

- (3) be a member of a franchise or other business association.
- (b) A person
 - (1) who is not a real estate broker licensed in this state may not accept a fee or a commission for performance of an act for which a license is required by this chapter except that a real estate broker validly licensed in another state may accept a fee or commission or a portion of a fee or commission for assisting a real estate broker licensed in this state in the performance of an act for which a license is required by this chapter;
 - (2) who is an associate broker or a real estate salesperson licensed in this state may accept a fee or commission for performance of an act for which a license is required by this chapter only from the licensee's employing broker, except that the wages of a person who is engaged as a licensed assistant under AS 08.88.398 may be accepted by the person from the assistant's employer.
 - (c) A person licensed under this chapter may not knowingly make, authorize, direct, or aid in the publication of a false statement or misrepresentation concerning land or a subdivision or other real estate offered for sale, lease, or rent or concerning an association being managed.
 - (d) A person licensed under this chapter may not knowingly pay any part of a fee, commission, or other compensation received by the licensee in buying, selling, exchanging, leasing, auctioning, or renting real estate to
 - (1) a person who is not licensed under this chapter, except as provided in (e) of this section;
 - (2) another licensee, except through the licensee's responsible broker; or
 - (3) another licensee knowing that the other licensee intends to pay all or a portion of that which is received to a person who is not licensed under this chapter.
 - (e) The prohibition of (d)(1) of this section does not prohibit
 - (1) payments by a licensee to a person licensed to perform real estate activities in another jurisdiction if the other person has assisted the licensee in the performance of an act for which a license is required by this chapter;
 - (2) payments from a real estate licensee to a principal as part of the resolution of a dispute regarding the terms of a transaction or regarding the property transferred; or
 - (3) contributions from a licensee to a charitable organization and advertisement of the licensee's intent to make the charitable donation.
 - (f) A person may not
 - (1) use or attempt to use a license issued under this chapter that was issued to another person;
 - (2) give false or forged evidence to the commission or to a representative of the commission in an attempt to obtain a license;
 - (3) impersonate an applicant under this chapter;
 - (4) knowingly use or attempt to use an expired, suspended, revoked, or nonexistent license; or
 - (5) falsely claim to be licensed and authorized to practice under this chapter.
 - (g) A person who violates this section or AS 08.88.161 is guilty of a class A misdemeanor.

Sec. 08.88.403. Review of transactions. A real estate broker may contract with and pay an attorney or associate broker to assist the broker to review a real estate transaction before the transaction closes.

Sec. 08.88.405. Preparation of documents. Notwithstanding AS 08.08, a person licensed as a real estate broker, associate real estate broker, or real estate salesperson under this chapter may prepare real property contracts, earnest money agreements, leases, and other documents related to real property if the documents are prepared by the person in the course of the person's work as a licensed real estate broker, associate real estate broker, or real estate salesperson under this chapter.

ARTICLE 4. REAL ESTATE RECOVERY FUND.

Section

- 450. Real estate recovery fund
- 455. Payments by real estate licensees
- 460. Claim for payment
- 465. Consideration of application
- 472. Fund operations; charges against fund
- 475. Maximum liability
- 480. Order of claim payment
- 485. False claims or documents
- 490. Right to subrogation
- 495. Disciplinary action

Sec. 08.88.450. Real estate recovery fund. (a) The real estate recovery fund is established in the general fund to carry out the purposes of AS 08.88.450 - 08.88.495. The fund is composed of payments made by real estate licensees under AS 08.88.455, filing fees retained under AS 08.88.460, income earned on investment of the money in the fund, and money deposited in the fund under (c) of this section. Money in the fund does not lapse. The

commission may make payments from the fund for awards from the fund under AS 08.88.450 - 08.88.495, for hearing and legal expenses directly related to fund operations and claims, and for real estate educational purposes.

(b) The Department of Commerce, Community, and Economic Development shall provide the commission every three months with a statement of the activities of, balances in, interest earned on, and interest returned to the real estate recovery fund.

(c) If money from the real estate recovery fund is expended to prepare, print, manufacture, sponsor, produce, or otherwise provide an item or a service to a member of the public, to a real estate licensee, to a potential real estate licensee, or to another person, any money paid by the person to the commission, either directly or through an agent or contractor of the commission, to receive the item or service shall be deposited in the fund. In this subsection, "an item or a service" includes an information pamphlet, an examination preparation packet, an educational course, the certification of a real estate education course, and the approval of a real estate education instructor.

Sec. 08.88.455. Payments by real estate licensees. (a) A real estate licensee, when applying for 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 recovery fund fee not to exceed \$125. After each two-year licensing cycle, if the commission finds that the average balance in the recovery fund during the two-year licensing cycle was less than \$250,000 or more than \$500,000, the commission shall by regulation adjust the recovery fund fees so that the average balance of the recovery fund during the next two-year licensing cycle is anticipated to be an amount that is not less than \$250,000 or more than \$500,000. In this subsection, "average balance" means the average balance after taking into account anticipated expenditures for awards from the fund and legal expenses directly related to fund operations, and for real estate educational purposes.

(b) All fees collected under this section shall be paid at least once a month by the department into the general fund. These payments shall be credited to the real estate recovery fund.

Sec. 08.88.460. Claim for payment. (a) Subject to (e) of this section, a person seeking an award from the recovery fund for a loss suffered in a real estate transaction as a result of fraud, an intentional tort, deceit, or the conversion of trust funds or the conversion of community association accounts under the control of a community association manager on the part of a person licensed under this chapter shall

(1) obtain a final judgment from a court of competent jurisdiction, a final arbitration award, or a settlement agreement with a licensee that involves a person committing fraud, an intentional tort, deceit, the conversion of trust funds, or the conversion of community association accounts;

(2) submit an affidavit describing the efforts made to collect the final judgment, final arbitration award, or settlement agreement stating that the person has used due diligence to collect the amount due, stating that the judgment, arbitration award, or settlement agreement is uncollectable using reasonable efforts, and that the conduct that is the subject of the judgment, arbitration award, or settlement agreement involved an activity for which a person must obtain a license under AS 08.88.161;

(3) make a claim to the commission for an award from the recovery fund on a form furnished by the commission; in order to be eligible for an award by the commission, the claim form must be filed within two years after the date a judgment, arbitration award, or settlement agreement that is the basis for the award from the recovery fund is no longer subject to appeal; the form must be executed under penalty of unsworn falsification in the second degree and must include

- (A) the name and address of each real estate licensee involved;
- (B) a copy of the final judgment, final arbitration award, or settlement agreement;
- (C) a copy of the affidavit asserting due diligence but lack of success in collecting the entire amount due;
- (D) the amount of the final judgment, final arbitration award, or settlement agreement that remains unpaid;
- (E) the name and address of the claimant; and
- (F) a general statement of facts relative to the claim.

(b) The commission shall send a copy of a claim filed under (a) of this section to each real estate licensee named in (a)(3) of this section.

(c) *[Repealed, Sec. 24 ch 113 SLA 2008.]*

(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 if the

- (1) commission makes an award to the claimant from the real estate recovery fund; or
- (2) claimant withdraws the claim.

(e) If the claim is for a loss incurred as a result of acts or omissions occurring in the course of the licensee's practice of community association management, only the owners' association for which the real estate licensee practices community association management may file a claim under this section.

Sec. 08.88.465. Consideration of application. (a) If the commission receives a claim for an award from the recovery fund that complies with the requirements of AS 08.88.450 - 08.88.495, the commission shall make an award from the recovery fund in an amount not to exceed \$15,000. Not more than \$15,000 may be paid for each transaction, regardless of the number of persons injured or the number of parcels of real estate involved in the transaction.

(b) *[Repealed, Sec. 24 ch 113 SLA 2008.]*

- (c) *[Repealed, Sec. 24 ch 113 SLA 2008.]*
- (d) *[Repealed, Sec. 24 ch 113 SLA 2008.]*
- (e) *[Repealed, Sec. 24 ch 113 SLA 2008.]*
- (f) *[Repealed, Sec. 24 ch 113 SLA 2008.]*

Sec. 08.88.470. Findings and payment. *[Repealed, Sec. 24 ch 113 SLA 2008.]*

Sec. 08.88.472. Fund operations; charges against fund. (a) The commission may charge the real estate recovery fund for expenses related to fund operations. The commission shall deposit into the real estate recovery fund amounts recovered for these expenses from the licensee under AS 08.88.071(b) or from other parties under AS 08.88.490.

- (b) *[Repealed, Sec. 24 ch 113 SLA 2008.]*
- (c) *[Repealed, Sec. 24 ch 113 SLA 2008.]*

(d) If the salary of an employee is entirely or partially paid for from money in the real estate recovery fund, the employee may perform administrative duties for the commission in addition to any duties the employee performs that are related to the real estate recovery fund. AS 08.88.910 does not apply to this subsection.

Sec. 08.88.474. Payment of small claims judgment. *[Repealed, Sec. 24 ch 113 SLA 2008.]*

Sec. 08.88.475. Maximum liability. (a) The maximum liability of the real estate recovery fund may not exceed \$50,000 for any one real estate licensee.

(b) If the \$50,000 liability of the fund as provided in (a) of this section is insufficient to pay in full the valid claims of all persons who have obtained a final judgment, final arbitration award, or settlement agreement involving an individual licensee and have filed claims for an award from the recovery fund, the \$50,000 shall be distributed among the claimants in the ratio that their individual claims bear to the aggregate of valid claims, or in another manner that the commission considers equitable. Distribution shall be among the persons entitled to share in the recovery without regard to the order in which their claims were filed.

Sec. 08.88.480. Order of claim payment. If the money deposited in the real estate recovery fund is insufficient at a given time to satisfy a legally authorized claim against the fund, the commission shall, when sufficient money has been deposited in the fund and appropriated, satisfy unpaid claims in the order that the claims were originally filed, plus accumulated interest at the rate of eight percent a year.

Sec. 08.88.485. False claims or documents. A person who files with the commission a notice, statement, or other document required under this chapter that contains a wilful material misstatement of fact, is guilty of a misdemeanor and is punishable by imprisonment for a period of not more than one year, or a fine of not more than \$1,000, or by both.

Sec. 08.88.490. Right to subrogation. When the commission has paid to a claimant from the real estate recovery fund the sum awarded by the commission, the commission shall be subrogated to all of the rights of the claimant to the amount paid, and the claimant shall assign all right, title, and interest in that portion of the claim to the commission. Money collected by the commission on the claim shall be deposited to the real estate recovery fund.

Sec. 08.88.495. Disciplinary action. Repayment in full of all obligations to the real estate recovery fund does not nullify or modify the effect of disciplinary proceedings brought under the provisions of this chapter.

ARTICLE 5. LICENSE RELATIONSHIPS AND DUTIES.

Section

- 600. Licensee relationships**
- 605. Additional licensee relationship provisions**
- 610. Authorization of neutral licensee relationship**
- 615. Duties owed by licensee in all licensee relationships**
- 620. Duties owed by licensee representing a person**
- 625. Waiver of duties**
- 630. Duties not owed by licensee**
- 635. Acts not amounting to adverse or detrimental acts or conflicts of interest**
- 640. Designated licensee relationship**
- 645. Duties of neutral licensee**
- 650. No imputation of knowledge resulting from neutral licensee relationship**
- 655. Compensation**
- 660. Duration of relationship**