Realtors.

Thank you for your support. If you have any questions, please feel free to contact me at 907 376-2414.

Sincerely,

Shana Ackles

4/24/03

Dear Representative McGuire:

I would like to ask for your support for HP 257 relating to my profession, the real estate industry. I am especially supportive of the provision to treat an untimely agency disclosure as a conflict of interest.

I am a licensed real estate agent in the Mat-Su Valley, a member of the Valley Board of Realtors and the Alaska Association of Realtors.

Thank you for your support. If you have any questions, please feel free to contact me at 907 376-2414.

Sincerely,

Sandra McMillin

4/24/03

Dear Representative McGuire:

I would like to ask for your support for HP 257 relating to my profession, the real estate industry. I am especially supportive of the provision to treat an untimely agency disclosure as a conflict of interest.

I am a licensed real estate agent in the Mat-Su Valley, a member of the Valley Board of Realtors and the Alaska Association of Realtors.

Thank you for your support. If you have any questions, please feel free to contact me at 907 376-2414.

Sincerely,

Esther Buckner

4/24/03

Dear Representative McGuire:

I would like to ask for your support for HP 257 relating to my profession, the real estate industry. I am especially supportive of the provision to treat an untimely agency disclosure as a conflict of interest.

I am a licensed real estate agent in the Mat-Su Valley, a member of the Valley Board of Realtors and the Alaska Association of Realtors.

Thank you for your support. If you have any questions, please feel free to contact me at 907 376-2414.

Sincerely,

Alison Zahaj

4/24/03

Dear Representative McBride :

I would like to ask for your support for HP 257 relating to my profession, the real estate industry. I am especially supportive of the provision to treat an untimely agency disclosure as a conflict of interest.

I am a licensed real estate agent in the Mat-Su Valley, a member of the Vailey Board of Realtors and the Alaska Association of Realtors.

Thank you for your support. If you have any questions, please feel free to contact me at 907 376-2414.

Sincerely,

Leahy Barnhart

4/24/03

Dear Representative McGuire:

I would like to ask for your support for HP 257 relating to my profession, the real estate industry. I am especially supportive of the provision to treat an untimely agency disclosure as a conflict of interest.

I am a licensed real estate agent in the Mat-Su Valley, a member of the Valley Board of Realtors and the Alaska Association of Realtors.

Thank you for your support. If you have any questions, please feel free to contact me at 907 376-2414.

Sincerely,


Licki Westphal

Subject: HB257

Date: Mon, 21 Apr 2003 18:36:11 -0800

From: Ben Lally <benlally@gci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

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Type: WINWORD File (application/msword)
Encoding: base64
Download Status: Not downloaded with message</p> |
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THIS LETTER SHOULD BE SENT VIA E-MAIL TO ALL
LEGISLATORS...SENATE AND HOUSE.

I am a real estate licensee in your area. I am deeply disturbed about a bill that has been introduced into the legislature - HB 257. For these reasons:

1. The bill does not protect the consumer.
2. It has a provision that could endanger the surety fund since it is the only method of relief if a licensee does not follow the law
3. It allows licensees that did not follow the current law, to go to a new law rather than following the law as written. This is not good public policy.

I am requesting that if you have this bill in one of your committees or it comes to the house of senate floor that you vote NO. The current bill, as written is bad public policy.

Thank you for considering my opinion.

Fax Cover Sheet

To **The Honorable Lesli McGuire**
Fax # **907-465-6592**
Date **04-22-03**
Pages **1**

RE: **HB 257**

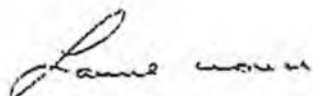
The Honorable Lesli McGuire
House of Representatives
Alaska State Capitol
Juneau, AK 99801-1182

Dear Representative McGuire:

I would like to ask for your support, as a member of the House Judiciary Committee, for the passage of Representative Rokeberg's HB 257 relating to the real estate industry. I understand that HB257 has passed out of the House Labor & Commerce Committee and is scheduled for hearing by the House Judiciary Committee on approximately April 28th. I am a licensed Realtor and a member of the Anchorage Board of Realtors and the Alaska Association of Realtors. My license number is 10665.

Thank you for your support. If you have any questions, please feel free to contact me at (907) 689-6464.

Sincerely,



Laurel Crouse
Realtor

4241 'B' Street
Anchorage, AK 99503
Office (907) 662-6464
Fax (907) 582-5485

16635 Centerfield Dr.
Eagle River, AK 99577
Office (907) 689-6464
Fax (907) 689-6499

1365 E. Parks Hwy.
Wasilla, AK 99554
Office (907) 376-2414
Fax (907) 376-6471



Prudential Vista Real Estate

4241 B Street
Anchorage, AK 99503
Bus 907 562-6464
Fax 907 562-5485
www.prudentialvista.com

4/23/2003

Dear Representative McGuire:

I would like to ask for your support for the passage of Representative Rokeberg's HB 257 relating to the real estate industry. I am a licensed Realtor and a member of the National Association of Realtors. My license number is 15599. I would like you to support this passage in order to help stop people from having a free reign to make money off loopholes in poorly written law. Just as they have families, we have families too! Sometimes people choose to think with their pocketbooks instead of what's just and right.

Thank you for your support. If you have any questions, please feel free to contact me at 244-1876.

Sincerely,

A handwritten signature in cursive script that reads "Matthew T. Kane".

Matthew T. Kane



Fax Cover Sheet

To The Honorable Lesil McGuire
Fax #..... 907-465-6592
Date..... 04-22-03
Pages 1

RE: HB 257

The Honorable Lesil McGuire
House of Representatives
Alaska State Capitol
Juneau, AK 99801-1182

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Thank you for your support. If you have any questions, please feel free to contact me at (907) 689-6464.

Sincerely,

Lola Pederson
Realtor

4241 "B" Street
Anchorage, AK 99503
Office (907) 562-6464
Fax (907) 562-5485

10035 Centerfield Dr.
Eagle River, AK 99577
Office (907) 689-6464
Fax (907) 689-6499

1365 E. Parks Hwy.
Wasilla, AK 99654
Office (907) 376-2414
Fax (907) 376-5477

To The Honorable Lesil McGuire

Fax # 907-465-6592

Date 04-22-03

Pages 1

RE: HB 257

The Honorable Lesil McGuire

House of Representatives

Alaska State Capitol

Juneau, AK 99801-1182

Dear Representative McGuire:

I would like to ask for your support, as a member of the House Judiciary Committee, for the passage of Representative Rokeberg's HB 257 relating to the real estate industry. I understand that HB 257 has passed out of the House Labor & Commerce Committee and is scheduled for hearing by the House Judiciary Committee on approximately April 28th. I am a licensed Realtor and a member of the Anchorage Board of Realtors and the Alaska Association of Realtors. My license number is 15864.

Thank you for your support. If you have any questions, please feel free to contact me at (907) 689-6464.

Sincerely,


Margaret Billinger, Realtor

RUSH -
FOR CONSIDERATION
PRIOR TO 1pm JUDICIARY

MEMORANDUM

Date : 5/1/03

To : The Honorable Representative Lesil McGuire
The Honorable Representative Tom Anderson
The Honorable Representative Dan Ogg
The Honorable Representative James Holm
The Honorable Representative Ralph Samuels
The Honorable Representative Max Gruenberg
The Honorable Representative Les Gara

From : Linda Garrison-Broker/Owner AAR #1 Buyers Agency

RE : HB 257

A modified HB257 will be heard in House Judiciary 5/2/03 starting at 1pm. As of 11:30 pm on Thursday, 5/1/03, revisions are not yet available for PUBLIC review. Common behind the scenes negotiations are occurring; so be it. But, since these statutes are for consumer protection, I am very concerned that the public cannot gain access to review suggested changes and make comments.

As guardians of the consumer's protection, the public is depending upon you and your decisions. I respect you, and do not envy you, for the responsibility which you have accepted. The current real estate statute is not flawed. Many in the industry would propose it is; that position is based on dual agency. The current statute is written with consumer protection and representation in mind - not agent/agency protection. Dual agency is allowed with appropriate and reasonable disclosures. That is why the current statute should not be diluted with HB257 which is concerned with the real estate industry, not the public/consumer protection.

Here is a scenario that is well covered by the current statute. An agent of xxx company is with a buyer who wants to see a listing of xxx company. That agent would simply have to tell the buyer that he "represents the seller." Very logical - very consumer oriented - very accurate. There would be no dual agency-unless the agent chose to create it. If the agent wants to create a dual agency relationship, the current statute allows it. The current statute recognizes that the creation of this dual agency doesn't benefit the public - buyer or seller - simply the agent/agency. We should not make it easier for an agent/agency to weaken public protection.

***THE CURRENT STATUTE SERVES THE PUBLIC PROTECTION WELL; IT SHOULD BE KEPT IN TACT - NOT DILUTED. COMMON LAW SHOULD NOT BE ABROGATED.**

*** THIS STATUTE SHOULD BE KEPT AS A GUARD FOR CONSUMER PROTECTION. WHAT DOES HB257 DO FOR PUBLIC PROTECTION. NOTHING. IN FACT, HB 257 MAKES IT EASIER FOR AN AGENT/AGENCY TO PRACTICE DUAL AGENCY. DUAL AGENCY DOESN'T BENEFIT THE CONSUMER (SELLER OR BUYER)-IT ONLY BENEFITS THE AGENT/AGENCY.**

The current statute does the job-IT PROTECTS THE PUBLIC. Thank you.

AAR #1 Buyer's Agency®

RESIDENTIAL • INVESTMENT PROPERTIES

PO BOX 190727

ANCHORAGE AK 99519-0727

FAX (907) 277-3443

(907) 27 BUYER

(907) 272-8937

FAX MEMORANDUM

DATE:

04/30/03

TO:

THE Honorable Representative

COMPANY:

De S. L. McGuire

FAX:

907-465-6592

FROM:

LINDA S. GARRISON, Broker

RE:

House Bill no. 257

OF PAGES TO FOLLOW:

5

- ① We still have a retro clause
- ② This modification of this Bill has been hastily put together without comment from Realtors, Real Estate Commission or Alaska Property owners association.
- ③ We urge hearing this Bill next week.
- ④ This is not available on the web

April 28, 2003

To: All Legislators;

HB257 needs to be defeated!

Once again, a Legislator has introduced a "self serving", Special Interest bill that is not in the best interest of the public, whom it claims to protect. This bill is specifically written to protect a Special Interest Party from a "Class Action" lawsuit. Amendments are being offered, in order to gain support, but they don't do anything but further confuse the issues. **Kill this Bill!**

HB257 was written in an attempt to legislate away an Agent's fiduciary duties to their clients. If you think chaos reigns now, just pass this bill and watch the lawsuits begin.

IS THIS NOT A CONFLICT OF INTEREST? If you will notice, most of the Legislators supporting HB257 are LICENSED REAL ESTATE AGENTS; But for your information, a lot of Realtors do not support HB257. They see it for what it is: an "end run" around ethical, lawful conduct.

The public already perceives a Realtor to be of lower character than a car thief, a legislator, or an Attorney, and with just cause. Pass this bill and you legislators might just make it to the bottom of the list. Pass HB257 and you will do an enormous disservice to the public.

There are probably five thousand Realtors in Alaska, some will vote for you, (1-2% of voters), if you do vote for HB257, ninety eight percent of the voters may never vote for you again, once they realize what a disservice the legislature has done Alaskans.

See HB257 for what it is and vote it down. Do the public a real service.

Our existing Real Estate Laws are good; they just need enforcement. If you sincerely want to improve Real Estate transactions in our state-fund some license enforcement!

I myself am a Realtor, a Broker and owner of Advantage Realty, Inc.: I don't want HB257 to further erode what little respect and trust our industry now has.

Thank you for taking the time to read my letter.

Sincerely;

Les Reynolds
Advantage Realty, Inc.
P.O. Box 871710
Wasilla, Alaska 99687
(907) 357-1750

Subject:

Date: Fri, 18 Apr 2003 15:32:08 -0800

From: "Ellen Hedges" <ellen@greatlandrealty.com>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

Dear Representative McGuire,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

My professional association, the Alaska Association of REALTORS cannot support the following issues of HB 257:

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Removing the requirement of disclosure is an act of fraud. How can misleading the public in issues as important as fiduciary duty be anything but fraud?

Common Law of Agency - If these principles do not apply, then what does? The reality of abrogating common law is that the states that have attempted it, have attempted to define the duty of the agent and penalties for non compliance. No state has been successful in this endeavor, and the National Association of REALTORS does not recommend abrogation of common law. Simply, it works as a balance of consumer protection and defining acceptable professional conduct.

Fiduciary Duty - This provision is simply embarrassing to professionals that endorse the National Association of REALTORS Code of Ethics. You can interpret this as; Citizen of Alaska, I will be honest, fair, and act in good faith, but you can't trust me.

In regard to page 5, section (g) of the bill; attempting to trivialize the requirement of AS 08.88.396 as technical violation is simply absurd. Most would not consider disclosing, who you work for and how you're paid a trivial technical violation. All states classify undisclosed dual agency as fraud, deceit, and misrepresentation.

Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion.

Sincerely,

Ellen Hedges

Great Land Realty

907-694-9125

Fax: 907-694-9125

ellen@greatlandrealty.com

Subject: HB 257

Date: Fri, 18 Apr 2003 15:50:39 -0800

From: Trevor Roehl <trevorroehl@gci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

Dear Representative McGuire,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

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Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska.

Thank you so much for considering my opinion.

-
Sincerely,

—
Trevor Roehl
Marketing Associate/Property Manager

Powell Realty, Inc., GMAC Real Estate
PH (907)789-3888 Fax (907)789-7038

Subject: Hb 257

Date: Fri, 18 Apr 2003 15:57:53 -0800

From: Ruth Blackwell <ruth@aukelake.com>

Reply-To: ruthlb@aukelake.com

Organization: Ruth Blackwell

To: Representative_Lesil_McGuire@legis.state.ak.us

CC: Representative_Norman_Rokeberg@legis.state.ak.us

Dear Representative McGuire;

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

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Thank you so much for considering my opinion.

Sincerely,

Ruth Blackwell
Powell Realty/GMAC
9040 Glacier Highway
Juneau, Alaska 99801
907-789-3888 work
907-789-7038 work fax
907-789-0582 home
907-789-2835 home fax
907-321-0615 cell

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Type: Acrobat (application/pdf)
Encoding: base64
Download Status: Not downloaded with message |
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Subject: House Bill 287

Date: Fri, 18 Apr 2003 16:13:17 -0800

From: Hal Jackson <haljackson@alaska.com>

To: Representative_Lesil_McGuire@legis.state.ak.us

I oppose House Bill 287.

I have been a Realtor for 15 years and oppose this course of action.

Hal Jackson
Eagle River, Ak.

Dear Representative,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

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Thank you so much for considering my opinion.

Sincerely,

Clair E. Dalton
Anita Dalton

Dear Representative _____,

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Thank you so much for considering my opinion.

Sincerely,

Debbie A. White
Associate Broker
RE/MAX of Juneau

Subject: Representative Rokeberg's Proposed HB 257

Date: Sat, 19 Apr 2003 19:06:15 -0800

From: "anniew" <anniew@xyz.net>

To: <Representative_Lesil_McGuire@legis.state.ak.us>,
<Representative_Tom_Anderson@legis.state.ak.us>,
<Representative_Jim_Holm@legis.state.ak.us>, <Representative_Dan_Ogg@legis.state.ak.us>,
<Representative_Ralph_Samuels@legis.state.ak.us>,
<Representative_Les_Gara@legis.state.ak.us>,
<Representative_Max_Gruenberg@legis.state.ak.us>,
<Representative_Norman_Rokeberg@legis.state.ak.us>

Dear Representative Rokeberg and House Judiciary Members:

I am writing this letter to you all in opposition of HB 257, which I find to be ill-conceived and disingenuous.

First let me say that I appreciate Representative Rokeberg's attempt at clarifying agency relationships between sellers, buyers and real estate agents. He has worked with us for a long time and has shown admirable patience as our work on Agency issues has dragged on. Many of us from the outlying boards have spent hours participating in Agency Task Force meetings, and he would not be alone in feeling some impatience at the length of this process. However, that impatience is part of the process of a large group struggling with a very important issue.

HB 257, as written, denies consumers protection when they are participating in the purchase/sale of a property very loosely defined as "commercial" by this bill. Removing the requirement to disclose to clients exactly whom is being represented opens Pandora's box and can mislead the public. Although I understand that in large commercial transactions it is felt by some that both buyers and sellers are knowledgeable and sophisticated and don't need agency disclosures, some of the definitions of "commercial" are very loose and could apply to very modest properties and would be owned and/or purchased by less than sophisticated buyers.

Other parts of this bill appears to trivialize the requirement of AS08.88.396, which is just plain wrong. Since when is disclosing to a client who you work for and how you're paid trivial? Right now every state classify undisclosed dual agency as fraudulent misrepresentation I believe.

The most abhorrent part of this proposed legislation has to do with the Retrospectivity elements. As an associate broker who works very hard to obey both the law and the Realtor Code of Ethics, I find it reprehensible that legislation would retroactively prohibit consumers who feel themselves wronged to have their day in court. How convenient for those huge companies who can't (or don't want to) keep track of what their agents are doing. It's a huge slap in the face to the rest of us, and the real estate consumer, to remove the ability for redress if a wrong has been/is being committed.

It seems to me a better approach would be to define "agency" as it actually applies to the real estate profession, rather than by it's broad Common Law present definition and make practical the applications of **when** and **how** the agency relationship must be disclosed to a buyer and a seller. THEN, if you want to eliminate **some** commercial transactions (say for properties over \$500,000 or some other fairly high sales amount, then that might be appropriate.

The way this bill is presently written, there's not much to my mind that IS appropriate about it. I don't want to be painted with the "used car salesman" brush. The general public is going to see this as a bunch of slimy salesmen trying to weasel out of something. I work too hard to let this happen.

Thank you for your time and attention.

Sincerely,

Anne C. Whitney, Associate Broker
AAR Board of Directors Member

Subject: HB 257**Date:** Mon, 21 Apr 2003 10:26:11 -0800**From:** Shel Hensley <realestate@gci.net>**To:** Representative_Lesil_McGuire@legis.state.ak.us

<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

Dear Representative Lesil McGuire,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation.

HB 257 is a real slap in the face to the law abiding majority of real estate practioners in Alaska. Norm Rokeberg's association with Prudential Jack White Co., and Prudential Vista Real Estate is well known within the real estate industry. To think that HB 257 arrives at such a time as one of Prudential Jack White Co.'s star agents is facing licensing issues due to lack of disclosure in a previous real estate transaction is insulting to our trade, to say the least. The fact that a potential class action suit against Prudential Vista Real Estate would also be halted adds insult to injury. These two incidents are *exactly* why the State of Alaska must stand firm with regulations that will protect the public and force disclosure of agency in all real estate transactions.

I find a comment in the Sunday Anchorage Daily News by Chris Stephens, a commercial real estate agent, to be most alarming. Obviously he has missed the point entirely when he says that Commercial real estate agents should not be required to disclose agency since about half of their transactions are "dual agency" situations. Representing the Seller and the Buyer within the same firm eliminates the ability to give "full" or fiduciary service to either party. Helping the Seller receive the highest dollar for the property and assisting the Buyer to receive the lowest price for the property. The same being true when a real estate agent lists a property for sale and then writes the offer on that property for the Buyer.

Every homeowner and potential home buyer deserves the opportunity to decide what type of representation is appropriate for them. In order to make this decision they have to first be given notice, or disclosure, as to what level of representation is available to them. It is highly unlikely

that the vast majority would accept anything other than a fiduciary relationship if made fully aware of the implications.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

My professional association, the Alaska Association of REALTORS cannot support the following issues of HB 257:

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In regard to page 5, section (g) of the bill; attempting to trivialize the requirement of AS 08.88.396 as technical violation is simply absurd. Most would not consider disclosing, who you work for and how you're paid a trivial technical violation. All states classify undisclosed dual agency as fraud, deceit, and misrepresentation.

Thank you so much for considering my opinion.

Sincerely,

Shel Hensley
realestate@shelhensley.com

Subject: HB 257

Date: Mon, 21 Apr 2003 11:03:21 -0800

From: "Barb Nord" <barbnord@acsalaska.net>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

Dear Representative McGuire,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

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Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska

Thank you so much for considering my opinion.

Sincerely,

Barbara A. Nord, Associate Broker

Five Star Realty

35388 Spur Hwy., Suite 8

Soldotna, AK 99669

(907) 262-2445 office

(907) 260-2624 fax

(907) 398-4123 cellular

(907) 283-9678 home

Barb Nord (barbnord@acsalaska.net) <barbnord@acsalaska.net>
Five Star Realty

Dear Representative,

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Thank you so much for considering my opinion.

Sincerely,

Tracey Ricker
Owner/Broker
Ricker & Associates Real Estate, Inc.

Subject: House Bill 257

Date: Mon, 21 Apr 2003 16:24:09 EDT

From: KristenAbegg@cs.com

To: Representative_Lesil_McGuire@legis.state.ak.us

Dear Ms. McGuire,

I am a real estate licensee in your area. I am deeply disturbed about a bill that has been introduced into the legislature - HB 257. For these reasons:

1. The bill does not protect the consumer.
2. It has a provision that could endanger the surety fund since it is the only method of relief if a licensee does not follow the law
3. It allows licensees that did not follow the current law, to go to a new law rather than following the law as written. This is not good public policy.

I am requesting that if you have this bill in one of your committees or it comes to the house of senate floor that you vote NO. The current bill, as written it is bad public policy.

The Board of Realtors has an Agency Task Force which has been working very hard to resolve the agency issue. Please give them a fair opportunity to complete a difficult task.

House Bill 257, as written, completely disregards the professional conduct standards set forth by the Alaska Association of Realtors.

Please do not support special interest legislation which will help a few companies and run rough shod over the interests of the public and the industry as a whole.

Thank you for considering my opinion.

Sincerely,

Kris Abegg
Broker, Paragon Properties

Subject: HB 257

Date: Mon, 21 Apr 2003 16:20:29 -0800

From: Carole Winton <taku@ptialaska.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

Dear Representative McGuire,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

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Thank you so much for considering my opinion.

Sincerely,

Carole J. Winton
President, Alaska Association of Realtors

Subject: HB 257**Date:** Mon, 21 Apr 2003 16:23:47 -0800**From:** Janice Lobaugh <jlobaugh@gci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us,
 Representative_Tom_Anderson@legis.state.ak.us,
 Representative_Jim_Holm@legis.state.ak.us, Representative_Dan_Ogg@legis.state.ak.us,
 Representative_Ralph_Samuels@legis.state.ak.us,
 Representative_Les_Gara@legis.state.ak.us,
 Representative_Max_Gruenberg@legis.state.ak.us,
 Representative_Norman_Rokeberg@legis.state.ak.us

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but you can't trust me.

In regard to page 5, section (g) of the bill; attempting to trivialize the requirement of AS 08.88.396 as technical violation is simply absurd. Most would not consider disclosing, who you work for and how you're paid a trivial technical violation. All states classify undisclosed dual agency as fraud, deceit, and misrepresentation.

Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in <?xml:namespace prefix = st1 ns = "urn:schemas-microsoft-com:office:smarts" />Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion.

Sincerely,

Janice Lobaugh

Realtor

Subject: HB257

Date: Mon, 21 Apr 2003 16:27:37 -0800

From: "Evelyn P. Rohr" <erohr@matnet.com>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

Dear Representative McGuire,<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues. There are enough Real Estate agents who take liberties with the code of ethics as it is, without making it easier for those who are inclined to be dishonest and in essence, give them a license to do it.

My professional association, the Alaska Association of REALTORS cannot support the following issues of HB 257:

Required Disclosure of Conflict of Interest – Regarding dual agency, on in-house transactions, whether commercial or residential. If it can be shown that the actions of the sales agent encourages a belief that the sales agent represented the buyer/lessee/tenant, then an undisclosed, and therefore illegal, dual agency probably has been created.

Removing the requirement of disclosure is an act of fraud. How can misleading the public in issues as important as fiduciary duty be anything but fraud?

Common Law of Agency - If these principles do not apply, then what does? The reality of abrogating common law is that the states that have attempted it, have attempted to define the duty of the agent and penalties for non compliance. No state has been successful in this endeavor, and the National Association of REALTORS does not recommend abrogation of common law. Simply, it works as a balance of consumer protection and defining acceptable professional conduct.

Fiduciary Duty - This provision is simply embarrassing to professionals that endorse the National Association of REALTORS Code of Ethics. You can interpret this as; Citizen of Alaska, I will be honest, fair, and act in good faith, but you can't trust me.

In regard to page 5, section (g) of the bill; attempting to trivialize the requirement of AS 08.88.396 as technical violation is simply absurd. Most would not consider disclosing, who you work for and how you're paid a trivial technical violation. All states classify undisclosed dual agency as fraud, deceit, and misrepresentation.

Applicability & Retrospectively - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion. We in the Real Estate industry do strive for the highest form of ethics and if bill were to pass, it would seriously undermine our efforts. To make allowances and laws for a select few is setting a dangerous precedence.

Sincerely,

Evelyn P. Rohr GRI

Next Home Real Estate

Subject: HB 257

Date: Mon, 21 Apr 2003 20:50:16 -0700

From: Robert Stanton <rstanton@gci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

Dear Representative McGuire:

I have been a licensed realtor in Anchorage since 1975 and I urge you to support Representative Rokeberg's efforts with with the passage of HB 275. It is imperative that immediate steps be taken to resolve this issue and reduce the exposure to all within the real estate industry. If you have any questions, please feel free to contact me at (907) 240 2560. Thank you.

Sincerely,

Robert J. Stanton, Jr.
License Number 3803

Subject: HB257

Date: Mon, 21 Apr 2003 20:54:37 -0800

From: Grayce Oakley <goakley@gci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us,
Representative_Tom_Anderson@legis.state.ak.us,
Representative_Jim_Holm@legis.state.ak.us, Representative_Dan_Ogg@legis.state.ak.us,
Representative_Ralph_Samuels@legis.state.ak.us, Representative_Les_Gara@legis.state.ak.us,
Representative_Max_Gruenberg@legis.state.ak.us

I urge you to take no action and thus let this bill die in the Judiciary Committee.

I consider it a serious abuse of legislative power and privilege to shape a bill with the primary intent of affecting the outcome of litigation already underway.

I also do not believe there should be any exemption for commercial transactions. Please note that until last year, the precedent setting dual agency cases in Alaska were Black vs. Dahl and Foster vs. Cross, both of which were based on commercial transactions.

I offer this opinion based on 27 years in the real estate business, with 12 of those years as the Executive Administrator for the Alaska Real Estate Commission. I was involved with numerous bills and regulation projects in the state, and also with "agency forums and task forces" with the National Association of Realtors while a broker and with the Association of Real Estate License Law Officials while I was with the Commission.

For the good of the professionals who truly wish to provide a service to the consumers they serve, please do not pass HB 257.

Grayce Oakley

2458 Sprucewood St

Anchorage, AK 99508

Subject: HB 257

Date: Mon, 21 Apr 2003 23:00:48 -0800

From: Viki Kaas <viki@gci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

This bill is poor legislation. Please do not support it. Professionals in the real estate industry do not.

Viki Kaas. CRS. GRI. Broker

Homes Unlimited, Inc

517 West 12th Ave

Anchorage, AK 99501

727-5555

346-4111

viki@gci.net

Subject: HB 257

Date: Tue, 22 Apr 2003 11:13:40 -0800

From: Carole Winton <taku@ptialaska.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

Dear Representative McGuire,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

My professional association, the Alaska Association of REALTORS cannot support the following issues of HB 257:

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Removing the requirement of disclosure is an act of fraud. How can misleading the public in issues as important as fiduciary duty be anything but fraud?

Common Law of Agency - If these principles do not apply, then what does? The reality of abrogating common law is that the states that have attempted it, have attempted to define the duty of the agent and penalties for non compliance. No state has been successful in this endeavor, and the National Association of REALTORS does not recommend abrogation of common law. Simply, it works as a balance of consumer protection and defining acceptable professional conduct.

Fiduciary Duty - This provision is simply embarrassing to professionals that endorse the National Association of REALTORS Code of Ethics. You can interpret this as; Citizen of Alaska, I will be honest, fair, and act in good faith, but you can't trust me.

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Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion.

Sincerely,

Carole Winton
President, Alaska Association of Realtors

Subject: HB257

Date: Tue, 22 Apr 2003 16:05:46 EDT

From: PLumetta@aol.com

To: Representative_Lesil_McGuire@legis.state.ak.us

DEAR REPRESENTATIVE McGUIRE,

I WOULD LIKE TO ASK FOR YOUR SUPPORT OF HB257, REP. ROKEBERG'S RELATING TO THE REAL ESTATE INDUSTRY. I AM A MEMBER OF THE ANCHORAGE BOARD OF REALTORS AS WELL AS THE ALASKA ASSOC. OF REALTORS (LIC. #14223). THANKS FOR YOUR SUPPORT.

SINCERELY

PETER LUMETTA

Subject: HB257**Date:** Tue, 22 Apr 2003 12:37:16 -0800**From:** "Debbie Barnhardt" <debbie@nexthomealaska.com>

To: <Representative_Lesil_McGuire@legis.state.ak.us>,
 <Representative_Tom_Anderson@legis.state.ak.us>,
 <Representative_Jim_Holm@legis.state.ak.us>, <Representative_Dan_Ogg@legis.state.ak.us>,
 <Representative_Ralph_Samuels@legis.state.ak.us>,
 <Representative_Les_Gara@legis.state.ak.us>,
 <Representative_Max_Gruenberg@legis.state.ak.us>,
 <Representative_Norman_Rokeberg@legis.state.ak.us>

Dear Representative,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

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Applicability & Retrospectivity - This is a real slap in the face to the law abiding majority of real estate practitioners in Alaska. I have attached a copy of the Code of Ethics for your review to understand this position.

Thank you so much for considering my opinion.

Sincerely,

Debbie Barnhardt

Subject: Yes on H257

Date: Tue, 22 Apr 2003 17:06:12 EDT

From: Susanpcock@aol.com

To: Representative_Lesil_McGuire@legis.state.ak.us

As a Realtor and active agent I have been hoping for some changes to the current statues. I believe H257 is a start. Please vote for it. Susan Peacock

Subject: HB 257

Date: Tue, 22 Apr 2003 17:41:30 -0800

From: Patrick Tufts <ptufts@alaska.com>

To: Lesil McGuire <representative_lesil_mcguire@legis.state.ak.us>

<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

Dear Representative _____ Lesil McGuire _____,

I am writing you to ask that as a member of the House Judiciary Committee, you vote no on HB257, and please advise others of my opposition to this legislation. The following are my reasons why I oppose HB 257.

HB 257 deals with issues of consumer protection and what is acceptable professional conduct of a real estate broker/agent. I don't see anyway of compromising my current position on this bill, because I will not compromise my core professional conduct issues.

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Thank you so much for considering my opinion.

Sincerely,

Patrick Tufts

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I would like to ask for your support for...57 relating to the real estate industry.

Subject: I would like to ask for your support for HB 257 relating to the real estate industry.

Date: Wed, 23 Apr 2003 10:05:04 -0800

From: "Rita Stuckart" <RStuckart@jackwhite.com>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

I would like to ask for your support for HB 257 relating to the real estate industry.

Rita Stuckart
Residential Manager
Prudential Jack White Real Estate
1-800-770-2001

Subject: HB 257

Date: Wed, 23 Apr 2003 14:15:33 -0800

From: "Beckie Brocies" <bbrocies@alaska.net>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

CC: <Representative_Tom_Anderson@legis.state.ak.us>, <Representative_Jim_Holm@legis.state.ak.us>, <Representative_Dan_Ogg@legis.state.ak.us>, <Representative_Ralph_Samuels@legis.state.ak.us>, <Representative_Les_Gara@legis.state.ak.us>, <Representative_Max_Gruenberg@legis.state.ak.us>

Representative McGuire:

I am writing to you as the Chair of the House Judiciary Committee, to urge that you do NOT support HB 257. As an Anchorage Realtor who fights the daily battle to improve the reputation of members of my industry, this legislation is clearly special interest, and will not in any way protect the public.

The Attorney General's office is currently reviewing new regulations which should clear up some of the issues associated with dual agency in the real estate industry and under which we can operate until the entire statute can be re-written, a project that I understand is currently underway.

HB 257 is, at best, nothing - and at the worst, appears to have been designed to protect someone other than the general public.

Thank you for your consideration,

Beckie Brocies
Realtor
Dynamic Properties
3111 C Street
Anchorage, AK 99503
(907) 440-6939

Subject: HB 257

Date: Wed, 23 Apr 2003 14:16:50 -0800

From: "Bill Mehner" <Bill@BonnieMehner.com>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

Lesil,

I SUPPORT HB 257. . . AND HOPE YOU WILL TOO!

This House Bill is very important to the health of the real estate industry State-wide. Your support is needed to **insure passage this session**. There are many important issues confronting real estate agents and brokers especially where agency disclosure is concerned. I have gained some expertise recently in this area and was hoping to have a Bill submitted that would help resolve some of the problems for all real estate agents.

The Anchorage and Alaska Board of REALTORS has started that effort with a task force to address a total rewrite of the current statutes. This is a lengthy process and consensus has been frustrating at this point.

Rep. Rokebergs' HB 257 sends a message and points the direction for later legislation. But we need this interim step now to safeguard consumers and to keep our industry strong. We are concerned about agents' ability for timely compliance to the current statutes and the exposure the industry has for loss of E & O insurance coverage. It is in the best interest of consumers to have realistic disclosure procedures and limit exposure to class actions that could cripple the real estate industry.

I would like to ask for your help to pass this House Bill and would make myself available if you have questions or reservations.

I also have a draft that you may want to consider for additional statute changes and would appreciate your involment to direct this important process.

Thank you for your help!

Bill Mehner

(907)317-0710 cell

(907)248-0254 home

(907)762-3108 work

Subject: HB 257

Date: Wed, 23 Apr 2003 14:35:49 -0800

From: island@alaska.net

To: Representative_Lesil_McGuire@legis.state.ak.us

Please do not pass this bill - it does NOT serve the public as Realtors are pledged to do. Whether it is Commercial or Residential, disclosure of who I'm working for is mandatory and if I have deceived a former client I should be held accountable. This "get out of jail" free card can only protect an agent who has not previously followed the rules.

Susan Nix, ABR, GRI
Ricker & Associates Real Estate

Subject: HB257: PLEASE VOTE YES!

Date: Wed, 23 Apr 2003 18:29:11 -0800

From: Sallie Nickerson <callme@gci.net>

To: Representative_Lesil_McGuire@legis.state.ak.us

Dear Representative McGuire:

The Alaska Association of Realtors is all wet! There are a few people on a committee trying to build a camel -- they've been working on their "proposed legislation" for almost a year and have yet to come to internal agreement. I am a licensed real estate agent #3886, since 1976, and urge you to support this legislation. If this bill doesn't pass, I'm told our E&O insurance is in danger of disappearing from the State of Alaska. We must protect our consumers by being able to obtain E&O and an easier way of disclosing agency in who we represent. This can do it until the "camel builders" get their act together!. Thank you for your help. Sallie Nickerson, Anchorage.

Subject: House Bill 257

Date: Fri, 25 Apr 2003 16:58:38 -0800

From: "Dan Wolf" <danwolf@alaska.net>

To: <Representative_Lesil_McGuire@legis.state.ak.us>

April 25, 2003

The Honorable Lesil McGuire

House of Representatives

Alaska State Capitol

Juneau, AK 99801-1182

Dear Representative McGuire,

I'm writing you to request your support of HB 257. The purpose of this legislation is to be a "stop gap" measure to prevent lawsuits against real estate agencies and individual agents until a new regulation can be agreed upon and enacted into law. The current law surrounding the disclosure of dual agency is unclear and is very unpractical for the way real estate really functions in today's real estate environment.

Recently lawyers have learned how to exploit dual agency transactions on 'technical violations' where no person has been wronged or harmed, but formal agency notice was not given in strict accordance to the existing statutes.

The real estate industry is under threat from particular lawyers who hope to muster enough buyers and sellers who bought or sold in transactions where the same real estate company represented both parties to the transaction. There is no way to show any harm was done to parties. The only issue is the timing of the 'dual agency' disclosure. Dual agency is very common in small communities where there are few real estate companies and occurs in about 40% of the transactions in the Anchorage area.

If attorneys can gain enough support for a class action suit against real estate agents and offices, the Errors and Omission (E & O) insurance carriers will undoubtedly drop Alaska from further coverage and this will be very harmful to the real estate industry as well as to the public at large.

The Alaska Association of Realtors has been working on proposed legislation for nearly a year but is still not quite in agreement. This bill, although maybe not perfect or fully comprehensive will provide temporary relief from suits on a technical violation.

Thank you,

Dan Wolf

Re/Max Properties, Inc

Anchorage, AK

(907) 257-0114

Subject: HB 257

Date: Sat, 26 Apr 2003 19:12:52 -0800


From: Pauline Hofseth <pauline@gci.net>

To: 'House Judiciary' <Committee@legis.state.ak.us>

I am a licensed Realtor in Anchorage with 17 years of real estate practice and my license number is 11220. I am also a member of the Anchorage Board of Realtors and the Alaska Association of Realtors. The subject matter of the HB 257 is an important one to Realtors and to the general public. The changes proposed in HB 257 are important, because no matter how well we work to do our jobs by the letter of the law, there are people who feel it is okay to profit from ambiguities. And that's not fair, nor do I believe that was the purpose of creating any law. Thanks for your consideration in support of HB 257. If I can answer any questions, please feel free to contact me.

Sincerely,

Pauline Hofseth, CRS, ABR, RECS "Daring to Care
Associate Broker www.PaulineHofseth.com
[Mailto:pauline@PaulineHofseth.com](mailto:pauline@PaulineHofseth.com)
Prudential Vista Real Estate (907) 562-5485 (fax)
4241 B Street Anchorage AK 99503
(907) 273-7274/ (907) 229-4007/ (800) 909-6464

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ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
LEGISLATIVE ETHICS COMMITTEE, MEMBER

website: <http://www.akrepublicans.org/rokeberg/>



INTERIM:
716 WEST 4TH AVENUE, SUITE 300
ANCHORAGE, AK 99501
PHONE: (907) 269-0117
FAX: (907) 269-0119

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

Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

SPONSOR STATEMENT FOR HB 257

BY: Representative Norman Rokeberg

Title: An Act relating to the disclosure requirements for real estate licensees, to disciplinary action against real estate licensees, to private actions against real estate licensees, and to real estate licensee agency relationships, fiduciary duties, and other duties; and providing for an effective date.

HB 257 makes several improvements to Alaska's real estate laws.

Commercial Real Estate Transactions

HB 257 exempts commercial real estate licensees from certain disclosure requirements. The purpose of the disclosure requirements in AS 08.88.896 is to provide consumer protection to those people who may not be familiar with their legal responsibilities and rely in part on real estate licensees for advice when buying and selling real estate. Commercial real estate practitioners should be exempt from these requirements because of the level of sophistication and knowledge typical of parties to commercial real estate transactions. Parties to commercial transactions do not need this protection and the disclosure requirements do not reflect the standards of practice in commercial real estate.

HB 257 also provides that in those cases where the commercial transaction is exempt from the disclosure requirements, and the real estate licensee is representing both the buyer and seller (or both lessor and lessee), the common law principles of agency do not apply. Instead, the licensee shall act with honesty, fairness and good faith when representing both parties.

AS 08.88.396

In addition to the commercial real estate licensees' exemption, HB 257 makes several other changes to the disclosure statute. First, all references to a real estate "agent" have been replaced with real estate "licensee." This is to conform with the rest of the real estate statutes which use the term "licensee." Second, references to lessors and lessees have been added to the statute to reflect that the disclosure statute also applies to real estate lease transactions. Finally, subsection (g) clarifies that a failure to disclose or obtain written consent as required by the statute does not give rise to a private cause of action, but can result in a disciplinary action against the licensee. However, in cases of fraud, misrepresentation or deceit a person can bring an action against the real estate surety fund for damages.

I encourage your support of this legislation.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
LEGISLATIVE ETHICS COMMITTEE, MEMBER

website: <http://www.akrepublicans.org/rokeberg/>



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716 WEST 4TH AVENUE, SUITE 300
ANCHORAGE, AK 99501
PHONE: (907) 269-0117
FAX: (907) 269-0119

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

Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

SECTIONAL ANALYSIS FOR HB 257

BY: Representative Norman Rokeberg

Title: An Act relating to the disclosure requirements for real estate licensees, to disciplinary action against real estate licensees, to private actions against real estate licensees, and to real estate licensee agency relationships, fiduciary duties, and other duties; and providing for an effective date.

- Section 1:** Legislative findings and intent.
- Section 2:** Adds the disclosure statute (AS 08.88.396) to the list of actions that the Real Estate Commission can discipline a real estate licensee for violating. Also makes several grammatical corrections.
- Section 3:** Changes "agent" to "real estate licensee." Adds references to lessor and lessee. Corrects misspelling of "acknowledgment."
- Section 4:** Changes "agent" to "real estate licensee." Adds references to lessor and lessee.
- Section 5:** Changes "agent" to "real estate licensee." Adds references to lessor and lessee.
- Section 6:** AS 08.88.396(e): Exempts certain commercial real estate transactions from the disclosure statute.
- AS 08.88.396(f): For those transactions exempt under (e), common law principles of agency do not apply and licensee must act with honesty, fairness and good faith when representing both parties.
- AS 08.88.396(g): Failure to make a disclosure or obtain written consent required by this statute does not give a person a cause of action against the licensee for the failure. An action can be brought against the Real Estate Surety Fund in cases of fraud, misrepresentation or deceit, if there are damages.
- Section 7:** (a) The provisions of this Act apply to a real estate transaction that occurs before, on or after the effective date of this Act.
- (b) As 08.88.396(g) applies to an action pending in a court in the state in which a final judgment has not been rendered before the effective date of this Act.
- Section 8:** This Act takes effect immediately.

MEMORANDUM

Date : 5/1/03
To : House Judiciary Committee
From : Linda Garrison-Broker/Owner
AAR #1 Buyers Agency
RE : HB 257

*RUSH -
Please review
for Judiciary
meeting*

Today, I listened in to the Alaska State REALTORS Association discussing the revised bill HB257.

I expressed my opinion that this statute isn't flawed. This statute and suggested modification does absolutely nothing to protect the consumer or to extend/expand protection for the public. In fact, it perpetuates "dual agency" and, I believe, makes it easier for agents to do "dual agency."

The most telling comment made during this discussion was that dual agency was "just fine" with consumers and, in fact, most of the buyers and sellers "liked it." DUAL AGENCY DOES NOT REPRESENT THE BEST INTERESTS OF THE PUBLIC. PROTECTION AND CLIENT LEVEL SERVICES (FIDUCIARY DUTIES) TO THE SELLER ARE REDUCED; PROTECTION AND CLIENT LEVEL SERVICES (FIDUCIARY DUTIES) TO THE BUYER ARE REDUCED. IF AN AGENT/AGENCY BELIEVES THAT DUAL AGENCY GIVES THE SAME LEVEL OF SERVICE TO THE CONSUMER-THAT IS THEIR OPINION. DUAL AGENCY DOES NOT FOSTER PROTECTION OF BUYER OR SELLER; IN FACT DUAL AGENCY OPENS THE DOOR FOR FRAUD TO OCCUR. PRACTICING DUAL AGENCY SHOULD BE DONE IN ACCORDANCE WITH THE CURRENT STATUTE.

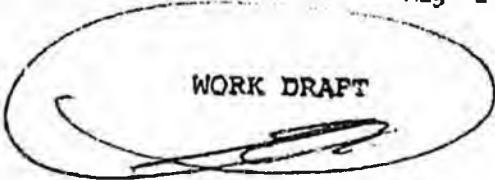
Recommendation for passage of HB257 was voted "yes". This vote was NOT unanimous.

HB29 (a larger, revised version) has been started in House L&C. I still have the same questions:

- * How does this modification (HB257) increase protection for the public ? - It doesn't.
- * Why the rush? Why can't these modifications be put in with HB29. The statute has operated for a decade+ very successfully.

Thank-you for your consideration. I would urge the Committee to protect the consumer as this statute currently does and I would urge the committee to recommend that HB257 be sent back to the sponsor for coordination with HB29.

WORK DRAFT



WORK DRAFT

23-LS0893U
Bannister
5/1/03

CS FOR HOUSE BILL NO. 257()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, Foster

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the disclosure requirements for real estate licensees, to disciplinary
2 action against real estate licensees, to private actions and remedies against real estate
3 licensees, and to real estate licensee agency, relationships, and duties; and providing for
4 an effective date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * Section 1. AS 08.88.071(a)(3) is amended to read:

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

10 (A) with respect to a real estate transaction

11 (i) made a substantial misrepresentation;

12 (ii) made a false promise likely to influence, persuade,

13 or induce;

14 (iii) in the case of a real estate broker, pursued a

CSHB 257()

ALASKA STATE LEGISLATURE

House of Representatives

Committee Assignments:

Rules Committee, Chairman
Labor & Commerce Committee, Member
Legislative Council, Member
Special Committees:

Oil & Gas
Ways & Means



Interim:

716 West 4th Avenue, Suite 350
Anchorage, AK 99501
PHONE: (907) 269-0117
FAX: (907) 269-0119

SESSION:

State Capitol
PHONE: (907) 465-4968
FAX: (907) 465-3040

REPRESENTATIVE NORMAN ROKEBERG

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

FAX COVERSHEET

DATE: 5.2.03

TO: Dave Feen, Ruth Blackwell, Sandy Forest, Wendy Mulder,
Rick Fuller, Howard Trickey

FAX: _____ VOICE: _____

RE: Latest CB for HB 257.

MESSAGE: _____

TOTAL NUMBER OF PAGES SENT, INCLUDING COVER SHEET: 6

HB

260

ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair
Rep. Tom Anderson, Vice-Chair
Rep. John Coghill
Rep. Jim Holm
Rep. Ralph Samuels
Rep. Les Gara
Rep. Max Gruenberg



State Capitol, Room 120
Juneau, AK 99801-1182
(907) 465-4990
Fax (907) 465-6592

House Judiciary Committee

Memorandum

To: Mike Ford, Leg. Legal
From: Vanessa Tondini, Committee Aide *YMT*
House Judiciary Committee
Date: May 7, 2003
Re: CS Request

Please create a final draft House Judiciary Committee Substitute for work order # 23-LS0823\Q, HB 260, incorporating the attached amendment. The bill was passed out of committee today.

If you have any questions, please call me at 4990. Thank you!

The information attached to this memo is **CONFIDENTIAL** an/or privileged. It is intended to be reviewed initially by only the individual named above. If the reader of this Memorandum is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of the information contained herein is prohibited. If you have received this in error, please immediately notify the sender by telephone and return this to the sender at the above address.

23-LS0823\Q
Ford
5/8/03

CS FOR HOUSE BILL NO. 260()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES SEATON, Wilson, Garz, Anderson, McGuire

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to immunity for free health care services provided by certain health**
2 **care providers; and providing for an effective date."**

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

4 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 **SHORT TITLE.** This Act may be known as the Volunteer Health Care Provider
7 Immunity Act of 2003.

8 *** Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
9 read:

10 **FINDINGS.** The legislature finds that

11 (1) many of the state's most senior and experienced physicians will be retiring
12 in the next five to 10 years; retiring physicians deciding to reside in Alaska could continue to
13 benefit our local communities by volunteering their medical services;

14 (2) historically, Alaska has had difficulty in attracting and maintaining

1 adequate numbers of qualified physicians; currently, Alaska ranks 49th in the number of
2 physicians per capita, while Alaska's physicians continue to grow older, reaching an average
3 age of 51 years;

4 (3) without civil liability protection, retired physicians would be unwilling to
5 provide free services to the indigent and elderly;

6 (4) 43 states have enacted legislation limiting liability for retired physicians,
7 thus encouraging retired physicians to continue in providing voluntary medical services; and

8 (5) removing liability requirements for retired physicians would be in the best
9 interests of the state; retired physicians unhindered by expensive malpractice insurance would
10 be more inclined to volunteer necessary and important medical services to all Alaskans.

11 * **Sec. 3.** AS 09.65 is amended by adding a new section to read:

12 **Sec. 09.65.290. Immunity for providing free health care services.** (a)

13 Except as otherwise provided in this section, a health care provider who provides
14 health care services to another person is not liable for civil damages resulting from an
15 act or omission in providing the health care services if the health care

16 (1) provider is licensed in this state to provide health care services;

17 (2) services provided were within the scope of the health care
18 provider's license;

19 (3) services were provided at a medical clinic, medical facility,
20 nonprofit facility, or facility owned by a municipality, the state, or the United States
21 government;

22 (4) services were provided voluntarily and without pay to the health
23 care provider for the services, except as provided in (b)(3) and (4) of this section; and

24 (5) provider

25 (A) obtains informed consent from the person receiving the
26 health care services as described under AS 09.55.556, except in the case of an
27 emergency; and

28 (B) provides the person receiving the health care services
29 advance written notice of the immunity provided under this section to a health
30 care provider when providing voluntary health care services as described under
31 this section.

1 (b) This section does not

2 (1) preclude liability for civil damages that are the result of gross
3 negligence or reckless or intentional misconduct;

4 (2) apply to civil damages resulting from an elective abortion;

5 (3) preclude a health care provider from receiving payment or being
6 reimbursed for expenses, including travel and room and board while providing
7 voluntary services; or

8 (4) preclude a medical clinic or facility from charging for its services.

9 (c) In this section,

10 (1) "health care provider" means a state licensed physician, physician
11 assistant, dentist, dental hygienist, osteopath, optometrist, chiropractor, registered
12 nurse, practical nurse, nurse midwife, advanced nurse practitioner, naturopath,
13 physical therapist, occupational therapist, marital and family therapist, psychologist,
14 psychological associate, licensed clinical social worker, or certified direct-entry
15 midwife;

16 (2) "health care services" means services received by an individual in
17 order to treat or to prevent illness or injury.

18 * Sec. 4. The uncoded law of the State of Alaska is amended by adding a new section to
19 read:

20 **APPLICABILITY.** This Act applies to a cause of action that accrues on or after the
21 effective date of this Act.

22 * Sec. 5. This Act takes effect July 1, 2003.

AMENDMENT L - Adopted
to CSHB 260

By Rep. Gruenberg

- 1 Delete page 3, line 4, and renumber accordingly.