



LAWS OF ALASKA

1984

Source

SCS CSHB 705 (L&C) am S

Chapter No.

150

AN ACT

Relating to the real estate surety fund.

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

THE ACT FOLLOWS ON PAGE 1, LINE 8

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: July 4, 1984
Actual Effective Date: October 2, 1984

AN ACT

Relating to the real estate surety fund.

* Section 1. AS 08.88.071(b) is repealed and reenacted to read:

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

* Sec. 2. AS 08.88.450 is amended to read:

Sec. 08.88.450. REAL ESTATE SURETY FUND. The real estate surety fund is established [THERE IS CREATED A SPECIAL ACCOUNT] in the general fund [KNOWN AS THE REAL ESTATE SURETY FUND] to carry out the purposes of AS 08.88.450 - 08.88.500. The fund is [SHALL BE] composed of payments made by licensed real estate brokers and salesmen under

Chapter 150

AS 08.88.455 and filing fees retained in accordance with AS 08.88.460.

The fund may not exceed \$500,000 and amounts in the fund in excess of \$250,000 may be appropriated for real estate educational purposes as provided in AS 08.88.091.

* Sec. 3. AS 08.88.455(a) is amended to read:

(a) A licensed real estate broker, [OR] associate broker, or salesman when obtaining or renewing a real estate license, in lieu of obtaining a corporate surety bond, shall pay to the commission in addition to the license fee, a surety fund [BOND] fee not to exceed \$125 [, AND A LICENSED SALESMAN, WHEN OBTAINING OR RENEWING A LICENSE, IN LIEU OF OBTAINING A CORPORATE SURETY BOND, SHALL PAY TO THE COMMISSION IN ADDITION TO THE LICENSE FEE, A BOND FEE NOT TO EXCEED \$40]. After the fund reaches \$250,000 the commission shall by regulation adjust the surety fund [BOND] fees so that, taking into account anticipated expenditures for claims against the fund and real estate educational purposes, the fund is maintained at a level not less than \$250,000.

* Sec. 4. AS 08.88.460 is amended by adding new subsections to read:

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

claims action in the appropriate state court.

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

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

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

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

* Sec. 5. AS 08.88.465 is amended by adding a new subsection to read:

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

* Sec. 6. AS 08.88 is amended by adding a new section to read:

Sec. 08.88.474. PAYMENT OF SMALL CLAIMS JUDGMENT. If a claim originally filed with the commission is dismissed and is heard as a small claims action under AS 08.88.460(c) and the claimant prevails in the small claims action against the real estate broker, associate real estate broker, or salesman, the commission shall make an award from the fund of any outstanding portion of the small claims judgment on receipt of a copy of the final judgment and an affidavit from the claimant stating that more than 30 days have elapsed since the judgment became final and that the broker, associate broker, or salesman has not satisfied the judgment during that time. After payment of a small claims judgment the commission is subrogated to the claimant's rights in the judgment under AS 08.88.490.