

# **Real Estate Commission Meeting**

**March 17, 2021**

**Atwood Building  
550 W 7th Avenue  
Suite 1550  
(ZOOM ONLY)**

**Anchorage**

# Approval of Agenda

STATE OF ALASKA  
DEPARTMENT OF COMMERCE, COMMUNITY & ECONOMIC DEVELOPMENT DIVISION OF  
CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING  
*Tentative Meeting Agenda*

**REAL ESTATE COMMISSION MEETING**

**March 17, 2021**  
**Atwood Building 550 W. 7<sup>th</sup> Ave.**  
**Suite 1550 (ZOOM ONLY)**  
**Anchorage, AK**

Email [realestatecommission@alaska.gov](mailto:realestatecommission@alaska.gov) for ZOOM information

---

**Wednesday, March 17, 2021**

***Note: There will be a break for lunch from 12 until 1.***  
***Division Update will start at 1:00 pm.***

- 9:00 a.m. 1. Call to Order Markwood
- a) Roll Call
  - b) Approval of 3/17 Agenda
  - c) Statements of Conflicts of Interest
  - d) Commission Member Introductions
2. Public Comments (est. time only; 9:15 am)
3. Meeting Minutes
- a) December 16, 2020
  - b) February 2, 2021
4. Investigative Report
- a) Probation Report Famularo
  - b) Statistical Report Miller
  - c) Investigative Matters: (EXECUTIVE SESSION)
    - Case #2019-001288
    - Case #2020-000118
    - Case #2020-000164
    - Case #2020-000534
  - d) CE Investigative Matters: (EXECUTIVE SESSION) Zimmerman
    - Case #2020-000836
    - Case #2020-000977
5. Committee Reports
- a) Property Management Committee Markwood/Taggart
6. Old Business
- a) AREC Property Transfer Disclosure Form Re-Write Markwood
  - b) Regulation Revisions – Status Update Maiquis
  - c) Disciplinary Matrix – Status Update Consalo
  - d) 2020 AREC Strategic Plan Review Markwood
7. New Business
- a) Develop 2021 AREC Strategic Plan Markwood
  - b) Election of Vice Chair & PM Committee Liaison

STATE OF ALASKA  
DEPARTMENT OF COMMERCE, COMMUNITY & ECONOMIC DEVELOPMENT DIVISION OF  
CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING  
*Tentative Meeting Agenda*

**REAL ESTATE COMMISSION MEETING**

**March 17, 2021**  
**Atwood Building 550 W. 7<sup>th</sup> Ave.**  
**Suite 1550 (ZOOM ONLY)**  
**Anchorage, AK**

Email [realestatecommission@alaska.gov](mailto:realestatecommission@alaska.gov) for ZOOM information

---

1:00 p.m.	8. Division Update	Walsh
	a) REC Revenues and Expenditures Report (2021 2 <sup>nd</sup> Quarter)	
	b) New Board Member Training (Tentative)	
	9. Executive Administrator's Report	
	a) Education Statistics	Harris
	b) Train the Trainer Course Request	
	c) Licensing Statistics	Consalo
	d) RISC E&O Claims Report	
	e) Recovery Fund Balance Report	
	10. Commission Member Comments and Questions	
	11. Adjournment	

*Please report any Ethics violations to Shyla Consalo or Nancy Harris.*

**Next Meeting: June 16, 2021**

# Statements of Conflict of Interest

# Oral Comments & Public Comments

Approval of Meeting Minutes  
(December)

1  
2 STATE OF ALASKA  
3 DEPARTMENT OF COMMERCE, COMMUNITY & ECONOMIC DEVELOPMENT  
4 DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING  
5

6 REAL ESTATE COMMISSION  
7 MEETING MINUTES  
8

9 December 16, 2020  
10

11 “These draft minutes were prepared by the staff of the Division of Corporations, Business  
12 and Professional Licensing. They have not been reviewed or approved by the  
13 Commission.” By authority of AS 08.01.070(2), and in compliance with the provisions of  
14 AS 44.62, Article 6, a scheduled meeting of the Real Estate Commission was held  
15 December 16, 2020, at the State of Alaska Atwood Building, 550 W. 7<sup>th</sup> Avenue, Suite  
16 1550, via Zoom, Anchorage, Alaska.  
17

18  
19 **Wednesday, December 16, 2020**

20 **Agenda Item 1 - Call to Order**

21 Chairperson PeggyAnn McConnochie called the meeting to order at 9:02 a.m., at which  
22 time a quorum was established.  
23

24 Roll Call – 1(a)

25 Members Present via Zoom

26 PeggyAnn McConnochie, Broker, 1<sup>st</sup> Judicial District, Chairperson  
27 Margaret Nelson, Broker, Broker at Large, Vice Chairperson  
28 David Pruhs, Broker, 4<sup>th</sup> Judicial District  
29 Cheryl Markwood, Broker, Broker at Large  
30 Jaime Matthews, Public Member  
31 Jesse Sumner, Public Member  
32

33 Unexcused Absent:

34 Samuel Goldman, Broker, 3<sup>rd</sup> Judicial District  
35

36 Staff Present:

37 Nancy Harris, Project Assistant  
38

39 Staff Present via Zoom:

40 Shyla Consalo, Executive Administrator  
41 Autumn Miller, REC Investigator  
42 Jared Famularo, Investigator – REC Probation Monitor  
43 Erika Prieksat, Senior Investigator  
44 Marilyn Zimmerman, Paralegal  
45

46 Guests Present via Zoom:

47 Errol Champion, Broker, Coldwell Banker Race Realty, Juneau  
48 Cassandra Taggart, Broker, Real Property Management Last Frontier, Anchorage  
49 Renae Miller, Broker, MARC Realty, Anchorage  
50 Lonnie Logan, Broker, Realty One Group Aurora, Anchorage  
51 Tammy Sweet, Salesperson, Fernandez Real Estate Group, Wasilla  
52 Tara Van Orsdal, Salesperson, Denali Real Estate, Anchorage  
53 Laura McMillon, Compliance Administrator, The CE Shop  
54 Maude Morse, Alaska Housing Finance Corporation  
55 Maria Celli, Alaska Housing Finance Corporation

56 Julie Burns, Public Member  
57 Tim, Association Unknown

58  
59 Approval of Agenda – 1(b)  
60 Commission Members reviewed the meeting agenda.

61  
62 **On a motion duly made by Ms. Nelson, seconded by Ms. Matthews, it was**  
63  
64 **RESOLVED to approve the meeting agenda for December 16, 2020.**

65  
66 **All in favor; Motion passed.**

67  
68 Statements of Conflicts of Interest – 1(c)  
69 There were no conflicts of interests.

70  
71  
72 **Agenda Item 2 – Public Comments**  
73 There were no public comments.

74  
75  
76 **Agenda Item 3 - Approval of Meeting Minutes**  
77 **September 23, 2020 Meeting Minutes – 3(a)**

78  
79 **On a motion duly made by Ms. Nelson, seconded by Mr. Pruhs, it was**  
80  
81 **RESOLVED to approve the September 23, 2020 meeting minutes.**

82  
83 **All in favor; Motion passed.**

84  
85  
86 **Agenda Item 5 – Committee Reports**  
87 **Property Management Committee – 5(a)**

88 Ms. Taggart, Chair of the Property Management Committee, presented the Commission  
89 with best practices for property management contracts and disclosures, and would like it to  
90 be posted to the REC website for their consideration. Ms. Taggart explained that this best  
91 practice goes over what brokerages might want to consider within their handbook of how  
92 they handle management and lease contracts. It also lays out what licensees should  
93 consider when handling management and lease contracts. This best practice is part two of  
94 the Committee's three-part project. The next best practice the Committee will be working  
95 on is a best practice regarding security deposits, escrow deposits, and trust accounts.

96  
97 Ms. McConnochie thanked Ms. Taggart for the report, and the excellent job the Committee  
98 is doing. She asked if Ms. Taggart would explain the thought process in creating the  
99 document prior to anyone asking questions.

100  
101 Ms. Taggart explained that beginning last January, the Committee did a series of  
102 brainstorming exercises with everyone attending the Committee meetings (typically ranged  
103 from 7 – 20 people). They took into account common complaints filed and  
104 confusions/problems within the industry. The goal was to put together a tool that went over  
105 the common practices within the property management industry to help avoid confusions,  
106 complaints, and problems. And, instead of making one large best practice that covered  
107 these common practices, the Committee decided to break it up into three best practices  
108 under the following categories: reporting; contracts and disclosures; and security deposits,

109 escrow deposits, and trust accounts. Once the categories were established, the  
110 Committee completed the brainstorming sessions in these segments and worked through  
111 each segment until an approved product was completed.

112  
113 Ms. Nelson commended Ms. Taggart and the Committee on their efforts thus far, and  
114 stated they were doing a fantastic job.

115  
116 **On a motion duly made by Ms. Nelson, seconded by Ms. Matthews, it was**

117  
118 **RESOLVED to adopt the Property Management Committee's best**  
119 **practices for property management contracts and disclosures to be**  
120 **published on the REC website.**

121  
122 **All in favor; Motion passed.**

123  
124  
125 **Agenda Item 6 – Old Business**

126 **AREC Property Transfer Disclosure Form Re-Write – 6(a)**

127 Mr. Pruhs stated he's not been able to get a meeting together with Ms. Markwood to  
128 discuss his progress on the document; however, he did obtain some additional information  
129 from Errol Champion that will be helpful in their efforts moving forward. Mr. Pruhs indicated  
130 he would be meeting with Ms. Markwood next week to wrap up his portion of the project.

131  
132 Ms. McConnochie thanked Mr. Pruhs for the update, and requested they get their draft out  
133 to Ms. Consalo as soon as possible, so it can be distributed to all Commission members  
134 for review/input prior to the next meeting. The goal is to have something that can be  
135 discussed and considered at the next meeting.

136  
137 **Regulation Revisions Status Update – 6(b)**

138 Ms. Consalo explained Mr. Maiquis was unable to attend the meeting to give his report  
139 due to being inundated with extra tasks as a result of losing several staff members in the  
140 Division. Ms. Consalo explained that Mr. Maiquis has also been very busy with processing  
141 new emergency regulations on several of the healthcare boards because of the new  
142 COVID guidance and emergency order extensions. Mr. Maiquis apologized that he has not  
143 been able to work on the Commission's regulation project, but stated he hopes to have our  
144 regulation project out for public comment by the next meeting.

145  
146 **Disciplinary Matrix Review – 6(c)**

147 Ms. Consalo explained that Investigations provided her with an excel spreadsheet of case  
148 precedent for different types of real estate violations from January 2016 to August 2020.  
149 Within the program Investigations uses to record investigation cases, there are certain  
150 categories investigators have to classify the types of violations. Ms. Consalo used those  
151 categories to organize the flow of the matrix she drafted, which is why it looks different  
152 from the old matrix. Ms. Consalo explained that because of how previous investigators  
153 categorized violations, there were quite a few categories of violations that did not have  
154 case precedent, so the main purpose in reviewing this document is to go over those  
155 categories without precedent and determine what the Commission would like that  
156 precedent to look like for those violations, moving forward.

157  
158 Ms. Nelson asked why the case precedent provided only went back to 2016. Ms. Consalo  
159 stated she's not sure, but assumes it's because Investigations felt that 2016 was far  
160 enough back to provide a solid reference base for case precedents. Ms. Nelson then  
161 commented that most of the Commission members have been involved a lot with these

162 cases, and there was a case she worked on that did not have case precedent so a  
163 decision was made based on what she thought was the right thing to do. Ms. Nelson  
164 asked if that becomes the precedent and will the document be updated when they make  
165 decisions on cases where there's no precedent. Ms. Consalo explained that is why they  
166 are reviewing the document today, so that there will be a baseline for those cases in the  
167 future. Unfortunately, because there was not another report pulled between August 2020 –  
168 December 2020, any case precedent that may have been developed during that time will  
169 not be on this document, as drafted. However, this is part of why the document must be  
170 reviewed and approved by both investigations and Department of Law prior to bringing it  
171 before the Commission for adoption and use. Additionally, after speaking with Investigator  
172 Whaley regarding the categories of violations that did not have precedent, she suggested  
173 the best course of action would be for the Commission to discuss what they felt would be  
174 the best course of action for those types of violations and how to address them moving  
175 forward.

176  
177 Ms. McConnochie asked Ms. Consalo to explain the process of getting this document  
178 approved, and how the decisions the Commission makes today is going to influence what  
179 happens tomorrow. Ms. Consalo explained that whatever decisions are made today will be  
180 updated and reflected in the matrix. It will then be submitted to Investigations for review, to  
181 ensure the recommendations are within known precedent then they will give the approval  
182 for the document to be sent to the Department of Law for review. If Investigations or the  
183 Department of Law have any changes or recommendations, the document will come back  
184 to Ms. Consalo, and she will present those changes to the Commission for discussion.  
185 This process will repeat itself until the document is approved by Investigations and the  
186 Department of Law. Once Ms. Consalo has those approvals, the document will be  
187 presented to the Commission for adoption and use.

188  
189 Ms. Nelson commented that this document is a serious document and was not sure the  
190 Commission should act as a whole by going through each section and recommending  
191 disciplinary sanctions. She suggested the Commission create a Committee to do this, so a  
192 more comprehensive report can be provided to the Commission for adoption.

193  
194 Ms. Markwood thanked Ms. Consalo for putting the document together, and stated it's  
195 going to be very useful once it's approved. As Commission members, any time they are  
196 asked to review an investigation, it's a serious matter. By having this document available  
197 to help in determining what the best approach on a case would be is incredibly important.  
198 Ms. Markwood agrees with Ms. Nelson that this is such a serious document that the  
199 Commission does need to look at this very carefully, but she recognizes that regardless of  
200 what the Commission decides, the document will need to go through Investigations and  
201 the Department of Law before anything is finalized. Investigations and Department of Law  
202 are going to be looking at this a lot more closely than they as Commissioners are, and  
203 she's going to hold their comments much weightier than what is decided today. By moving  
204 this to a Committee, the problem is that they, as Commissioners, are not allowed to meet  
205 with more than three members. So, this is the appropriate place to be discussing each of  
206 these line items. Ms. Markwood suggested the Commission review the matrix today so it  
207 can be moved forward in the process to get finalized and approved.

208  
209 Ms. McConnochie asked for the input from the rest of the Commission members on this  
210 matter. Mr. Pruhs and Mr. Sumner agreed with moving forward with the review. Ms.  
211 Matthews stated that, as a public member, she didn't have the history and background on  
212 this document like the licensed Commission members did; however, she does think it's a  
213 lot of information to go through today and it might be beneficial to have a separate  
214 Committee review the document.

215  
216  
217  
218  
219  
220  
221  
222  
223  
224  
225  
226  
227  
228  
229  
230  
231  
232  
233  
234  
235  
236  
237  
238  
239  
240  
241  
242  
243  
244  
245  
246  
247  
248  
249  
250  
251  
252  
253  
254  
255  
256  
257  
258  
259  
260  
261  
262  
263  
264  
265  
266  
267

Ms. McConnochie thanked everyone for their comments, and suggested they try to go through the document, and if at any point they feel it needs to be sent off to a Committee for review, then they'll address it at that time. Prior to reviewing the document, it was discussed and agreed by the Commission members that minor violations consisted of those violations that were technical in nature, and posed no direct threat or harm to the public. Minor violations also excluded any violations that involve a licensee's inability to practice safely.

**Agenda Item 4 – Investigative Report**

**Probation Report – 4(a)**

Erika Prieksat, Senior Investigator, presented the probation report to the Commission and introduced the new REC Probation Monitor, Jared Famularo. There are 2 licensees on probation, and 1 licensee released from probation since the last report. Everyone on probation is currently in compliance.

**Statistical Report – 4(b)**

Autumn Miller, REC Investigator, presented the investigation statistics for the reporting period of September 10, 2020 through November 30, 2020. There are 36 open matters and 15 matters were closed from the last report.

Ms. Nelson commended Ms. Miller for doing a good job on the investigations. She has worked with Ms. Miller on a couple of difficult cases recently, and has found her to be very professional. She does a great job dealing with some very difficult people, and Ms. Nelson really appreciates all the hard work. Ms. McConnochie echoed Ms. Nelson's gratitude.

**CE Investigative Matters – 4(c)**

**On a motion duly made by Ms. Nelson, seconded by Ms. Markwood, it was**

**RESOLVED to go into Executive Session in accordance with AS 44.62.310(c) for the purpose of discussing subjects that tend to prejudice the reputation and character of any person.**

**All in favor; Motion passed.**

The Commission went into Executive Session at 9:40 a.m.

**On a motion duly made by Ms. Markwood, seconded by Ms. Matthews, it was**

**RESOLVED to come out of Executive Session.**

The Commission came out of Executive Session at 9:53 a.m.

**On a motion duly made by Ms. Nelson, seconded by Ms. Markwood, it was**

**RESOLVED to approve the request for consideration in case #2020-000836.**

**Roll call vote: Ms. Markwood – no, Ms. Nelson – no, Mr. Pruhs – no, Ms. Matthews – no, Mr. Sumner – no, and Ms. McConnochie – no.**

268  
269  
270  
271  
272  
273  
274  
275  
276  
277  
278  
279  
280  
281  
282  
283  
284  
285  
286  
287  
288  
289  
290  
291  
292  
293  
294  
295  
296  
297  
298  
299  
300  
301  
302  
303  
304  
305  
306  
307  
308  
309  
310  
311  
312  
313  
314  
315  
316  
317  
318  
319  
320

**Motion failed.**

The Commission denied the request for consideration in case #2020-000836.

**On a motion duly made by Ms. Nelson, seconded by Ms. Markwood, it was**

**RESOLVED to accept the Consent Agreement in case #2020-000912.**

**Roll call vote: Ms. Markwood – yes, Ms. Nelson- yes, Mr. Pruhs – yes, Ms. Matthews – yes, Mr. Sumner – yes, and Ms. McConnochie – yes.**

**Motion passed.**

The Commission accepted the Consent Agreement in case #2020-000912.

**On a motion duly made by Ms. Nelson, seconded by Ms. Markwood, it was**

**RESOLVED to accept the Consent Agreement in case #2020-000913.**

**Roll call vote: Ms. Markwood – yes, Ms. Nelson- yes, Mr. Pruhs – yes, Ms. Matthews – yes, Mr. Sumner – recused, and Ms. McConnochie – yes.**

**Motion passed.**

The Commission accepted the Consent Agreement in case #2020-000913.

Break at 10:00 a.m.

Reconvened at 10:10 a.m.

**Agenda Item 6 – Old Business**

**Disciplinary Matrix Review – 6(c)**

The Commission went through each category individually to ensure there were no clarifications or questions on violations with case precedent, and to address/make recommendations on violations that did not have case precedent.

There were no questions re: the Advertising category.

On the Breach of Fiduciary Duty category, Ms. Consalo explained there was no case precedent for this category, so the Commission needed to determine an amount to recommend for the Imposition of Civil Fine, and the terms for the Consent Agreement.

**On a motion duly made by Ms. Markwood, seconded by Mr. Pruhs, it was**

**RESOLVED to set the Imposition of Civil fine for Breach of Fiduciary Duty to “up to \$2,500”.**

**All in favor; Motion passed.**

**On a motion duly made by Ms. Markwood, seconded by Mr. Pruhs, it was**

321           **RESOLVED to set the Consent Agreement terms for Breach of**  
322           **Fiduciary Duty to “up to a \$5,000 fine, up to 2 years of probation, and up to 9**  
323           **hours of education”. The limitations on practice will be taken out, and the**  
324           **suspension and reprimand will be left on as options for the reviewer to use at**  
325           **their discretion.**

326  
327           **All in favor; Motion passed.**

328  
329           There were no questions re: the Continuing Education, Criminal Action – No Conviction,  
330           and Criminal Action – Conviction categories.

331  
332           On the Falsified Application category, Ms. Consalo explained there was no case precedent  
333           for this category for an Imposition of Civil Fine, so the Commission needed to determine  
334           an amount to recommend.

335  
336           **On a motion duly made by Ms. Nelson, seconded by Ms. Markwood, it was**

337  
338                       **RESOLVED to set the Imposition of Civil fine for Falsified Application**  
339           **to “up to \$2,500”.**

340  
341           **All in favor; Motion passed.**

342  
343           On the Financial Scam category, Ms. Consalo explained there was no case precedent for  
344           this category for Consent Agreement terms, so the Commission needed to determine what  
345           terms to recommend.

346  
347           **On a motion duly made by Ms. Markwood, seconded by Mr. Pruhs, it was**

348  
349                       **RESOLVED to set the Consent Agreement terms for Financial Scam to**  
350           **“up to a \$10,000 fine, up to 5 years of probation, and up to 20 hours of**  
351           **education”. The limitations on practice will be taken out, and the suspension**  
352           **and reprimand will be left on as options for the reviewer to use at their**  
353           **discretion.**

354  
355           **All in favor; Motion passed.**

356  
357           At 10:55, Mr. Pruhs requested to be excused from the meeting due to having to host a  
358           radio show, and would return after the lunch break. Ms. McConnochie excused Mr. Pruhs.

359  
360           On the Fraud or Misrepresentation category, Ms. Consalo explained there was no case  
361           precedent for this category, so the Commission needed to determine an amount to  
362           recommend for the Imposition of Civil Fine, and the terms for the Consent Agreement.

363  
364           **On a motion duly made by Ms. Nelson, seconded by Ms. Markwood, it was**

365  
366                       **RESOLVED to set the Imposition of Civil fine for Fraud or**  
367           **Misrepresentation to “up to \$2,500”.**

368  
369           **All in favor; Motion passed.**

370  
371  
372           **On a motion duly made by Ms. Nelson, seconded by Ms. Markwood, it was**

373

374                   **RESOLVED to set the Consent Agreement terms for Fraud or**  
375                   **Misrepresentation to “up to a \$10,000 fine, up to 5 years of probation, and up**  
376                   **to 20 hours of education”. The limitations on practice will be taken out, and**  
377                   **the suspension and reprimand will be left on as options for the reviewer to**  
378                   **use at their discretion.**

379  
380                   **All in favor; Motion passed.**

381  
382                   On the Probation Violation category, Ms. Consalo explained that the licensee will already  
383                   be on a Consent Agreement if this violation occurs, so the options available are a little  
384                   different than a normal violation. Ms. Consalo explained there was no case precedent for  
385                   this category for additional Consent Agreement terms, so the Commission needed to  
386                   determine what terms to recommend.

387  
388                   **On a motion duly made by Ms. Nelson, seconded by Ms. Markwood, it was**

389  
390                   **RESOLVED to set the Consent Agreement terms for Probation**  
391                   **Violation to “up to an additional \$2,500 fine”. The suspension will be left on**  
392                   **as an option for the reviewer to use at their discretion, and the rest of the**  
393                   **terms will be taken out.**

394  
395                   **All in favor; Motion passed.**

396  
397                   On the Substance Abuse category, Ms. Consalo explained this violation was not very  
398                   common in the real estate industry, and is also different with regard to the  
399                   recommendations available and typical for a Consent Agreement for this type of violation.  
400                   Ms. Consalo explained there was no case precedent for this category, so the Commission  
401                   needed to determine an amount to recommend for the Imposition of Civil Fine, and the  
402                   terms for the Consent Agreement.

403  
404                   **On a motion duly made by Ms. Markwood, seconded by Ms. Nelson, it was**

405  
406                   **RESOLVED to set the Imposition of Civil fine for Substance Abuse to**  
407                   **“up to \$2,500”.**

408  
409                   Commission members discussed the motion on the table.

410  
411                   **On a motion duly made by Mr. Sumner, seconded by Ms. Markwood, it was**

412  
413                   **RESOLVED to amend the main motion and set the Imposition of Civil**  
414                   **fine for Substance Abuse to “up to \$1,500”.**

415  
416                   **Motion failed. The original motion on the table passed.**

417  
418  
419                   **On a motion duly made by Ms. Markwood, seconded by Ms. Nelson, it was**

420  
421                   **RESOLVED to set the Consent Agreement terms for Substance Abuse**  
422                   **to “up to a \$5,000 fine and up to 18 months of probation”. The education will**  
423                   **be taken out, and the remaining recommendations will be left on as options**  
424                   **for the reviewer to use at their discretion.**

425  
426                   **All in favor; Motion passed.**

427

428 On the Supervision category, Ms. Consalo explained there was no case precedent for this  
429 category for an Imposition of Civil Fine, so the Commission needed to determine an  
430 amount to recommend.

431

432 **On a motion duly made by Ms. Nelson, seconded by Ms. Markwood, it was**

433

434 **RESOLVED to set the Imposition of Civil fine for Supervision to “up to**  
435 **\$2,500”.**

436

437 **All in favor; Motion passed.**

438

439 On the Trust Account category, Ms. Consalo explained there was no first or minor offense  
440 for this category because trust account violations are serious matters, and should be  
441 treated as such – the Commission agreed. Ms. Consalo explained there was no case  
442 precedent for this category for Consent Agreement terms, so the Commission needed to  
443 determine what terms to recommend.

444

445 **On a motion duly made by Ms. Markwood, seconded by Ms. Nelson, it was**

446

447 **RESOLVED to set the Consent Agreement terms for Trust Account to**  
448 **“up to a \$5,000 fine, up to 2 years of probation, and up to 12 hours of**  
449 **education”. The remaining recommendations will be left on as options for the**  
450 **reviewer to use at their discretion.**

451

452 Commission members discussed the motion on the table.

453

454 **On a motion duly made by Mr. Sumner, seconded by Ms. Markwood, it was**

455

456 **RESOLVED to amend the main motion and set the fine for Trust**  
457 **Account to “up to \$50,000”. The remaining recommendations in the main**  
458 **motion to stay the same.**

459

460 **All in favor; Motion passed.**

461

462 On the second Unlicensed Practice category, Ms. Consalo explained there was no case  
463 precedent for this category for an Imposition of Civil Fine, so the Commission needed to  
464 determine an amount to recommend.

465

466 **On a motion duly made by Ms. Matthews, seconded by Ms. Markwood, it was**

467

468 **RESOLVED to set the Imposition of Civil fine for Unlicensed Practice**  
469 **to “up to \$2,500”.**

470

471 **All in favor; Motion passed.**

472

473 Ms. Markwood commented that she would like to recommend a change to the fine amount  
474 for the current case precedent for Unlicensed Practice. Because the Commission would  
475 like to set the fine amount for the first or minor offense to \$2,500, she would like to  
476 recommend that the fine amount for any subsequent or serious offense be \$5,000.

477

478 **On a motion duly made by Ms. Matthews, seconded by Ms. Markwood, it was**

479

480                   **RESOLVED to change the fine amount in the Consent Agreement for a**  
481                   **second or serious offense for Unlicensed Practice to “up to \$5,000”.**

482  
483                   **All in favor; Motion passed.**

484  
485                   On the Violation of Licensing Regulation category, Ms. Consalo explained there was no  
486                   case precedent for this category for an Imposition of Civil Fine, so the Commission needed  
487                   to determine an amount to recommend.

488  
489                   **On a motion duly made by Ms. Markwood, seconded by Ms. Matthews, it was**

490  
491                   **RESOLVED to set the Imposition of Civil fine for Violation of Licensing**  
492                   **Regulation to “up to \$2,500”.**

493  
494                   **All in favor; Motion passed.**

495  
496  
497                   Break at 11:28 a.m.  
498                   Reconvened at 11:34

499  
500  
501                   2020 AREC Strategic Plan Review – 6(d)

502                   Ms. McConnochie congratulated the Commission members and staff for all the hard work  
503                   they’ve done over the last 9 months in completing items from the Strategic Plan that was  
504                   created in March. It has been a huge accomplishment to get as far as we have, and it  
505                   could not have been done without everyone’s collaborative efforts.

506  
507                   Ms. McConnochie stated she would be going through each of the Strategic Plan’s tasks to  
508                   help identify what tasks the Commission should be looking to start, and go over what tasks  
509                   have been completed to date. Ms. McConnochie started with the first task: “With  
510                   agreement of the appropriate departments, upload informational videos done by  
511                   appropriate personnel on: 1) how to file a complaint against a licensee and its process;  
512                   and 2) if a complaint is filed against a license what the process is for a license.

513                   Additionally, provide best practice ‘white papers’ on various topics as approved by the  
514                   Commission for placement on our website.” Ms. Consalo provided a status update on this  
515                   task by informing the Commission that her time between the last meeting and this meeting  
516                   was primarily consumed with the drafting of the disciplinary matrix. Unfortunately, that was  
517                   not a task included on the Strategic Plan, but it was a matter identified by the Commission  
518                   on several occasions that warranted attention. Ms. Consalo stated she was recently able  
519                   to start working on the script for the video. The slides are already done, she just needs to  
520                   finish the script and record over the slides once the script is done. Ms. Consalo indicated  
521                   her goal was to have a draft video to the Chief Investigator for review by the next meeting.

522  
523                   Ms. McConnochie moved to the second task: “Provide the Commission for consideration,  
524                   what they should have jurisdiction over in property management; i.e. financial  
525                   responsibilities of the property owner or property manager. Then, provide next steps  
526                   should the Commission agree to move forward with recommendations. And, provide a list  
527                   of property management FAQs (frequently asked questions) for both licensed property  
528                   managers and property owners, to be approved by the Commission then placed on our  
529                   website.” Ms. McConnochie stated this task continues to be a work in progress, but the  
530                   Property Management Committee has done a phenomenal job in chipping away at this,  
531                   and has already provided several valuable best practice documents that have been posted  
532                   on the website.

533

534 Ms. McConnochie moved to the third task: "Refine and rework current processes, to  
535 increase the speed of actions to keep outside licensees and/or non-licensees from  
536 transacting business for which an Alaska real estate license or broker's license is required.  
537 Then, put this information on the Commission website and make sure it is easily  
538 accessible." Ms. Nelson stated this one has been on her mind, but unfortunately, she  
539 hasn't been able to put anything together and requested this task be added to the  
540 Strategic Plan for 2021.

541

542 Ms. McConnochie moved to the fourth task: "Define minimum standards, based on what  
543 other jurisdictions have successfully implemented, for team advertising (i.e. the  
544 requirement to include brokerage information, minimum size etc)." Ms. McConnochie  
545 stated this task is currently be worked on, and Ms. Nelson has created a best practice  
546 document that will be discussed later in the meeting. This will definitely be another task  
547 that will need to be carried over to the 2021 Strategic Plan, and may result in the  
548 Commission taking a look at and discussing possible regulation changes regarding  
549 advertising.

550

551 Ms. McConnochie moved to the fifth task, which consists of five separate sub-tasks:  
552 "Assist staff to clear up the following issues:

553

- How "inactive status" is logged/started and the McConnochie & Staff notification to the affected licensee

554

- How required education, for those who apply for license by endorsement, is defined and verified

555

- Provided a military spouse has a current license in good standing in another state, streamline the process when they apply for an Alaska real estate license

556

- Change how the Commission receives and disseminates license history; i.e. paper versus digital, or some other process

557

- Define and simplify the criteria for getting or upgrading an Alaska real estate license; i.e. referring to criminal history and what specifically constitutes a valid

558

- reason a license will not be given/upgraded and the timing since conviction or completion of sentence"

559

560

561

562

563

564

565

566

567

568

569

570

571

572

573

574

575

576

577

578

579

580

581

582 Ms. McConnochie noted that Commission has completed two of these five sub-tasks, and  
583 thanked Ms. Consalo and Ms. Harris for all the hard work they've been doing in helping to  
584 complete these items. The two sub-tasks that have been completed are the "streamlining  
585 the licensing process for military spouses", and the "changing how the Commission  
receives and disseminates license history" tasks. Ms. McConnochie asked Ms. Consalo to  
explain a little more about the streamlined licensing process for military members and their  
spouses. Ms. Consalo stated the Division has an expedited request for military members  
and their spouses to submit with their application, so it places their application at the top of  
the list to process. For real estate license applications, this request isn't necessary  
because the real estate inbox is caught up, and we are able to process license  
applications very quickly now. That tool is still available to them if they wish to use it, but it  
isn't necessarily needed for real estate applications, as there is no current delay in  
processing times.

579

580

581

582

583

584

585

Ms. McConnochie then asked Ms. Consalo to give a brief explanation on how the Division  
has been operating under COVID restrictions to give licensees and the public an idea of  
the difficult circumstances we've been working though, and how that has affected  
processing times. Ms. Consalo explained that for the most part, staff has been working or  
able to work a part-time telecommute schedule, and Ms. Harris has been able to be in the  
office full time since June. However, with the current increased rate of infections occurring,  
staff has been directed to go to a full-time telecommute schedule, if possible. Ms. Consalo

586 indicated she was able to obtain approval for Ms. Harris to work a part-time telecommute  
587 schedule and be in the office three days a week to ensure licenses were being mailed out  
588 and phone calls/messages were being answered. With regard to application processing,  
589 Ms. Consalo explained that the applications go through the admin team first. They process  
590 the payments, date stamp the documents, and scan the documents into our database,  
591 which is where staff is able to see and process the documents. That process can typically  
592 take anywhere from three to five days before staff can see it in the system. Once it hits the  
593 system, Ms. Consalo indicated she is typically able to turn things around in a day or two,  
594 depending on what's going on that week. Occasionally, there are delays on the admin side  
595 of things that are out of Commission staff control that could cause processing times to be  
596 a little longer; however, those situations are uncommon and processing times are still less  
597 than 2 weeks. Ms. McConnochie commended Ms. Consalo and Ms. Harris for the amazing  
598 job they are doing in ensuring everything is processed as quickly as possible, even during  
599 these difficult and unusual circumstances.

600

601 Ms. McConnochie moved to the sixth task: "Review all regulations and propose one major  
602 regulation change (clean up) which will bring regulations into the 21<sup>st</sup> century." The  
603 Commission has done its job with this task, and it is now in the hands of the Regulation  
604 Specialist for finalization and public comment. Mr. Maiquis' goal is to have this done by the  
605 next meeting.

606

607 Ms. McConnochie commended the Commission for the remarkable amount that has been  
608 completed thus far. Ms. McConnochie suggested that Commission members start thinking  
609 about goals they'd like to accomplish over the next year, so they can be brought for  
610 discussion and consideration at the next meeting. At the March meeting, the Commission  
611 should take a look at what was reviewed today, combined with any additional goals, to  
612 help create the Strategic Plan for 2021.

613

614 Break for lunch at 11:49 a.m.

615 Reconvened at 1:00 p.m.

616

617

618 **Agenda Item 8 – Division Update**

619 **REC Revenues and Expenditures Report – 8(a)**

620 Sharon Walsh, Deputy Director of the Division of Corporations, Business, and Professional  
621 Licensing, presented the Division Update.

622

623 Ms. Walsh presented the report for the fourth quarter of 2020, ending June 30, 2020 and  
624 the first quarter of 2021, ending September 30, 2020. For the fourth quarter of fiscal year  
625 2020, she stated the current revenue was \$618,451. Expenditures totals were as follows:  
626 There was non-investigative expenditures of \$87,702 and investigative expenditures of  
627 \$98,664, for a total of \$186,366 in direct expenditures. There were indirect expenditures of  
628 \$167,178 (this includes internal administration, department, and statewide costs), leaving  
629 the total expenditures at \$353,544. There was a total surplus of \$1,047,062.

630

631 For the first quarter of fiscal year 2021, she stated the current revenue was \$69,005.  
632 Expenditures totals were as follows: There was non-investigative expenditures of \$22,038  
633 and investigative expenditures of \$20,443, for a total of \$42,481 in direct expenditures.  
634 There were indirect expenditures of \$41,795 (this includes internal administration,  
635 department, and statewide costs), leaving the total expenditures at \$84,276. There was a  
636 total surplus of \$1,031,791.

637

638

639 **Agenda Item 7 – New Business**

640 **Advertising FAQ & Discussion Re: Possible Advertising Regulation Changes Project – 7(a)**  
641 **& 7(b)**

642 Ms. Nelson stated she did a review of the Commission’s current regulations regarding  
643 advertising, reviewed 35 other state policies and regulations regarding advertising, and put  
644 together a full proposal on advertising regulations to review. However, for now, she put  
645 together a best practice document to help educate and remind licensees on current  
646 advertising rules. There have been a lot of complaints and calls coming in regarding  
647 advertising issues, and this will hopefully help both licensees and the general public  
648 understand what is required. Ms. Nelson also stated she was going to work on a booklet  
649 containing frequently asked questions about advertising.

650  
651 The Commission discussed a few of changes/adjustments to be made to the best practice  
652 document for better clarity. The following changes were recommended: Add additional  
653 regulation references; re-configure paragraph #1 to make it clear that a brokerage can  
654 have a home office, as long as they meet the applicable registration and signage  
655 requirements; state “any and all social media platforms”; change “broker’s name” to  
656 “brokerage/brokerage name”; change “is” to “may” before the statement regarding grounds  
657 for revocation or suspension.

658  
659 **On a motion duly made by Ms. Nelson, seconded by Ms. Markwood, it was**

660  
661 **RESOLVED to adopt the Advertising best practices, as amended, to**  
662 **be published on the REC website.**

663  
664 **All in favor; Motion passed.**

665  
666 Ms. McConnochie thanked Margaret for all the hard work she’s done on this document,  
667 and the regulation changes that will be put up for discussion at a future meeting.

668  
669 **Election of Vice Chair & Education Liaison – 7(c)**

670 Ms. McConnochie asked if there was anyone who would like to nominate a Commission  
671 member for the Education Liaison. She explained the job of the Education Liaison is to  
672 help Ms. Harris if she runs into an issue with a course she is looking to recommend  
673 approval or denial. Ms. McConnochie explained a real estate license is not required for  
674 this position, and Ms. Harris does not reach out with issues often, so it does not require a  
675 lot of extra time. Mr. Sumner was nominated for the Education Liaison. There were no  
676 further nominations.

677  
678 **On a motion duly made by Mr. Sumner, seconded by Ms. Markwood, it was**

679  
680 **RESOLVED that Mr. Sumner would be the Education Liaison for the**  
681 **Commission for 2021.**

682  
683 **All in favor; Motion passed.**

684  
685 Ms. McConnochie asked if there was anyone who would like to nominate a Commission  
686 member for the Vice Chair. Ms. Markwood was nominated for Vice Chair. There were no  
687 further nominations.

688  
689 **On a motion duly made by Ms. Nelson, seconded by Ms. Matthews, it was**

690

691 **RESOLVED that Ms. Markwood would be the Vie Chair for the**  
692 **Commission for 2021.**

693  
694 **All in favor; Motion passed.**

695  
696  
697 2021 Meeting Dates – 7(d)

698 Ms. McConnochie asked everyone to pull up their calendars for 2021, so they could  
699 decide which dates would work best for the next year of Commission meetings. All  
700 Commission members agreed to the following meeting dates for 2021:

- 701 • March 17<sup>th</sup>
- 702 • June 16<sup>th</sup>
- 703 • September 15<sup>th</sup>
- 704 • December 15<sup>th</sup>

705  
706 Ms. Consalo then gave a quick explanation and reminder of the attendance policy for  
707 meetings, and the importance behind this policy. She explained Commission members  
708 must notify her at least 30 days in advance if they will not be able to attend a meeting for a  
709 non-emergency reason, and it will be up to the Commission Chair if that absence is  
710 excused or not.

711  
712  
713 **Agenda Item 9 – Executive Administrator’s Report**

714 Education Statistics – 9(a)

715 Ms. Harris presented the education report for December 16, 2020. She reported that as of  
716 December 7, 2020, there were 13 pre-licensing courses; 4 broker upgrade courses; 319  
717 elective courses; 36 designated courses; and 71 post-licensing courses approved, with a  
718 total of 443 courses approved. Ms. Harris stated there are currently 67 approved  
719 instructors.

720  
721 Licensing Statistics – 9(b)

722 Ms. Consalo presented the licensing report for December 16, 2020. She reported that as  
723 of December 8, 2020, there were 2,796 active licensees; 25 inactive licensees; 378 lapsed  
724 licenses with 7 of those for non-compliance of PLE; there were 296 transfers; 51 licensees  
725 who completed their PLE requirements; 4 license upgrades from salesperson to associate  
726 broker; 1 license upgrades from salesperson to broker; and 2 licensees on probation.

727  
728 Current Office Procedures – 9(c)

729 Ms. Consalo covered most of this while going over the progress on the 2020 Strategic  
730 Plan, and reiterated the most recent change within the Division regarding physically  
731 working in the office, and what the change looked like for Commission staff. Ms. Consalo  
732 will be working from home 100%, and Nancy will be working from home part-time – she  
733 will physically be in the office on Wednesdays – Fridays until further notice.

734  
735 RISC E&O Claims Report – 9(d)

736 Ms. Consalo presented the report for RISC E&O claims for their third quarter (Jul – Sept).  
737 Total closed claims were \$3,000, and the total open claims were \$16,000, for a total of  
738 \$19,000 in claims for the third quarter. Two of these claims were the same claims/cases  
739 reported in the second quarter report, so there was one new claim opened in the third  
740 quarter.

741  
742 Recovery Fund Balance Report – 9(e)

743 The Commission reviewed the Recovery Fund Balance Report as presented.  
744 Ms. Consalo presented the Recovery Fund Report for the fourth quarter, ending  
745 September 30, 2020. The Commission received a total of \$18,395 for license fees  
746 processed between July and September, leaving the current total fund balance at  
747 \$327,850. The projected balance for the end of the fiscal year is \$211,011 with an average  
748 2-year licensing cycle fund balance of \$269,431.  
749

750 Application Matters – 9(f)

751 **On a motion duly made by Ms. Markwood, seconded by Ms. Matthews, it was**

752

753 **RESOLVED to go into Executive Session in accordance with AS**  
754 **44.62.310(c) for the purpose of discussing subjects that tend to**  
755 **prejudice the reputation and character of any person.**

756

757 **All in favor; Motion passed.**

758

759 The Commission went into Executive Session at 2:00 p.m.

760

761 **On a motion duly made by Ms. Markwood, seconded by Ms. Matthews, it was**

762

763 **RESOLVED to come out of Executive Session.**

764

765 The Commission came out of Executive Session at 2:36 p.m.

766

767 **On a motion duly made by Ms. Markwood, seconded by Ms. Matthews, it was**

768

769 **RESOLVED to approve the license application for Julie Burns, license**  
770 **#166982.**

771

772 **Roll call vote: Ms. Markwood – no, Ms. Nelson – no, Mr. Pruhs – no, Ms.**  
773 **Matthews – no, Mr. Sumner – no, and Ms. McConnochie – recused.**

774

775 **Motion failed.**

776

777 The Commission denied the license application for Julie Burns, license #166982.

778

779 **On a motion duly made by Ms. Markwood, seconded by Ms. Matthews, it was**

780

781 **RESOLVED to approve the license application for Alicia Hinzman,**  
782 **license #168456.**

783

784 **Roll call vote: Ms. Markwood – yes, Ms. Nelson- yes, Mr. Pruhs – yes, Ms.**  
785 **Matthews – yes, Mr. Sumner – yes, and Ms. McConnochie – yes.**

786

787 **Motion passed.**

788

789 The Commission approved the license application for Alicia Hinzman, license #168456.

790

791 At 2:41 p.m., Mr. Pruhs lost his internet connection, and was unable to return to the  
792 meeting.

793

794

795 **Agenda Item 10 – Commission Member Comments & Questions**

796 Ms. Nelson stated she's been very busy lately working with the estate of Paul Moore, who  
797 unexpectedly passed away in August. He was the broker of Distinctive Properties. Ms.  
798 Nelson urged anybody who a broker to make sure they have a plan in place should they  
799 suddenly not be with us. It has been a horrible and frustrating process for the family.  
800 Passwords weren't left, access to trust accounts weren't given, and it's been very difficult.  
801 Ms. Consalo has been working with the family as well, and Ms. Nelson expressed her  
802 appreciation. Ms. Nelson wished everyone a very Merry Christmas, and is looking forward  
803 to the new year.

804  
805 Ms. Markwood stated this year has been very challenging, but she's proud to have served  
806 on the Commission with everyone. She commended Ms. Taggart for her hard work on the  
807 Property Management Committee. Keeping everyone on track and steering that particular  
808 project forward has been really challenging, and she's very proud of the work Ms. Taggart  
809 has done. She commended Ms. Nelson's work on the advertising topic – it has been  
810 extremely helpful. She also wanted to note that this was Mr. Pruhs last Commission  
811 meeting, and she's been grateful to have him as both a mentor and team member on the  
812 Commission. She thanked him for all of his hard work for the real estate industry over the  
813 last few years, and she's looking forward to 2021 with everyone and all of the continued  
814 work the Commission will do. She also reiterated Ms. Nelson's sentiments regarding  
815 brokerages. She suggested putting together a best practice regarding the issue because,  
816 she also lost somebody this year that owned a property management company that did  
817 association management. When she passed away, it was very, very traumatic for  
818 everybody; and trying to get security deposits, lease agreements, etc. was very difficult.  
819 Ms. Markwood wished everybody a very Merry Christmas.

820  
821 Ms. Matthews started with a question regarding the current status of timelines/delays with  
822 titles and recordings in transactions, as she has received several questions about this. Ms.  
823 McConnochie stated she would jump in with her response, but encouraged the other  
824 Commission members to add to her response if they had additional information. She  
825 explained that COVID has caused a horrible situation. They are experiencing delays with  
826 recording, getting titles and appraisals done all over the State. It's very difficult because  
827 there are people trying to get brand new loans with these low interest rates, and people  
828 trying to refinance at the same time. Ms. McConnochie doesn't know what can be done to  
829 speed it up, but it's an unfortunate circumstance that everyone is having to deal with right  
830 now until the COVID situation goes away. Ms. Matthews thanked Ms. McConnochie for  
831 her input. She thanked Mr. Pruhs for his time on the Commission, and Ms. Consalo for her  
832 comments during the meetings and the tremendous work she does in putting together the  
833 meeting packets for everyone. She thanked Ms. McConnochie for her leadership, and the  
834 great job she does running an efficient meeting. She thanked Ms. Nelson for all the time  
835 she's dedicated to the advertising best practice and future regulation changes. Ms.  
836 Matthews wished everyone a Merry Christmas, and appreciates being a part of the  
837 Commission.

838  
839 Mr. Sumner wished everyone a Merry Christmas, and stated Mr. Pruhs will be missed.

840  
841 Ms. McConnochie informed everyone that she was term limited out, so this was also going  
842 to be her last meeting as a Commission member. First, she thanked Ms. Harris for the  
843 amazing job she did when she had to stand in until the Commission got a new Executive  
844 Administrator. Second, she thanked Ms. Consalo for the amazing amount of work she's  
845 done to step everything up, and to get changes made to things that have been needing  
846 changed for a while. Getting the website fixed, the disciplinary matrix drafted, and  
847 significantly reducing application processing times - nobody could have done it without  
848 her, and she really appreciates the hard work and diligence. Ms. Harris and Ms. Consalo

849 do the work of four people with two, and the progress over the last year has been  
850 amazing. Ms. McConnochie expressed appreciation to Mr. Sumner for his comments and  
851 insights. It's been extremely wonderful to have him on the Commission. Keep up the good  
852 work, and keep opening up and expressing how he feels about things. Ms. McConnochie  
853 thanked Ms. Matthews for being such an involved member of the public. She expressed  
854 Ms. Matthews has been one of the best public members the Commission has ever had.  
855 She's stepped up and learned, and is speaking up and asking questions that need to be  
856 asked from a public perspective. That brings something to the Commission that they  
857 haven't had in a while. Ms. McConnochie thanked Ms. Markwood for the phenomenal job  
858 she's doing, and for bringing the property management perspective in. This is something  
859 the Commission has needed for a very long time because property management is  
860 different than sales; and to be able to have her perspective on the Commission has been  
861 extremely helpful. Ms. McConnochie thanked Ms. Nelson for the incredible amount of work  
862 she's done on the Commission thus far. She's taken the rocks that have been put before  
863 the Commission and has dealt with them all with grace. In closing, Ms. McConnochie  
864 stated she has no doubt the next Commission starting in 2021 will be as good, if not  
865 better, than what the Commission is today. She can't wait to watch the Commission on the  
866 other side, and is looking forward to seeing everyone in 2021. If there are any questions  
867 going into 2021, reach out to her and she'd be more than happy to give her opinion. Ms.  
868 McConnochie wished everyone a Merry Christmas.

869  
870

871 **Agenda Item 11 – Adjournment**

872 **On a motion duly made by Ms. Nelson, seconded by Mr. Sumner, it was**

873  
874

**RESOLVED to adjourn.**

875  
876

**All in favor; Motion passed.**

877  
878

Meeting adjourned at 2:53 p.m.

879  
880

The next meeting will be held March 17, 2021 in Anchorage.

881  
882

883  
884

Prepared and submitted by:  
Real Estate Commission Staff

885  
886

Approved:

887  
888

889  
890

---

Cheryl Markwood  
REC Chairperson  
Alaska Real Estate Commission

891  
892

893

Approval of Meeting Minutes  
(February)

1  
2 STATE OF ALASKA  
3 DEPARTMENT OF COMMERCE, COMMUNITY & ECONOMIC DEVELOPMENT  
4 DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING  
5

6 REAL ESTATE COMMISSION  
7 MEETING MINUTES  
8

9 February 2, 2021  
10

11 "These draft minutes were prepared by the staff of the Division of Corporations, Business  
12 and Professional Licensing. They have not been reviewed or approved by the  
13 Commission." By authority of AS 08.01.070(2), and in compliance with the provisions of  
14 AS 44.62, Article 6, a scheduled meeting of the Real Estate Commission was held  
15 February 2, 2021, at the State of Alaska Atwood Building, 550 W. 7<sup>th</sup> Avenue, Suite 1500,  
16 via Zoom, Anchorage, Alaska.  
17

18  
19 **Tuesday, February 2, 2021**

20 **Agenda Item 1 - Call to Order**

21 Chairperson PeggyAnn McConnochie called the meeting to order at 10:15 a.m., at which  
22 time a quorum was established.  
23

24 **Roll Call – 1(a)**

25 **Members Present via Zoom**

26 PeggyAnn McConnochie, Broker, 1<sup>st</sup> Judicial District, Chairperson  
27 Margaret Nelson, Broker, Broker at Large, Vice Chairperson  
28 David Pruhs, Broker, 4<sup>th</sup> Judicial District  
29 Cheryl Markwood, Broker, Broker at Large  
30 Jaime Matthews, Public Member  
31

32 **Excused Absent:**

33 Samuel Goldman, Broker, 3<sup>rd</sup> Judicial District  
34 Jesse Sumner, Public Member  
35

36 **Staff Present via Zoom:**

37 Shyla Consalo, Executive Administrator  
38 Autumn Miller, REC Investigator  
39 Greg Francois, Chief Investigator  
40

41 **Approval of Agenda – 1(b)**

42 Commission Members reviewed the meeting agenda.  
43

44 **On a motion duly made by Mr. Pruhs, seconded by Ms. Markwood, it was**

45  
46 **RESOLVED to approve the meeting agenda for February 2, 2021.**  
47

48 **All in favor; Motion passed.**  
49

50 **Statements of Conflicts of Interest – 1(c)**

51 There were no conflicts of interests.  
52  
53  
54  
55

**Agenda Item 2 – Investigative Matter: 2018-001085/2019-000403/2019-000421**

On a motion duly made by Ms. Markwood, seconded by Mr. Pruhs, it was

**RESOLVED to go into Executive Session in accordance with AS 44.62.310(c) for the purpose of discussing subjects that tend to prejudice the reputation and character of any person.**

**All in favor; Motion passed.**

The Commission went into Executive Session at 10:17 a.m.

On a motion duly made by Ms. Markwood, seconded by Ms. Nelson, it was

**RESOLVED to come out of Executive Session.**

The Commission came out of Executive Session at 10:22 a.m.

On a motion duly made by Ms. Markwood, seconded by Ms. Nelson, it was

**RESOLVED to accept the Consent Agreement in case #s2018-001085, 2019-000403, and 2019-000421.**

**Roll call vote: Ms. Markwood – yes, Ms. Nelson- yes, Mr. Pruhs – yes, Ms. Matthews – yes, and Ms. McConnochie – abstain.**

**Motion passed.**

The Commission accepted the Consent Agreement in case #s2018-001085, 2019-000403, and 2019-000421.

**Agenda Item 3 – Adjournment**

On a motion duly made by Ms. Nelson, seconded by Ms. Markwood, it was

**RESOLVED to adjourn.**

**All in favor; Motion passed.**

Meeting adjourned at 10:25 a.m.

Prepared and submitted by:  
Real Estate Commission Staff

Approved:

---

Cheryl Markwood  
REC Chairperson  
Alaska Real Estate Commission

# Investigative Report



## PROBATION REPORT

**DATE:** March 3, 2021  
**TO:** Alaska Real Estate Commission  
**THRU:** Amber Whaley, Senior Investigator  
**FROM:** Jared R. Famularo, Investigator  
**SUBJECT:** Probation Report for the March 17, 2021 Commission Meeting

The following is a complete list of individuals on probation for the Commission. There is currently **one (1)** individual being monitored on probation. Since the last probation report, **one (1)** probationer was released. All individuals are in compliance with their agreements.

<u>NAME</u>	<u>CASE NUMBER</u>	<u>PROBATION START</u>	<u>PROBATION END</u>
Carrie Butler	2020-000644	06/17/2020	06/17/2021

### PROBATIONS COMPLETED

<u>NAME</u>	<u>CASE NUMBER</u>	<u>PROBATION START</u>	<u>PROBATION END</u>
Frank Zellers	2019-000873	07/24/2019	01/24/2021

END OF REPORT



THE STATE  
of **ALASKA**

Department of Commerce, Community,  
and Economic Development

DIVISION OF CORPORATIONS, BUSINESS AND  
PROFESSIONAL LICENSING

550 West Seventh Avenue, Suite 1500  
Anchorage, AK 99501-3567  
Main: 907.269.8160  
Fax: 907.269.8156

**MEMORANDUM**

DATE: March 02, 2021  
TO: Real Estate Commission  
THRU: Greg Francois, Chief Investigator *GF*  
FROM: Autumn Miller, Investigator  
RE: Investigative Report for the March 17, 2021 Meeting

The following information was compiled as an investigative report to the Board for the period of December 01, 2020 thru March 02, 2021; this report includes cases, complaints, and intake matters handled since the last report.

Matters opened by the Paralegal in Juneau, regarding continuing education audits and license action resulting from those matters are not covered in this report.

**OPEN - 28**

<b><u>Case Number</u></b>	<b><u>Violation Type</u></b>	<b><u>Case Status</u></b>	<b><u>Status Date</u></b>
<b>REAL ESTATE ASSOCIATE BROKER</b>			
2021-000120	Fraud or misrepresentation	Intake	02/22/2021
2021-000121	Fraud or misrepresentation	Intake	02/22/2021
2021-000022	Violation of licensing regulation	Complaint	02/10/2021
2021-000107	Unethical conduct	Complaint	02/16/2021

**REAL ESTATE BROKER**

2021-000142	Advertising	Intake	02/24/2021
2021-000143	Advertising	Intake	02/24/2021
2020-000535	Fraud or misrepresentation	Complaint	01/26/2021
2016-000807	Fraud or misrepresentation	Monitor	07/01/2020
2016-000949	Fraud or misrepresentation	Monitor	07/01/2020
2017-000602	Fraud or misrepresentation	Monitor	07/01/2020
2020-000224	Criminal action - no conviction	Monitor	
2020-000078	Supervision	Investigation	06/11/2020
2020-000118	Falsified application	Investigation	03/09/2020

**REAL ESTATE SALESPERSON**

2021-000138	Unlicensed practice or activity	Intake	02/24/2021
2021-000139	Unlicensed practice or activity	Intake	02/24/2021
2021-000059	Unlicensed practice or activity	Complaint	02/17/2021
2021-000106	Unethical conduct	Complaint	02/16/2021
2019-001288	Criminal action - no conviction	Monitor	
2020-000534	Violation of licensing regulation	Monitor	
2019-001263	Unlicensed practice or activity	Investigation	08/24/2020
2020-000015	Fraud or misrepresentation	Investigation	06/15/2020
2020-000077	Fraud or misrepresentation	Investigation	06/11/2020
2020-000110	Advertising	Investigation	05/06/2020
2020-000132	Fraud or misrepresentation	Investigation	12/04/2020
2020-000164	Falsified application	Investigation	03/11/2020
2020-000836	Continuing education	Investigation	09/15/2020
2020-000977	Continuing education	Investigation	12/02/2020
2020-001020	Fraud or misrepresentation	Investigation	02/03/2021

**Closed - 26**

<b><u>Case #</u></b>	<b><u>Violation Type</u></b>	<b><u>Case Status</u></b>	<b><u>Closed</u></b>	<b><u>Closure</u></b>
----------------------	------------------------------	---------------------------	----------------------	-----------------------

**MANAGER**

2021-000005	Real estate - other	Closed-Intake	01/05/2021	No Action - Lack of Jurisdiction
-------------	---------------------	---------------	------------	----------------------------------

**REAL ESTATE ASSOCIATE  
BROKER**

2021-000021	Fraud or misrepresentation	Closed-Intake	02/01/2021	No Action - Lack of Jurisdiction
2020-000806	Violation of licensing regulation	Closed-Complaint	01/13/2021	No Action - No Violation

**REAL ESTATE BROKER**

2020-001011	Fraud or misrepresentation	Closed-Intake	12/02/2020	Incomplete Complaint
2020-001078	Violation of licensing regulation	Closed-Intake	01/04/2021	Incomplete Complaint
2019-000210	Supervision	Closed-Complaint	03/02/2021	No Action - No Violation
2020-000406	Financial scam	Closed-Complaint	12/01/2020	No Action - No Violation
2020-000722	Violation of licensing regulation	Closed-Complaint	02/23/2021	No Action - No Violation
2020-000875	Breach of fiduciary duty	Closed-Complaint	02/03/2021	No Action - Lack of Jurisdiction
2020-000894	Violation of licensing regulation	Closed-Complaint	01/25/2021	No Action - No Violation
2020-000901	Violation of licensing regulation	Closed-Complaint	02/10/2021	No Action - No Violation
2020-000947	Breach of fiduciary duty	Closed-Complaint	02/23/2021	No Action - No Violation
2018-001411	Violation of licensing regulation	Closed-Investigation	01/20/2021	Advisement Letter

**REAL ESTATE SALESPERSON**

2020-001035	Violation of licensing regulation	Closed-Intake	12/17/2020	Incomplete Complaint
2020-001069	Fraud or misrepresentation	Closed-Intake	01/04/2021	Incomplete Complaint
2021-000004	Unethical conduct	Closed-Intake	02/08/2021	Incomplete Complaint
2021-000010	Violation of licensing regulation	Closed-Intake	01/11/2021	No Action - Lack of Jurisdiction
2021-000023	Breach of fiduciary duty	Closed-Intake	02/22/2021	No Action - Lack of Jurisdiction
2021-000088	Violation of licensing regulation	Closed-Intake	02/16/2021	No Action - Lack of Jurisdiction
2018-001085	Fraud or misrepresentation	Closed-Investigation	02/24/2021	License Action
2019-000209	Violation of licensing regulation	Closed-Investigation	03/02/2021	Advisement Letter
2019-000403	Fraud or misrepresentation	Closed-Investigation	02/24/2021	License Action
2019-000421	Fraud or misrepresentation	Closed-Investigation	02/24/2021	License Action
2020-000912	Continuing education	Closed-Investigation	01/08/2021	License Action
2020-000913	Continuing education	Closed-Investigation	01/08/2021	License Action
2020-000938	Unlicensed practice or activity	Closed-Investigation	02/17/2021	Cease and Desist Order

***END OF REPORT***

# Investigative Matters (Executive Session)

# Committee Reports

## MEMORANDUM

Date: January 2021  
To: Alaska Real Estate Commission  
From: Kassandra Taggart, Chair, Property Management Committee  
RE: 2020 Review – 2021 Goals for Property Management Committee

---

New year creates new plans! Even with the challenges of 2020, much was accomplished with the Property Management Committee. The Committee was formed in December 2019, and the first meeting was on February 20, 2020. At this meeting, the mission and five areas of goals were established for 2020. Below is a quick summary of what the goals were and what has been accomplished:

*Mission Statement - Licensed property and association managers be well informed, educated, and supportive of real estate needs for Alaskans.*

2020 five listed areas to focus on (prioritized):

1. Clarity and best practices on security deposits and management of client accounts
  - a. Created best practice for Property Management Reports
  - b. Created best practice for Property Management Contracts and Disclosures
  - c. Pending best practice for Property Management Security Deposit and Earnest Money
2. Advocacy for education of all property and association management
  - a. Brainstormed and provided input regarding CE credits for the Commission review
    - i. See “Property Management Topics for Education Committee Consideration” posted March 2020 on the Property Management Resources Section.
3. Audit of Alaska Real Estate Commission property management and association regulations to bring up the standards to today’s practice, 12 AAC 64.550, 12 AAC 64.560, 12 AAC 64.570
  - a. Not Started
4. Research what other states have done in the area of property and association management especially through ARELLO and Florida
  - a. Utilized ARELLO to create what other states are doing regarding property management training, trust accounts, and continuing education

5. Connecting property and association management resources to the public
  - a. Worked with staff to create a public page on the Commission website to have information that assists the public regarding property management information
    - i. <https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/RealEstateCommission/PropertyManagementResources.aspx>
  - b. Created best practices for optional educational resources for property management as a specialty

The Property Management Committee is set to have the yearly goals meeting in April. We are formally requesting two things from the Commission:

1. An introduction to whom will be the Committee's point of contact for 2021, as the liaison for the Commission
2. Does the Commission have any requests or input on goals or objectives for 2021 for the Property Management Committee? Currently, we are finishing up the best practices for security deposits and earnest money. Typically, the next meeting after this is completed, will be completing a brainstorming session to establish a focus for 2021 that we will submit for approval.

# Old Business



# State of Alaska Residential Real Property Transfer Disclosure Statement

Prepared in compliance with Alaska Statute (AS) 34.70.010 - 34.70.200

## General Information

AS 34.70.010 requires that before the Transferee/Buyer (hereafter referred to as **Buyer**) of an interest in residential real property makes a written offer, the Transferor/Seller (hereafter referred to as **Seller**) must deliver a completed written disclosure form. This disclosure statement is in compliance with AS 34.70.010. It concerns the residential real property\* located in the \_\_\_\_\_ Recording District, \_\_\_\_\_ Judicial District, State of Alaska.

Legal Description: \_\_\_\_\_

Property Address/City/Other: \_\_\_\_\_

\* Residential real property means any single family dwelling, or two single family dwelling units under one roof, or any individual unit in a multi-unit structure or common interest ownership community whose primary purpose is to provide housing. AS 34.70.200(2) and (3).

**AS 34.70.020 provides that if a disclosure statement or material amendment is delivered to the transferee after the transferee has made a written offer, the transferee may terminate the offer by delivering a written notice of termination to the transferor or the transferor's licensee within three days after the disclosure statement or amendment is delivered in person or within six days after the disclosure statement or amendment is delivered by deposit in the mail.**

**AS 34.70.040(b) provides that if an item that must be completed in the disclosure statement is unknown or is unavailable to the Seller, and if the Seller or Seller's agent has made a reasonable effort to ascertain the information, the Seller may make an approximation based on the best information available to the Seller or Seller's agent. It must be reasonable, clearly labeled as an approximation, and not used to avoid the disclosure requirements of AS 34.70.010 – AS 34.70.200.**

All disclosures made in this statement are required to be made in good faith (AS 34.70.060). The Seller is required to disclose defects or other conditions in the real property or the real property interest being transferred. To comply, disclosure need not include a search of the public records, nor does it require a professional inspection of the property.

If the information supplied in this disclosure statement becomes inaccurate as a result of an act or agreement after the disclosure statement is delivered to the Buyer, the Seller is required to deliver an amendment to the disclosure statement to the Buyer. An addendum/amendment form for that purpose may be attached to this disclosure statement.

Upon delivery to a buyer, any inspection/reports generated by a purchase agreement of this property automatically becomes an addendum/amendment to the property disclosure.

**Exemption for First Sale:** Under AS 34.70.120, the first transfer of an interest in residential real property that has never been occupied is exempt from the requirement for the Seller to complete the Disclosure Statement.

**Waiver by Agreement:** Under AS 34.70.110, completion of this disclosure statement may be waived when transferring an interest in residential real property if the Seller and Buyer agree in writing. Signing this waiver does not affect other obligations for disclosure.

**Violation or Failure to Comply:** A person who negligently violates or fails to perform a duty required by AS 34.70.010 - AS 34.70.200 is liable to the Buyer for actual damages suffered by the Buyer as a result of the violation or failure. If the person willfully violates or fails to perform a duty required by AS 34.70.010 -AS 34.70.200, the Seller is liable to the Buyer for up to three times the actual damages. In addition to the damages, a court may also award the Buyer costs and attorney fees to the extent allowed under the rules of court.

## Seller's Information Regarding Property

### Property Type (check one):

- Single Family     Zero Lot Line/Town House     Condominium     Townhome/PUD  
 Duplex (Including Single Family with an Apartment)  
 Other (please specify) \_\_\_\_\_

Do you currently occupy the property?  Yes     No    If Yes, how long? \_\_\_\_\_

If not a current occupant, have you ever occupied the property?  Yes     No    If so, when? \_\_\_\_\_

Year Property Built: \_\_\_\_\_. If property was built prior to 1978, or if Seller has any knowledge of lead-based paint, Seller must complete Disclosure of Information and Acknowledgment of Lead-based Paint and/or Lead-based Paint Hazards in accordance with Section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 (also known as Title X) and provide Buyer with the "Protect Your Family From Lead in Your Home" pamphlet. The pamphlet can be found on the Internet at <http://www.epa.gov/lead/leadprot.htm>.

Construction Overview:  Wood Frame     Manufactured     Modular     Other: \_\_\_\_\_

Foundation:  Masonry Block     Poured Concrete     Piling     Treated Wood     Other: \_\_\_\_\_

Name of original builder (if known): \_\_\_\_\_

### Property Features:

**Check** all items that are **built-in** and will remain with the property. **Also . . .**

**Circle** those checked items that have known defects or malfunctions. **Also . . .**

**Describe** the defect or malfunction on the Addendum/Amendment(s) To The Disclosure Statement.

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Cooktop                     | <input type="checkbox"/> Wood Stove(s) # of _____   | <input type="checkbox"/> T.V. Antenna                                       |
| <input type="checkbox"/> Oven(s) # of _____          | <input type="checkbox"/> Jetted Tub   | <input type="checkbox"/> Satellite Dish                                     |
| <input type="checkbox"/> Rods & Blinds               | <input type="checkbox"/> Hot Tub <input type="checkbox"/> Cover   | <input type="checkbox"/> Window Screens                                     |
| <input type="checkbox"/> Microwave(s) # of _____     | <input type="checkbox"/> Steam Shower Room  | <input type="checkbox"/> Security System                                    |
| <input type="checkbox"/> Dishwasher                  | <input type="checkbox"/> Water Softener   | <input type="checkbox"/> Smoke Detector(s) # of _____                       |
| <input type="checkbox"/> Trash Compactor             | <input type="checkbox"/> Water Filtering System   | <input type="checkbox"/> CO Detectors # of _____                            |
| <input type="checkbox"/> Garbage Disposal            | <input type="checkbox"/> Greenhouse <input type="checkbox"/> Attached <input type="checkbox"/> Detached | <input type="checkbox"/> Fire Alarms  |
| <input type="checkbox"/> Instant Hot Water Dispenser | <input type="checkbox"/> Ventilating System   | <input type="checkbox"/> Auto Garage Door Opener(s)<br># of Opener(s) _____ |
| <input type="checkbox"/> Central Vacuum Installed    | <input type="checkbox"/> Heating System   | <input type="checkbox"/> Built-In Refrigerator                              |
| <input type="checkbox"/> Intercom                    | <input type="checkbox"/> Storage Shed(s) # of _____   | <input type="checkbox"/> Other _____  |
| <input type="checkbox"/> Paddle Fan(s) # of _____    | <input type="checkbox"/> Built-In Barbecue  |   |

Comments: \_\_\_\_\_

### Structural Components:

**Check** only those items that have known defects, malfunctions, or have had major repairs performed within the last five years.

**Also . . . Describe** the defect, malfunction, or repair on the Addendum/Amendment(s) To The Disclosure Statement.

- |   |   |   |  |   |
|---|---|---|--|---|
| <input type="checkbox"/> Fences/Gates     | <input type="checkbox"/> Rain Gutters   | <input type="checkbox"/> Insulation                 | <input type="checkbox"/> Electrical Systems    | <input type="checkbox"/> Electronic Air Cleaner |
| <input type="checkbox"/> Driveways        | <input type="checkbox"/> Exterior Walls | <input type="checkbox"/> Woodstove(s)<br># of _____ | <input type="checkbox"/> Sewage Systems        | <input type="checkbox"/> Heat Recovery          |
| <input type="checkbox"/> Private Walkways | <input type="checkbox"/> Interior Walls | <input type="checkbox"/> Fireplace(s)<br># of _____ | <input type="checkbox"/> Water Supply          | <input type="checkbox"/> Ventilator System      |
| <input type="checkbox"/> Retaining Walls  | <input type="checkbox"/> Floors         | <input type="checkbox"/> Gas Starter                | <input type="checkbox"/> Garage                | <input type="checkbox"/> Swimming Pool          |
| <input type="checkbox"/> Foundation       | <input type="checkbox"/> Ceilings       | <input type="checkbox"/> Chimneys                   | <input type="checkbox"/> Garage Floor Drain    | <input type="checkbox"/> Mechanical             |
| <input type="checkbox"/> Crawl Space      | <input type="checkbox"/> Doors          | <input type="checkbox"/> Plumbing Systems           | <input type="checkbox"/> Carport               | <input type="checkbox"/> Filtration             |
| <input type="checkbox"/> Roof             | <input type="checkbox"/> Windows        | <input type="checkbox"/> Heating Systems            | <input type="checkbox"/> Washer/Dryer Hook-ups | <input type="checkbox"/> Pool Cover             |
| <input type="checkbox"/> Patio/Decking    | <input type="checkbox"/> Skylights      | <input type="checkbox"/> Solar Panels               | <input type="checkbox"/> Humidifier            | <input type="checkbox"/> Hot Water Heater       |
| <input type="checkbox"/> Slabs            | <input type="checkbox"/> Venting        | <input type="checkbox"/> Wind Generators            | <input type="checkbox"/> Air Conditioner       |   |

Other items not covered above? \_\_\_\_\_

Comments: \_\_\_\_\_

Seller's Initials \_\_\_\_\_ / Date \_\_\_\_\_ Property Address \_\_\_\_\_ Buyer's Initials \_\_\_\_\_ / Date \_\_\_\_\_

**Documentation:** *Check* the documents for the subject property that the seller has available for review:

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Engineer/Property/Home Inspection Report(s) | <input type="checkbox"/> Written Agreements with Adjacent Property Owners | <input type="checkbox"/> Party Wall Agreement        |
| <input type="checkbox"/> Title Information                           | <input type="checkbox"/> Energy Rating Certificate or PUR-101             | <input type="checkbox"/> Lease/Rental Agreement      |
| <input type="checkbox"/> As-Built Survey                             | <input type="checkbox"/> Resale Certificate                               | <input type="checkbox"/> Soils Test                  |
| <input type="checkbox"/> Certificate of Occupancy or PUR-102         | <input type="checkbox"/> Water Rights Certificate                         | <input type="checkbox"/> Well Log and Water Tests    |
| <input type="checkbox"/> Deed Restrictions                           | <input type="checkbox"/> Subdivision Covenants/Restrictions               | <input type="checkbox"/> Hazardous Materials Test(s) |
| <input type="checkbox"/> Other _____                                 |   | <input type="checkbox"/> Other _____                 |

**Additional Information:**

Supply information for the following items:

**Yes**      **No**

To the best of your knowledge, has the property been inspected by an engineer/home inspector in the last 5 years?.....      

➤ **Drainage:**

- ◆ Are you aware of ever having any water in the crawl space, basement, or lower level?.....         
 If Yes, how has the problem been resolved?  
 Sump Pump(s)     Curtain Drain     Rain Gutter/Extension     Other \_\_\_\_\_  
 When was problem resolved? \_\_\_\_\_  
 Location of each sump pump: \_\_\_\_\_
- ♥ To where does the water drain after it leaves the sump pump? \_\_\_\_\_  
 If gutters, where do downspouts discharge? \_\_\_\_\_
- ◆ Is there a floor drain in the structure, including garage?.....    
 If Yes, where is it located and where does it drain to? \_\_\_\_\_

➤ **Roof or Other Leakage:**

- Type:  Asphalt/Composition Shingle     Cedar Shake     Built-up     Metal     Other \_\_\_\_\_  
 Age: \_\_\_\_\_ years. Location of attic access? \_\_\_\_\_
- ◆ Are you aware of any ice damming on the roof? .....         
 If Yes, provide location. \_\_\_\_\_
  - ◆ Are you aware of any water leaking into the home? i.e., windows, lights, fireplace, etc. ....         
 If Yes, provide location. \_\_\_\_\_

➤ **Fireplace and/or Woodstove:** Date chimney(s) last cleaned? \_\_\_\_\_ Who cleaned? \_\_\_\_\_

➤ **Heating System(s):**

- Mark all types that apply:  Hot Water Baseboard     Forced Air     Radiant Heat     Electrical Heat  
 Wood Stove     Other \_\_\_\_\_
- Age: \_\_\_\_\_ years. Last Cleaned: \_\_\_\_\_ Last Inspected: \_\_\_\_\_
- Source:  Natural Gas     Electric     Propane Tank leased or owned? \_\_\_\_\_  Wood     Coal  
 Oil with \_\_\_\_\_ gallon storage which is  Buried     Above Ground     Other \_\_\_\_\_
- Age of Tank? \_\_\_\_\_ years.

➤ **Hot Water Heater:**

Age: \_\_\_\_\_ years. Capacity: \_\_\_\_\_ gallons. Type:  Gas     Electric     Other \_\_\_\_\_

➤ **Water Supply:**

Type:  Public     Private     Community     Cistern/Water Tank If Cistern/Water Tank: \_\_\_\_\_ Size  
 Other \_\_\_\_\_

**If Private:** Well Depth: \_\_\_\_\_ feet. Flow Rate: \_\_\_\_\_ gallons per minute. Date Tested: \_\_\_\_\_.

- ◆ Have you had any problems with your water supply?.....
- ◆ Has the water supply been tested in the past 12 months?.....         
 If Yes, attach all documentation from all tests.
- ◆ Are you aware of any contaminants in your water supply, to include but not limited to E-coli, nitrates, heavy metals, arsenic or other contaminants? .....
- ◆ Has the well failed while you have owned the property?.....
- ◆ Have you ever had a well pump problem or failure?.....
- ◆ Do you supply water to, or receive water from others?.....         
 If Yes, is there a recorded agreement?.....
- ♥ Do you have a water rights certificate for this property?.....

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
 Seller's Initials      Date      Property Address      Buyer's Initials      \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

**Additional Information (Continued):**

➤ **Sewer System:** Yes No  
 Type:  Public  Private  Community  Other \_\_\_\_\_  
 ♦ Does your sewer system have a lift station/lift pump? .....    
 If Private:  Septic Tank  Holding Tank  Other: \_\_\_\_\_  
 Drainfield System:  Bed  Trench  Mound  Pit  Crib  Other \_\_\_\_\_  
 Innovative Sewer System:  Intermittent Sand Filter  Biocycle  Recirculating Upflow Filter  
 Secondary sewer treatment plant  Other \_\_\_\_\_

♦ Has the sewer system failed while you owned the property? .....    
 If Yes, explain: \_\_\_\_\_  
 Age of sewer system: \_\_\_\_\_ Location: \_\_\_\_\_  
 ♦ Have you had any work maintenance or inspections done on the sewer system during your ownership? .....    
 If Yes, explain: \_\_\_\_\_  
 Approval/Certification source (and date if known): \_\_\_\_\_  
 ♦ Are you aware of any abandoned sewer systems, leachfields, cribs, etc. on the property? .....

➤ **Freeze-ups:**  
 ♦ Have you had any frozen water lines, sewer lines, drains, or heating systems? .....    
 If yes, please explain. \_\_\_\_\_  
 ♦ Are there any heat tapes, heat lamps, or other freeze prevention devices? .....    
 Location, and explain use. \_\_\_\_\_

➤ **Average Annual Utility Costs:**

Gas	\$ _____	Company/Source: _____
Electric	\$ _____	Company/Source: _____
Oil	\$ _____/Gallons: _____	Company/Source: _____
Propane	\$ _____	Company/Source: _____
Wood	\$ _____	Company/Source: _____
Coal	\$ _____	Company/Source: _____
Water	\$ _____	Company/Source: _____
Sewer	\$ _____	Company/Source: _____
Refuse	\$ _____	Company/Source: _____
Other	\$ _____	Company/Source: _____

To the best of your knowledge, are you aware of any of the following conditions with respect to the subject property? If answer is "Yes," indicate the relevant item number and explain the condition on the Addendum/Amendment(s) to the Disclosure Statement.

➤ **Title:** Yes No

1. Do you know of any existing, pending, or potential legal action(s) concerning the property? .....
2. Do you know of any street or utility improvements planned that will affect the property? .....
3. Road maintenance provided by? \_\_\_\_\_
4. Is the property currently rented or leased? .....    
 If Yes, expiration date: \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_
5. Is there a homeowner's association (HOA) for the property? .....    
 If Yes, HOA name: \_\_\_\_\_ HOA Telephone: \_\_\_\_\_  
 Mandatory  Voluntary  Inactive Monthly Dues Amount: \$ \_\_\_\_\_ per \_\_\_\_\_  
 Are there any levied or pending assessments? .....    
 Who is responsible for issuing the resale certificate?  
 Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

➤ **Setbacks/Restrictions:**

6. Have you been notified of any proposed zoning changes for the property? .....
7. Are you aware of features of the property shared in common with adjoining property owners, such as walls, fences, and driveways, whose use or responsibility for maintenance may affect the property? .....
8. Are there subdivision conditions, covenants, or restrictions? .....
9. Are you aware of any violations of building codes, zoning, setback requirements, subdivision covenants, borough, or city restrictions on this property? .....
10. Are you aware of any nonconforming uses of this property? .....

**Additional Information (Continued):**

- |   | <u>Yes</u>               | <u>No</u>                |
|---|--------------------------|--------------------------|
| 11. Are you aware of any deed, or other private restrictions on the use of the property?.....   | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. Are you aware of any variances being applied for, or granted, on this property?.....  | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. Are you aware of any easements on the property? .....   | <input type="checkbox"/> | <input type="checkbox"/> |
| <b>➤ Encroachments:</b>   |                          |                          |
| 14. Does anything on your property encroach (extend) onto your neighbor's property? .....   | <input type="checkbox"/> | <input type="checkbox"/> |
| 15. Does anything on your neighbor's property encroach onto your property? .....  | <input type="checkbox"/> | <input type="checkbox"/> |
| <b>➤ Environmental Concerns:</b>  |                          |                          |
| 16. Are you aware of any substances, materials, or products that may be an environmental hazard such as asbestos, formaldehyde, radon gas, lead-based paint, fuel or chemical storage tanks, contaminated soil, water or by-products from the production of methamphetamines on the subject property? ..... | <input type="checkbox"/> | <input type="checkbox"/> |
| 16a. Are you aware of any mildew or mold issues affecting this property? .....  | <input type="checkbox"/> | <input type="checkbox"/> |
| 17. Are you aware of any underground storage tanks on this property, other than previously referenced fuel or septic tanks? Number of tanks: _____.....   | <input type="checkbox"/> | <input type="checkbox"/> |
| 18. Are you aware if the property is in an avalanche zone/mudslide area?.....   | <input type="checkbox"/> | <input type="checkbox"/> |
| 19. Are you aware if the property has flooded? .....  | <input type="checkbox"/> | <input type="checkbox"/> |
| Flood zone designation: _____   |                          |                          |
| 20. Are you aware of any erosion/erosion zone or accretion affecting this property?.....  | <input type="checkbox"/> | <input type="checkbox"/> |
| 21. Are you aware of any damage to the property or any of the structures from flood, landslide, avalanche, high winds, fire, earthquake, or other natural causes? .....   | <input type="checkbox"/> | <input type="checkbox"/> |
| 22. Have you ever filed an insurance claim for any environmental damage to the property? .....  | <input type="checkbox"/> | <input type="checkbox"/> |
| 23. Are you aware of a waste disposal site or a gravel pit within a one-mile radius of the property?.....   | <input type="checkbox"/> | <input type="checkbox"/> |
| <b>➤ Soil Stability:</b>  |                          |                          |
| 24. Are you aware of any debris burial or filling on any portion of the property?.....  | <input type="checkbox"/> | <input type="checkbox"/> |
| 25. Are you aware of any permafrost or other soil problems which have caused settling, slippage, sliding, or heaving that affect the improvements of the property?.....   | <input type="checkbox"/> | <input type="checkbox"/> |
| 26. Are you aware of any drainage, or grading problems that affect this property?.....  | <input type="checkbox"/> | <input type="checkbox"/> |
| <b>➤ Construction, Improvements/Remodel:</b>  |                          |                          |
| 27. Have you remodeled, made any room additions, structural modifications, or improvements?.....  | <input type="checkbox"/> | <input type="checkbox"/> |
| If Yes, please describe. Was the work performed with necessary permits in compliance with building codes? .....   |                          |                          |
| Was a final inspection performed, if applicable?.....   |                          |                          |
| 28. Has a fire ever occurred in the structure?.....   | <input type="checkbox"/> | <input type="checkbox"/> |
| <b>➤ Pest Control or Wood Destroying Organisms:</b>   |                          |                          |
| 29. Are you aware of any termites, ants, insects, squirrels, vermin, rodents, etc. in the structure? .....  | <input type="checkbox"/> | <input type="checkbox"/> |
| a. If Yes, what type? _____   |                          |                          |
| b. If Yes, where? _____   |                          |                          |
| 30. Has there been damage in the past resulting from termites, ants, insects, squirrels, rodents, etc. in the structure?.....   | <input type="checkbox"/> | <input type="checkbox"/> |
| a. If Yes, when? _____  |                          |                          |
| b. If Yes, what type? _____   |                          |                          |
| c. If Yes, where? _____   |                          |                          |
| d. If Yes, describe what was done to resolve the problem: _____   |                          |                          |
| <b>➤ Other:</b>   |                          |                          |
| 31. Are you aware of any murder or suicide having occurred on the property within the preceding 3 years?.....   | <input type="checkbox"/> | <input type="checkbox"/> |
| 32. Are you aware of any human burial sites on the property?.....   | <input type="checkbox"/> | <input type="checkbox"/> |

**Additional Information (Continued):**

**Yes**      **No**

**33. Noise**

- a. Are you aware of any noise sources that may affect the property, including airplanes, trains, dogs, traffic, race tracks, neighbors, etc? .....
- b. If Yes, explain: \_\_\_\_\_  
\_\_\_\_\_

**34. Pets**

- a. Have there been any pets/animals in the house? .....
- b. If Yes, what kind? \_\_\_\_\_

I / We have completed this disclosure statement according to AS 34.70.010 - AS 34.70.200 and these instructions, and the statements are made in good faith and are true and correct to the best of my/our knowledge as of the date signed. I/We authorize any licensees involved or participating in this transaction to provide a copy of this statement to any person or entity in connection with any actual or anticipated transfer of the property or interest in the property.

Seller: \_\_\_\_\_

Date: \_\_\_\_\_

Seller: \_\_\_\_\_

Date: \_\_\_\_\_

**Buyer's Notice and Receipt of Copy**

**Transferee (Buyer) Awareness Notice:** Under AS 34.70.050, Transferee (Buyer) is independently responsible for determining whether a person who has been convicted of a sex offense resides in the vicinity of the property that is the subject of the Transferee's (Buyer's) potential real estate transaction. This information is available at the following locations: Alaska State Trooper Posts, Municipal Police Departments, and on the State of Alaska, Department of Public Safety Internet site: [www.dps.state.ak.us](http://www.dps.state.ak.us).

**Transferee (Buyer) Awareness Notice:** Under AS 34.70.050, Transferee (Buyer) is independently responsible for determining whether, in the vicinity of the property that is the subject of the transferee's potential real estate transaction, there is an agricultural facility or agricultural operation that might produce odor, fumes, dust, blowing snow, smoke, burning, vibrations, noise, insects, rodents, the operation of machinery including aircraft, and other inconveniences or discomforts as a result of lawful agricultural operations.

The Buyer is urged to inspect the property carefully and to have the property inspected by an expert. Buyer understands that there are aspects of the property of which the Seller may not have knowledge and that this disclosure statement does not encompass those aspects. Buyer also acknowledges that he/she has read and received a signed copy of this statement from the Seller or any licensee involved or participating in this transaction.

Buyer: \_\_\_\_\_

Date: \_\_\_\_\_

Buyer: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Seller's Initials      Date

\_\_\_\_\_  
Property Address

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Buyer's Initials      Date





# State of Alaska Residential Real Property Transfer Disclosure Statement

## Exemption For First Sale

Prepared in compliance with Alaska Statute (AS) 34.70.010 - 34.70.200

Legal Description: \_\_\_\_\_

Property Address/City: \_\_\_\_\_

Under AS 34.70.120, the first transfer of an interest in residential real property that has never been occupied is exempt from the requirement for the Seller to complete the Disclosure Statement.

Buyer may wish to obtain inspections of the property and seek other professional advice.



**Transferee (Buyer) Awareness Notice:** Under AS 34.70.050, Transferee (Buyer) is independently responsible for determining whether a person who has been convicted of a sex offense resides in the vicinity of the property that is the subject of the Transferee's (Buyer's) potential real estate transaction. This information is available at the following locations: Alaska State Trooper Posts, Municipal Police Departments, and on the State of Alaska, Department of Public Safety Internet site: [www.dps.state.ak.us](http://www.dps.state.ak.us).



**Transferee (Buyer) Awareness Notice:** Under AS 34.70.050, Transferee (Buyer) is independently responsible for determining whether, in the vicinity of the property that is the subject of the transferee's potential real estate transaction, there is an agricultural facility or agricultural operation that might produce odor, fumes, dust, blowing snow, smoke, burning, vibrations, noise, insects, rodents, the operation of machinery including aircraft, and other inconveniences or discomforts as a result of lawful agricultural operations.



I certify that this is the first transfer of an interest in the property identified above and that the property has not been occupied before this transfer of interest.

Seller: \_\_\_\_\_

Date: \_\_\_\_\_

Seller: \_\_\_\_\_

Date: \_\_\_\_\_

Buyer: \_\_\_\_\_

Date: \_\_\_\_\_

Buyer: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Seller's Initials      Date

\_\_\_\_\_  
Property Address

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Buyer's Initials      Date



# State of Alaska Residential Real Property Transfer Disclosure Statement

## Waiver By Agreement

AS 34.70.110

Prepared in compliance with Alaska Statute (AS) 34.70.010 - 34.70.200

Legal Description: \_\_\_\_\_

Property Address/City: \_\_\_\_\_

Under AS 34.70.110, completion of this disclosure statement may be waived when transferring an interest in residential real property if the Seller and Buyer agree in writing.

Parties may wish to obtain professional advice and/or inspection of the property.

**It is recommended that the buyer read the complete State of Alaska Residential Real Property Transfer Disclosure Statement.**



**Transferee (Buyer) Awareness Notice:** Under AS 34.70.050, Transferee (Buyer) is independently responsible for determining whether a person who has been convicted of a sex offense resides in the vicinity of the property that is the subject of the Transferee's (Buyer's) potential real estate transaction. This information is available at the following locations: Alaska State Trooper Posts, Municipal Police Departments, and on the State of Alaska, Department of Public Safety Internet site: [www.dps.state.ak.us](http://www.dps.state.ak.us).



**Transferee (Buyer) Awareness Notice:** Under AS 34.70.050, Transferee (Buyer) is independently responsible for determining whether, in the vicinity of the property that is the subject of the transferee's potential real estate transaction, there is an agricultural facility or agricultural operation that might produce odor, fumes, dust, blowing snow, smoke, burning, vibrations, noise, insects, rodents, the operation of machinery including aircraft, and other inconveniences or discomforts as a result of lawful agricultural operations.



By law, completion of this disclosure statement may be waived when transferring an interest in residential real property if the Transferor (Seller) and the Transferee (Buyer) agree in writing. If both parties agree to waive the requirement to complete this disclosure statement, please sign below.

**Signing this waiver does not affect other obligations for disclosure.**

Seller: \_\_\_\_\_

Date: \_\_\_\_\_

Seller: \_\_\_\_\_

Date: \_\_\_\_\_

Buyer: \_\_\_\_\_

Date: \_\_\_\_\_

Buyer: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Seller's Initials      Date

\_\_\_\_\_  
Property Address

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
Buyer's Initials      Date

# Regulation Revisions – Status Update

(Words in **boldface and underlined** indicate language being added; words [CAPITALIZED AND BRACKETED] indicate language being deleted.)

**Chapter 64. Real Estate Commission.**

12 AAC 64.010 is amended to read:

**12 AAC 64.010. Examination.** (a) A person may apply for the real estate salesperson or broker examination with the commission **approved testing service**. [IF A TESTING SERVICE IS AUTHORIZED BY THE COMMISSION UNDER AS 08.88.191, A PERSON MAY ALSO APPLY FOR THE EXAMINATION WITH THE TESTING SERVICE.]

(b) Deadlines for registration for the examination **are set by the commission approved testing service** [WILL BE PUBLISHED WITH THE REGISTRATION INFORMATION OR WILL BE AVAILABLE FROM THE COMMISSION. DEADLINES FOR REGISTRATION WILL NOT BE LESS THAN THREE DAYS BEFORE THE EXAMINATION].

(c) Registration fees for the [WRITTEN] examination are not refundable.

(d) An applicant for licensure shall pass **an** [A WRITTEN] examination, approved by the commission, before applying for a license as a real estate broker, associate real estate broker, or real estate salesperson. The [WRITTEN] examination consists of a general part and a state part. An applicant must sit for both parts of the [WRITTEN] examination during the same examination session. (Eff. 8/6/67, Register 24; am 8/9/72, Register 43; am 8/22/79, Register 71; am 12/6/81, Register 80; am 7/16/94, Register 131; am 10/27/99, Register 152; am 4/24/2009, Register 190; am \_\_\_\_/\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 08.88.051                      AS 08.88.081                      AS 08.88.191  
AS 08.88.071                      AS 08.88.171

**Editor's note:** Information regarding the examination described in 12 AAC 64.010 may

Register \_\_\_\_\_, \_\_\_\_\_ 2021 **PROFESSIONAL REGULATIONS**

be obtained by **contacting** [WRITING OR CALLING] the commission at Real Estate Commission, 550 W. 7th Avenue, Suite 1500, Anchorage, Alaska, 99501-3567; Phone: (907)

269-**8168**; FAX: (907) 269-**8156** [8196], **or website at:**

**<https://www.commerce.alaska.gov/web/cbpl/ProfessionalLicensing/RealEstateCommission.a>**

**spx**; or **from** the testing service at **Pearson Vue, 5601 Green Valley Drive, Bloomington, MN**

**55437-1099, Phone: (800) 274-5992, or their website: <https://home.pearsonvue.com/>**.

[PROMISSOR, 3 BALA PLAZA WEST, SUITE 300, BALA CYNWYD, PENNSYLVANIA 19004; PHONE: (800) 274-5992; FAX: (888) 204-6291].

12 AAC 64.040 is amended to read:

**12 AAC 64.040. Admission to examination.** (a) Before the scheduled examination date, an applicant who has registered to sit for the examination will be sent [AN ADMISSION TICKET FROM THE COMMISSION THAT SPECIFIES THE TIME AND PLACE OF THE EXAMINATION. IF A TESTING SERVICE IS AUTHORIZED BY THE COMMISSION UNDER AS 08.88.191, THE APPLICANT WILL BE SENT] a confirmation notice or receive a confirmation number by **electronic mail** [TELEPHONE] from the testing service that specifies the time and place of the examination.

(b) An applicant who has not **pre-registered** [REGISTERED] for the examination by the deadline described in 12 AAC 64.010(b) **may** [WILL] not be admitted to the examination **at the sole discretion of the testing service**. (Eff. 8/6/67, Register 24; am 8/22/79, Register 71; am 7/1/89, Register 110; am 10/8/90, Register 116; am 10/27/99, Register 152; am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 08.88.081 AS 08.88.111 AS 08.88.191

12 AAC 64.059(d)(1)(B) is amended to read:

(B) the applicant's date of birth that shows the applicant is at least 22 [21] years old;

12 AAC 64.059(d)(5) is amended to read:

(5) submits a statement, signed by the brokers who employed the applicant, verifying that the applicant has at least 36 [24] months of active and continuous experience as a real estate licensee within the 60 [36] months before the date of application for an associate broker license; and

• • •

(Eff. 2/11/95, Register 133; am 6/2/95, Register 134; am 2/12/99, Register 149; am 9/6/2002, Register 163; am 3/27/2008, Register 185; am 6/22/2008, Register 186; am 5/31/2012, Register 202; am 12/13/2014, Register 212; am 2/21/2019, Register 229; am 8/30/2020, Register 235; am \_\_\_\_/\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 08.88.071 AS 08.88.091 AS 08.88.263  
AS 08.88.081 AS 08.88.171

12 AAC 64.060(f) is repealed:

(f) **Repealed** \_\_\_\_ / \_\_\_\_ / \_\_\_\_\_ [IF A LICENSEE WHO HOLDS AN ASSOCIATE BROKER LICENSE LIMITED TO PRACTICE COMMUNITY ASSOCIATION MANAGEMENT BECOMES AN OWNER OF A COMMUNITY ASSOCIATION MANAGEMENT COMPANY, OR IS HIRED BY A CORPORATION, PARTNERSHIP,

LIMITED PARTNERSHIP, OR LIMITED LIABILITY COMPANY TO BE A BROKER OF A COMMUNITY ASSOCIATION MANAGEMENT OFFICE, THE LICENSEE SHALL RETURN THE ASSOCIATE BROKER LICENSE TO THE COMMISSION. AFTER RECEIVING THE ASSOCIATE BROKER LICENSE, THE COMMISSION WILL ISSUE A BROKER LICENSE TO THE LICENSEE LIMITED TO PRACTICE COMMUNITY ASSOCIATION MANAGEMENT].

12 AAC 64.060(g) is repealed

(g) **Repealed** / / [A LICENSEE WHO HOLDS A BROKER OR ASSOCIATE BROKER LICENSE LIMITED TO PRACTICE COMMUNITY ASSOCIATION MANAGEMENT MAY OBTAIN A BROKER OR ASSOCIATE BROKER LICENSE THAT IS NOT LIMITED AS DESCRIBED IN (F) OF THIS SECTION, BY COMPLYING WITH THE REQUIREMENTS OF AS 08.88.171 AND THIS CHAPTER].

(Eff. 8/6/67, Register 24; am 8/22/79, Register 71; am 12/6/81, Register 80; am 10/8/90, Register 116; am 7/16/94, Register 131; am 9/15/94, Register 131; am 2/11/95, Register 133; am 2/12/99, Register 149; am 9/6/2002, Register 163; am 5/31/2012, Register 202; am \_\_\_\_/\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 08.88.071 AS 08.88.171 AS 08.88.191  
AS 08.88.081

12 AAC 64.061(c)(1)(C)(i) is amended to read:

(i) determine that the applicant must provide additional information regarding the applicant's active status by furnishing a report of listings

and sales, **or property management activity**, accomplished by the applicant during **three** [TWO] or more years within the last **five** [THREE] years of licensure immediately preceding application in order to verify that the applicant meets the requirements of this subparagraph; the report must be certified as correct by the broker with whom the applicant has been associated; if due to conditions outside of the control of the applicant, a broker is not reasonably available to certify the report, an applicant may request and receive approval from the commission for an alternative manner to provide verification that the report is correct, **this report may be provided by electronic mail or postal mail;**

(Eff. 12/6/81, Register 80; am 9/29/83, Register 88; 7/16/94, Register 131; am 2/12/99, Register 149; am 2/5/2010, Register 193; am \_\_\_\_/\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 08.88.071 AS 08.88.081 AS 08.88.263

12 AAC 64.071(a) is amended to read:

(a) Except as provided in (g) of this section, all licenses lapse January 31 of every even-numbered year unless renewed under this section and in accordance with AS 08.88.091, 08.88.171, and 08.88.251. A renewal reminder **notice** [DOCUMENT] will be provided **by the commission, either by electronic mail or postal mail,** to each licensee with a current expiration date at least 60 days before the renewal date.

(Eff. 2/6/81, Register 80; am 9/29/83, Register 88; am 7/1/89, Register 110; am 10/8/90, Register 116; am 3/6/91, Register 117; am 7/16/94, Register 131; am 11/1/2003, Register 168; am 1/1/2006, Register 176; am 5/31/2012, Register 202; am 1/9/2014, Register 209; am \_\_\_\_/\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 08.88.081 AS 08.88.095 AS 08.88.251  
AS 08.88.091 AS 08.88.171

12 AAC 64.075(a) is amended to read:

(a) An individual may not be involved in activities requiring licensure under AS 08.88 until the individual's employing broker signs and delivers to the commission, **either by electronic mail or postal mail**, a notice of employment of the individual and the individual's license certificate is delivered to the broker by the licensee or the commission.

12 AAC 64.075(b) is amended to read:

(b) When a licensee requests a license transfer from one broker to another, the terminating broker shall sign and date the front of the license certificate, provide a copy to the licensee, and submit the original to the commission, **either by electronic mail or postal mail**, within five days from the date of the licensee's request for a license transfer. The licensee shall provide the new employing broker with a copy of the signed license certificate and provide the commission with a completed application for license transfer and the fees established in 12 AAC 02.360. The commission will mail an amended license certificate directly to the new employing broker.

12 AAC 64.075(e) is amended to read:

(e) Failure of the licensee to notify the commission of a transfer or status change within 15 days after [WRITTEN NOTICE BY THE COMMISSION TO THE LICENSEE OF] the commission's receipt, **either by electronic mail or postal mail**, of notice from the licensee's terminating broker, interrupts the licensee's period of active and continuous experience. (Eff.

8/22/79, Register 71; am 12/6/81, Register 80; am 7/1/89, Register 110; am 7/16/94, Register 131; am 9/15/94, Register 131; am 9/6/2002, Register 163; am 6/22/2008, Register 186; am \_\_\_\_/\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 08.88.081 AS 08.88.171 AS 08.88.251

12 AAC 64.077(b) is amended to read:

(b) An applicant applying to work in a branch office shall submit to the commission **the Employing Broker Information form of the** [AN] application signed by the registered broker and the associate broker in charge of the branch office. **This form may be signed digitally or non-digitally, and may be submitted either by electronic mail or postal mail.**

12 AAC 64.077(c) is amended to read:

(c) When the registered broker of an office notifies the commission office in advance of an absence from the office, the broker or an associate broker designated by the registered broker to supervise transactions or licensees during the broker of record's absence may sign, **either digitally or non-digitally,** for the broker of record on a license application. (Eff. 7/16/94,

Register 131; am 2/12/99, Register 149; am \_\_\_\_/\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 08.88.081 AS 08.88.291 AS 08.88.311  
AS 08.88.171

12 AAC 64.130(13) is amended to read:

(13) failing to submit to the seller or the seller's **licensee** [AGENT] all written bona fide offers received before the seller accepts another offer in writing and the broker has

knowledge of the acceptance;

(Eff. 8/6/87, Register 24; am 8/22/79, Register 71; am 10/19/80, Register 76; am 12/6/81,

Register 80; am 7/1/89, Register 110; am 7/16/94, Register 131; am 6/28/97, Register 142; am

5/28/98, Register 146; am 11/18/2006, Register 180; am 1/9/2014, Register 209; am

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 08.88.071 AS 08.88.081 AS 08.88.401

12 AAC 64.135(a) is amended to read:

(a) The commission will, in its discretion, and the commission's designee may, inspect a broker's transaction records; the inspection must be conducted between 8:00 a.m. and 5:00 p.m., Monday through Friday, unless otherwise agreed, and the broker must be given at least 72 hours' advance notice of the inspection. The broker shall make available to the commission or its designee all requested transaction records including, but not limited to, earnest money agreements, listing agreements, trust account records, disbursal records, broker or **licensee** [AGENT] communications regarding transactions, and closing statements for all principals to transactions.

(Eff. 8/22/79, Register 71; am \_\_\_\_/\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 08.88.081 AS 08.88.351 AS 44.33.020(1)

12 AAC 64.410(a) is amended to read:

**12 AAC 64.410. Minimum classroom and virtual course requirements.** (a) Except as provided in (f) and (g) of this section, only real estate education courses certified by the commission, or the commission's designee, meet the requirements of AS 08.88.091 and

08.88.095. To be certified, a course **whether delivered in a classroom or virtually**, must meet the following minimum requirements:

(1) the course must add to the practical knowledge required to perform the duties of a real estate practitioner in areas identified in 12 AAC 64.063, 12 AAC 64.064, and 12 AAC 64.500;

(2) the course content must be applicable to all areas of the state, but may also include consideration of unique local circumstances;

(3) repealed 6/28/97;

(4) the course must be taught by an instructor approved by the commission to teach that course topic;

(5) a guest instructor who is not approved may be used to present a specialized portion of a course if an approved instructor for the course topic is also present;

(6) students must be required to adhere to a strict attendance policy, **whether** in a **classroom or attending virtually**, in order to receive credit for the course;

(7) students **taking a course virtually** must **be present using a device with video and audio capabilities**;

**(8) students must** complete a course and instructor evaluation on a form [REQUIRED BY THE COMMISSION; THE COMMISSION WILL PROVIDE A MASTER COPY OF THE FORM TO EACH COURSE SPONSOR] **that meets or exceeds the basic evaluation provided by the commission**;

**(9)** [(8)] a certificate of completion shall be given to each student who attends and participates in the course and completes the evaluation, showing the

(A) name of student;

- (B) city where course was held;
- (C) course title and course approval number;
- (D) date the course was delivered;
- (E) number of contact hours awarded;
- (F) signature of the course instructor or sponsor; and
- (G) name of the course instructor.

12 AAC 64.410(d) is amended to read:

(d) The commission will maintain a list, updated quarterly, of approved courses that are open to any licensee. The commission will make the list available at the division's office in Anchorage, **through** [IN] the commission **ListServ** [NEWSLETTER], **the commission's website** [THROUGH A PUBLICLY ACCESSIBLE ELECTRONIC MEDIUM], and by other appropriate methods.

12 AAC 64.410(e) is amended to read:

(e) **Any** [A] course outline submitted to the commission in compliance with 12 AAC 64.420(a)(3)(D) is the property of the author or course sponsor.

12 AAC 64.410(g) is amended to read:

(g) Courses in the subject areas identified in 12 AAC 64.500 offered by an accredited college or university will be recognized for credit. To determine the number of credit hours to be granted, the licensee must

- (1) submit a syllabus of the course, **either by electronic mail, through a link, or**

**by postal mail**; and

(2) arrange for and ensure the submission of an official transcript directly from the college or university where the course was offered, **either by electronic mail or postal mail**.

(Eff. 10/8/90, Register 116; am 3/6/91, Register 117; am 7/16/94, Register 131; am 9/15/94, Register 131; am 6/28/97, Register 142; am 5/28/98, Register 146; am 2/12/99, Register 149; am 1/1/2006, Register 176; am 3/27/2008, Register 185; am \_\_\_\_/\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 08.88.061            AS 08.88.091            AS 08.88.095  
AS 08.88.081

12 AAC 64.430 is amended to read:

**12 AAC 64.430. Correspondence courses.** (a) To obtain certification of a correspondence course a sponsor must

(1) meet the requirements of 12 AAC 64.420;

(2) submit a copy of the complete course materials that will be provided to participants, including any published texts [AND AUDIO-CASSETTE] or **videos** [VIDEOTAPES]; and

(3) submit **a copy of** the [WRITTEN] instructions for completing each lesson, **either by electronic mail or postal mail**.

(b) All courses taken by correspondence must include an **unanswered** examination, or a project activity, to be turned into the **instructor** [COURSE SPONSOR] for grading **upon completion of the course**. The **examination or** project activity must be submitted along with the course material to the commission for prior approval, **either by electronic mail or postal mail**.

(Eff. 10/8/90, Register 116; am 2/12/99, Register 149; am 3/27/2008, Register 185; am

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 08.88.081 AS 08.88.091

12 AAC 64.440 is amended to read:

**12 AAC 64.440. Instructor approval.** (a) Except as provided in 12 AAC 64.410(f) and (g), only a course taught by an instructor who is approved by the commission, or the commission's designee, to teach a course on that topic meets the education requirements of AS 08.88.091, AS 08.88.095, and this chapter. A national instructor must obtain approval from the commission, or the commission's designee, in the appropriate topic area before teaching any course other than a course required to qualify a licensee for a professional designation in licensed real estate practice from a national organization.

(b) An applicant for instructor approval must apply to the commission by submitting

- (1) a completed application on a form provided by the department;
- (2) the fees required in 12 AAC 02.360;
- (3) a list of topics the applicant is seeking approval to teach; and
- (4) a resume indicating the education and experience of the applicant in the requested topic areas, including the experience and education required in (c) of this section.

(c) To be approved as an instructor, an applicant must have experience teaching or training adults, and at least one of the following:

- (1) a bachelor's degree in real estate or a related field;
- (2) five years of experience as a real estate licensee with documented experience in the topic area the applicant is seeking approval to teach;
- (3) another combination of experience and education that establishes the

applicant's credentials in the requested topic area;

(4) be listed as an approved instructor by a national organization that offers professional real estate courses that have been approved by the commission for continuing education credit under 12 AAC 64.420.

(d) Successful completion of an instructor workshop sponsored by the Association of Real Estate License Law Officials (ARELLO), the National Association of Realtors (NAR), the Real Estate Educators' Association (REEA), the International Right of Way Association (IRWA), the Community Association Institute (CAI), or other national organization determined to be comparable by the commission, or the commission's designee, may be substituted for the teaching experience or training required in (c) of this section.

(e) If necessary to verify or substantiate the qualifications of an applicant for instructor approval, the commission, or its designee, will interview an applicant for instructor approval. If the commission requests division staff to conduct the interview, the division staff shall conduct the interview using the standards for instructor approval set out in this section. The division staff shall prepare a report on the interview and provide it to the commission for further action.

(f) **The applicant must have not been disciplined within the last five years by any real estate regulating authority or professional real estate association.**

**(g)** [(f)] An instructor approval expires on April 1 of years ending in 0 and 5. An initial instructor approval issued under (b) of this section from January 1 through April 1 of a year ending in 0 or 5 will expire on April 1 of the next year that ends in a 0 or 5. An applicant for renewal of an instructor approval must submit to the department

(1) a completed application for renewal on a form provided by the department;

(2) the instructor approval recertification fee specified in 12 AAC 02.360; and

(3) evidence of completion during the biennial licensing period for real estate licensee's immediately preceding the date of application, or the current biennial licensing period if in progress at the date of application, of

(A) at least two hours of continuing education in each topic area for which the instructor is applying for recertification;

(B) teaching a course in the topic area for which the instructor is applying for recertification; or

(C) practical experience in the topic.

**(h)** [(g)] REPEALED 6/22/2008.

**(i)** [(h)] An applicant for initial instructor approval that wishes to substitute completion of an instructor workshop in (d) of this section for teaching experience or training required in (c) of this section, must apply for instructor approval not later than six months after completing an approved instructor workshop. (Eff. 10/8/90, Register 116; am 3/6/91, Register 117; am 7/16/94, Register 131; am 6/28/97, Register 142; am 2/12/99, Register 149; am 1/1/2006, Register 176; am 6/22/2008, Register 186; am 1/9/2014, Register 209; am 8/30/2020, Register 235; am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:** AS 08.88.061 AS 08.88.091 AS 08.88.095  
AS 08.88.081

**Editor's note:** Information on workshops described in 12 AAC 64.440 may be obtained from the applicable organizations at the following **websites** [ADDRESSES]: Association of Real Estate License Law Officials (ARELLO), <https://www.arello.com/> [P.O. BOX 129, CENTERVILLE, UT 84014-0129]; National Association of Realtors (NAR), <https://www.nar.realtor/> [430 NORTH MICHIGAN AVE., CHICAGO, IL 60611]; Real Estate

Educator's Association (REEA), <https://www.reea.org/> [10565 LEE HIGHWAY, SUITE 104, FAIRFAX, VA 22030-31350; International Right of Way Association (IRWA), <https://www.irwaonline.org/> [13650 SOUTH GRAMERCY PLACE, GARDENA, CA 90249]; Community Association Institute (CAI), <https://www.caionline.org/> [1630 DUKE STREET, ALEXANDRIA, VA 22314].

12 AAC 64.990(b) is amended by adding a new paragraph to read:

**(10) “virtual course” means a course that is approved for credit by the commission and is provided in an interactive on-line, real-time learning environment where the majority of the curriculum is delivered using the internet; and in which students are separated by location from their instructor of record, yet have the ability to participate through chats and audio.**

(Eff. 12/6/81, Register 80; am 4/10/83, Register 86; am 9/29/83, Register 88; am 10/8/90, Register 116; am 7/3/94, Register 130; am 7/16/94, Register 131; am 9/15/94, Register 131; am 2/12/99, Register 149; am 9/6/2002, Register 163; am 6/22/2008, Register 186; am 12/7/2011, Register 200; am 2/21/2019, Register 229; am \_\_\_\_/\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:** AS 08.88.081 AS 08.88.091

# REAL ESTATE COMMISSION DISCIPLINARY SANCTIONS MATRIX

Category	Type of License Affected	Description of Violation	Authority	Disciplinary Sanctions
Advertising	Broker Associate Broker Salesperson	Making, authorizing, directing, or aiding in the publication, distribution, or circulation of a false statement or misrepresentation concerning the licensee's business or real estate offered for sale, rent, or lease or concerning an association being managed	AS 08.88.071(a)(3)(D); AS 08.88.291(a); AS 08.88.301; AS 08.88.311(b); AS 08.88.381; AS 08.88.401(c); 12 AAC 64.110;	1 <sup>st</sup> or MINOR Offense: - Letter of Advisement or up to \$500 Imposition of Civil Fine 2 <sup>nd</sup> + or SERIOUS Offense: - Consent Agreement: - Up to \$5,000 Fine - Up to 1 Year Probation - Suspension* - Up to 9 Hours Education - Reprimand - Revocation*
		Failure to maintain a sign at the offices registered with the Commission	12 AAC 64.112; 12 AAC 64.120; 12 AAC 64.127;	
		Failure to include brokerage name in any form of advertisement	12 AAC 64.128(c); 12 AAC 64.130(1), (8) & (11)	
		Advertising a home office or a business/office name that is not registered with the Commission		
Breach of Fiduciary Duty	Broker Associate Broker Salesperson	Failure to disclose conflicts of interest	AS 08.88.071(a)(3); AS 08.88.071(d);	1 <sup>st</sup> or MINOR Offense: - Letter of Advisement or up to \$2,500 Imposition of Civil Fine 2 <sup>nd</sup> + or SERIOUS Offense: - Consent Agreement: - Up to \$5,000 Fine - Up to 2 Years Probation - Suspension* - Up to 9 Hours Education - Reprimand - Revocation*
		Failure to act within the provisions of the licensee relationships & duties identified in AS 08.88, Article 5 and 12 AAC 64.	AS 08.88.173; AS 08.88.175; AS 08.88.341; AS 08.88.391; AS 08.88.396; AS 08.88.600 – 695; 12 AAC 64.118; 12 AAC 64.119; 12 AAC 64.130(1), (3), (6), (9 - 15) & (19); 12 AAC 64.550 - 580	

\* should be used sparingly & reserved for serious/repeat offender type situations

# REAL ESTATE COMMISSION DISCIPLINARY SANCTIONS MATRIX

Category	Type of License Affected	Description of Violation	Authority	Disciplinary Sanctions
Continuing Education	Broker Associate Broker Salesperson	Failure to complete the required 20hrs of continuing education during the applicable renewal cycle, and certifying on the renewal application that the education was completed	AS 08.88.091(d) & (g); 12 AAC 02.960; 12 AAC 02.965; 12 AAC 64.063(f); 12 AAC 64.071(b)(4); 12 AAC 64.500(b), (d) & (j)	<ul style="list-style-type: none"> <li>- Consent Agreement:                             <ul style="list-style-type: none"> <li>- \$2,500 fine (\$2,000 suspended) + \$50/Hour of Non-Completed CEs</li> </ul> </li> <li>- Provide Documentation of Completed Remedial CEs</li> <li>- Mandatory Audit for 2 Renewal Cycles</li> <li>- Reprimand</li> </ul>
Criminal Action – No Conviction	Broker Associate Broker Salesperson	Being charged with crime(s) that are a matter of public safety – engaging in conduct of which the Commission did not have knowledge at the time the license was issued & demonstrates unfitness to engage in the business for which they are licensed	AS 08.88.071 (a)(3)(C); 12 AAC 64.130(1), (11) & (15)	<p>Should Only Be Utilized if Public Safety is Concerned:</p> <ul style="list-style-type: none"> <li>- Suspension</li> <li>- Revocation</li> <li>- Other Disciplinary Sanctions via Consent Agreement – not typical</li> </ul>
Criminal Action – Conviction	Broker Associate Broker Salesperson	Being found guilty of a felony or other crime committed that affects the ability to practice real estate OR being found guilty of forgery, theft, larceny, embezzlement, obtaining money under false pretenses, extortion, fraud, conspiracy to defraud, or other similar offenses	AS 08.88.071(a)(11); 12 AAC 64.130(1), (5) & (15)	<p>Seriousness of Crime Should be Considered:</p> <ul style="list-style-type: none"> <li>- Consent Agreement:                             <ul style="list-style-type: none"> <li>- Fine</li> <li>- Probation</li> <li>- Suspension*</li> <li>- Limitations on Practice</li> <li>- Education</li> <li>- Reprimand</li> </ul> </li> <li>- Revocation*</li> </ul>

# REAL ESTATE COMMISSION DISCIPLINARY SANCTIONS MATRIX

Category	Type of License Affected	Description of Violation	Authority	Disciplinary Sanctions
Falsified Application	Broker Associate Broker Salesperson	<p>Procuring a license by deceiving the Commission or aiding another to do so</p> <p>Making a false/fraudulent representation or material misstatement on an application for a license, renewal, exam, or any other material requested under 12 AAC 64.060(b)</p>	<p>AS 08.88.071(a)(3)(B); 12 AAC 64.130(1), (11) &amp; (15); 12 AAC 64.160(a)</p>	<p>Initial Application:</p> <ul style="list-style-type: none"> <li>- Letter of Advisement</li> <li>- Up to \$1,000 Imposition of Civil Fine</li> </ul> <p>Consent Agreement:</p> <ul style="list-style-type: none"> <li>- Up to 2 Years Probation</li> <li>- Up to 2 Hours Education</li> <li>- Reprimand</li> </ul> <p>License Denial</p> <p>Renewal Application:</p> <ul style="list-style-type: none"> <li>- Letter of Advisement</li> <li>- Up to \$1,000 Imposition of Civil Fine</li> </ul> <p>Consent Agreement:</p> <ul style="list-style-type: none"> <li>- Up to 2 Years Probation</li> <li>- Suspension*</li> <li>- Up to 2 Hours Education</li> <li>- Reprimand</li> </ul> <p>Revocation*</p>
Financial Scam	Broker Associate Broker Salesperson	<p>With respect to a real estate transaction, making a substantial misrepresentation; making a false promise; pursuing a flagrant course of misrepresentation or making a false promise through another licensee; or engaging in conduct that is fraudulent or dishonest</p> <p>Making, authorizing, directing, or aiding in the publication, distribution, or circulation of a false statement or misrepresentation concerning a licensee’s business or real state offered for sale, rent, or lease or concerning an association being managed</p>	<p>AS 08.88.071 (a)(3)(A)(i) – (iv); AS 08.88.071(a)(3)(D); AS 08.88.071(a)(3)(F); AS 08.88.401(c); 12 AAC 64.130(1) &amp; (11)</p>	<p>1<sup>st</sup> or MINOR Offense:</p> <ul style="list-style-type: none"> <li>- Letter of Advisement or up to \$500 Imposition of Civil Fine</li> </ul> <p>2<sup>nd</sup> + or SERIOUS Offense:</p> <ul style="list-style-type: none"> <li>- Consent Agreement:                             <ul style="list-style-type: none"> <li>- Up to \$10,000 Fine</li> <li>- Up to 5 Years Probation</li> <li>- Suspension*</li> <li>- Up to 20 Hours Education</li> <li>- Reprimand</li> </ul> </li> </ul> <p>Revocation*</p>

# REAL ESTATE COMMISSION DISCIPLINARY SANCTIONS MATRIX

Category	Type of License Affected	Description of Violation	Authority	Disciplinary Sanctions
Fraud or Misrepresentation	Broker Associate Broker Salesperson	<p>With respect to a real estate transaction, making a substantial misrepresentation; making a false promise; pursuing a flagrant course of misrepresentation or making a false promise through another licensee; or engaging in conduct that is fraudulent or dishonest</p> <p>Making, authorizing, directing, or aiding in the publication, distribution, or circulation of a false statement or misrepresentation concerning a licensee’s business or real estate offered for sale, rent, or lease or concerning an association being managed</p> <p>An associate broker or salesperson claiming to be a broker</p> <p>Falsely representing to: have been awarded a degree/designation; be a member or affiliate of a professional organization; or be a member of a franchise/other business association</p> <p>Making a false/misleading statement to the Commission regarding an alleged violation, regulations set forth, or qualifications of a licensee</p> <p>Failure to comply with 12 AAC 64.180 – 12 AAC 64.271 or failure to turn over required records to the Commission</p>	<p>AS 08.88.071 (a)(3)(A)(i) – (iv); AS 08.88.071 (a)(3)(D); AS 08.88.071 (a)(3)(F); AS 08.88.401(a); AS 08.88.401(c); AS 08.88.401(f); 12 AAC 64.130(1) &amp; (11); 12 AAC 64.160; 12 AAC 64.260</p>	<p>1<sup>st</sup> or MINOR Offense: - Letter of Advisement or up to \$2,500 Imposition of Civil Fine</p> <p>2<sup>nd</sup> + or SERIOUS Offense: - Consent Agreement: - Up to \$10,000 Fine - Up to 5 Years Probation - Suspension* - Up to 20 Hours Education - Reprimand - Revocation*</p>

# REAL ESTATE COMMISSION DISCIPLINARY SANCTIONS MATRIX

Category	Type of License Affected	Description of Violation	Authority	Disciplinary Sanctions
Substance Abuse	Broker Associate Broker Salesperson	Engaging in conduct the Commission did not have knowledge of at the time the licensee was licensed, demonstrating the licensee’s unfitness to engage in the business for which the licensee is licensed	AS 08.88.071(a)(3)(C); 12 AAC 64.130(1) & (11)	1 <sup>st</sup> or MINOR Offense: - Letter of Advisement or up to \$2,500 Imposition of Civil Fine 2 <sup>nd</sup> + or SERIOUS Offense: - Consent Agreement: - Up to \$5,000 Fine - Up to 18 Months Probation - Suspension* - Limitations on Practice - Quarterly Reports from Therapist, Broker & Licensee - Completion of a Treatment Program - Consume No Controlled Substances/Alcohol - AA/NA Meetings - Reprimand - Revocation*
Supervision	Broker Associate Broker	Failure to provide adequate supervision of the activities of licensees for whom they are responsible	AS 08.88.071; AS 08.88.311(a); 12 AAC 64.078; 12 AAC 64.125; 12 AAC 64.128; 12 AAC 64.130	1 <sup>st</sup> or MINOR Offense: - Letter of Advisement or up to \$2,500 Imposition of Civil Fine 2 <sup>nd</sup> + or SERIOUS Offense: - Consent Agreement: - Up to \$5,000 Fine - Up to 18 Months Probation - Suspension* - Up to 10 Hours Education - Reprimand - Revocation*

# REAL ESTATE COMMISSION DISCIPLINARY SANCTIONS MATRIX

Category	Type of License Affected	Description of Violation	Authority	Disciplinary Sanctions
Trust Account	Broker	Failure to keep proper trust account ledgers	AS 08.88.351; AS 08.88.401(d); 12 AAC 64.130(3), (7) & (12);	<ul style="list-style-type: none"> <li>- Consent Agreement:                             <ul style="list-style-type: none"> <li>- Up to \$50,000 Fine</li> <li>- Up to 2 Years Probation</li> <li>- Suspension*</li> <li>- Limitations on Practice</li> <li>- Up to 12 Hours Education</li> <li>- Reprimand</li> </ul> </li> <li>- Revocation*</li> </ul>
		Paying fees/commissions/other compensation to individuals prohibited from receiving compensation	12 AAC 64.180 – 271; 12 AAC 64.550(c); 12 AAC 64.570(2)(D);	
		Engaging in any other prohibited trust account activity	12 AAC 64.580(4)	
	Associate Broker Salesperson	Failure to provide all monies from a real estate transaction to the brokerage within 5 days	AS 08.88.071(a)(3)(H); AS 08.88.331; 12 AAC 64.130(3), (7) & (12);	
		Paying fees/commissions/other compensation to individuals prohibited from receiving compensation	12 AAC 64.140(2); 12 AAC 64.550(c); 12 AAC 64.570(2)(D); 12 AAC 64.580(4)	
		Engaging in any other prohibited trust account activity		

# REAL ESTATE COMMISSION DISCIPLINARY SANCTIONS MATRIX

Category	Type of License Affected	Description of Violation	Authority	Disciplinary Sanctions
Unlicensed Practice	No License Revoked License	Performing/Engaging in activities or offering to perform/engage in activities that requires a real estate license	AS 08.88.161; AS 08.88.165; AS 08.88.167; AS 08.88.401(f)(5); 12 AAC 64.090(e); 12 AAC 64.095(a); 12 AAC 64.905	- Temporary Cease & Desist Order (TCDO) - Up to \$5,000 Fine **reference AS 08.88.167 when considering a fine – not an easy sanction to issue/enforce**
Unlicensed Practice (When License is in a Lapsed, Inactive, or Suspended Status)	Broker Associate Broker Salesperson	Performing/Engaging in activities or offering to perform/engage in activities with a lapsed or inactive license	AS 08.88.071(a)(3); AS 08.88.161; AS 08.88.165; AS 08.88.167; AS 08.88.251(b); AS 08.88.401(f)(5); 12 AAC 64.090(e); 12 AAC 64.095(a); 12 AAC 64.130(1) & (11); 12 AAC 64.140; 12 AAC 64.905	1 <sup>st</sup> or MINOR Offense: - Letter of Advisement or up to \$2,500 Imposition of Civil Fine 2 <sup>nd</sup> + or SERIOUS Offense: - Consent Agreement: - Up to \$5,000 Fine - Suspension* - Up to 10 Hours Education - Reprimand Revocation*
Violation of Licensing Regulation		This is a “catch all” category that includes various violations that don’t fit into any other listed category – this type of conduct is variable & not succinct	AS 08.88.011 – 990 12 AAC 64.010 – 990 12 AAC 02.510 - 590	1 <sup>st</sup> or MINOR Offense: - Letter of Advisement or up to \$2,500 Imposition of Civil Fine 2 <sup>nd</sup> + or SERIOUS Offense: - Consent Agreement: - Up to \$5,000 Fine - Up to 1 Year Probation - Suspension* - Up to 10 Hours Education - Reprimand - Revocation*

# ALASKA REAL ESTATE COMMISSION STRATEGIC PLAN 2020

The Commission recognizes we have a very small, yet extremely competent staff for the number of licensees we oversee, and to assist affected consumers. We have every confidence that our Executive Administrator Shyla Consalo, Project Assistant Nancy Harris, and Investigator Autumn Roark, will all support us in reaching our goals.

GUIDING PRINCIPLE	OBJECTIVE – how will we meet this guiding principle?	Who will complete this task?
Protect the Consumer / Inform the Licensees	With agreement of the appropriate departments, upload informational videos done by appropriate personnel on: 1) how to file a complaint against a licensee and its process; and 2) if a complaint is filled against a license what the process is for a license. Additionally, provide best practice “white papers” on various topics as approved by the Commission for placement on our website.	Commission, Staff & Investigator  Goal to have recorded presentation done & submitted to Chief Investigator for review/approval by the March meeting.
Protect the Consumer	Provide the Commission for consideration, what they should have jurisdiction over in property management; i.e. financial responsibilities of the property owner or property manager. Then, provide next steps should the Commission agree to move forward with recommendations. And, provide a list of property management FAQs (frequently asked questions) for both licensed property managers and property owners, to be approved by the Commission then placed on our website.	Property Management Committee of the Commission  Work in Progress - PM Committee continuing to develop best practices for REC consideration, several already approved & on website.
Protect the Consumer	Refine and rework current processes, to increase the speed of actions to keep outside licensees and/or non-licensees from transacting business for which an Alaska real estate license or broker’s license is required. Then, put this information on the Commission website and make sure it is easily accessible.	Commissioners Nelson & Pruhs, plus Shyla & Autumn
Protect the Consumer / Inform licensees	Define minimum standards, based on what other jurisdictions have successfully implemented, for team advertising (i.e. the requirement to include brokerage information, minimum size etc).	Commissioner Nelson & McConnochie to provide information to staff Complete - Now working on
Inform licensees	Assist staff to clear up the following issues: <ul style="list-style-type: none"> <li>• How “inactive status” is logged/started and the notification to the affected licensee</li> <li>• How required education, for those who apply for license by endorsement, is defined and verified</li> <li>• Provided a military spouse has a current license in good standing in another state, streamline the process when they apply for an Alaska real estate license <b>Complete</b></li> <li>• Change how the Commission receives and disseminates license history; i.e. paper versus digital, or some other process <b>Complete</b></li> <li>• Define and simplify the criteria for getting or upgrading an Alaska real estate license; i.e. referring to <u>criminal history</u> and what specifically constitutes a valid reason a license will not be given/upgraded and the timing since conviction or completion of sentence</li> </ul>	FAQ & eventually a reg change Commissioner McConnochie & Staff
Protect the Consumer / Inform licensees	Review all regulations and propose one major regulation change (clean up) which will bring regulations into the 21 <sup>st</sup> century.	ALL Complete - currently with reg specialist for processing

# New Business



# IS IT GOVERNMENT'S RESPONSIBILITY?

RETHINKING REGULATION, RISK, AND RESPONSIBILITY  
IN STATE GOVERNMENT

*The best government is that which governs least.*

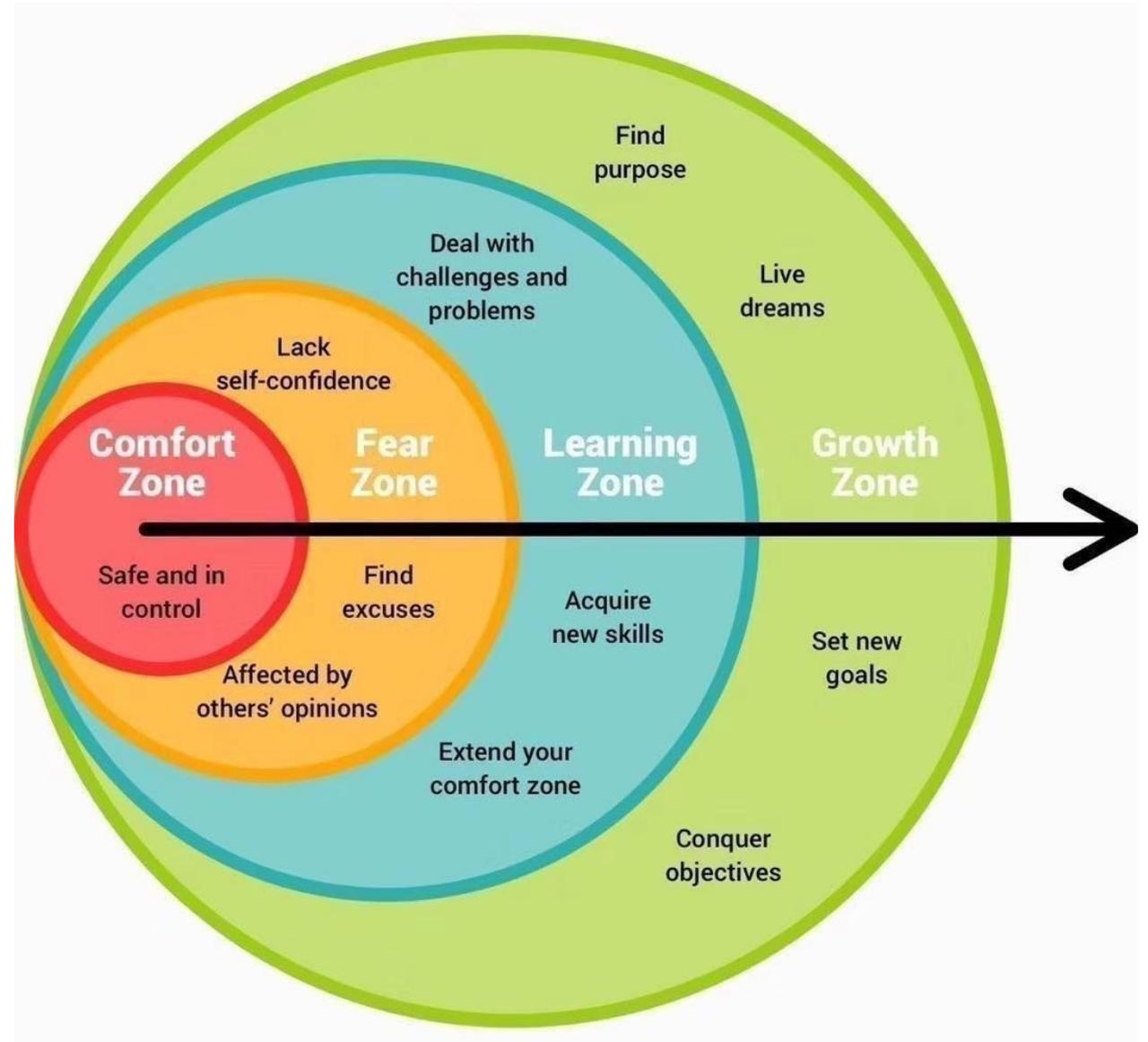
*John L. O'Sullivan, The United States Magazine and Democratic Review, Vol. 1 (1837)*

# LEARNING OBJECTIVES

- Rethink options to manage risk
- Break out of comfort zone
- Hear different perspectives
- Enable you to:
  - Evaluate current and proposed management strategies
  - Propose statute, regulation, or administrative changes to the existing regulatory landscape

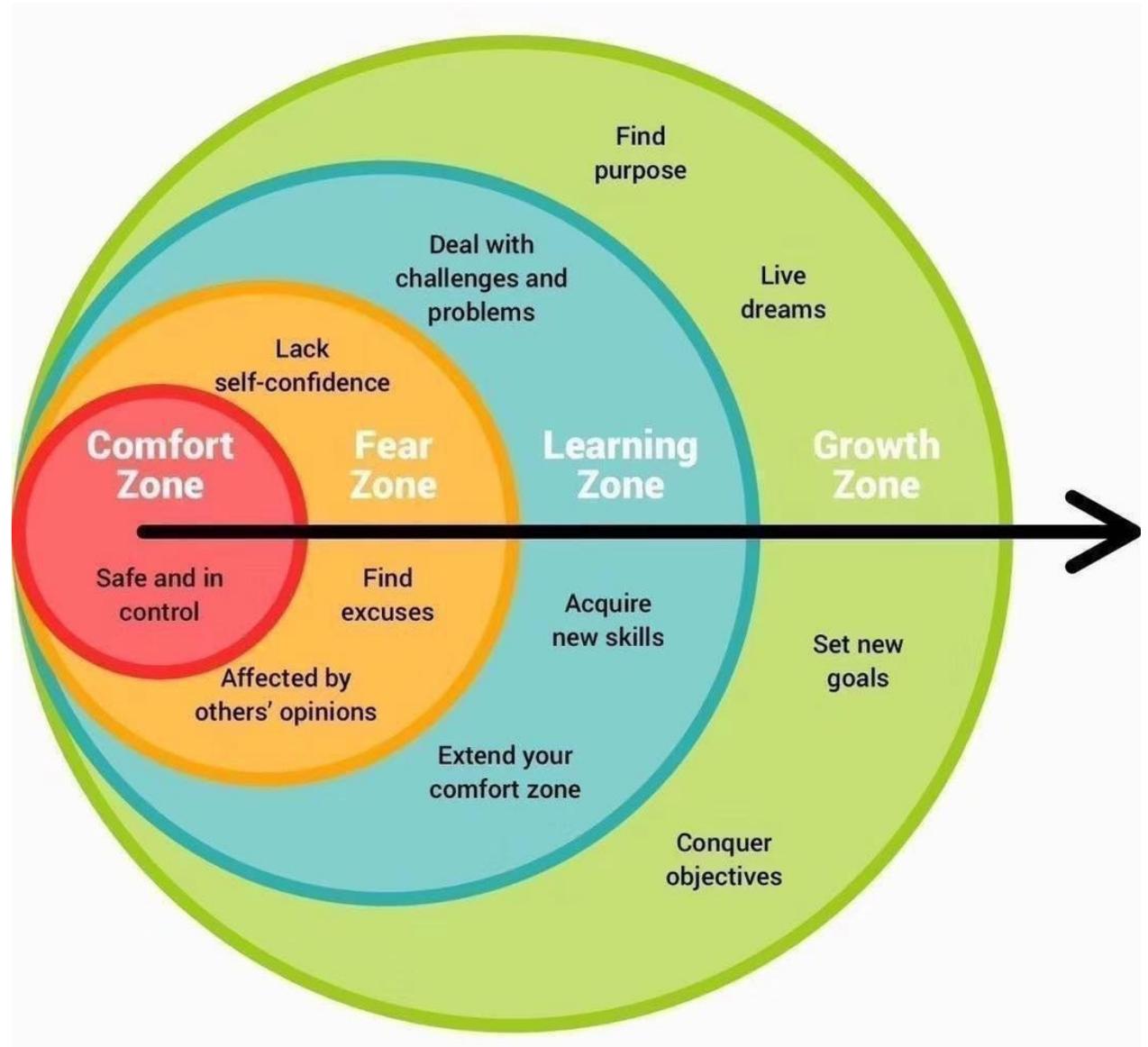
# THIS EXERCISE WILL:

- prompt you to consider new ideas to solve problems
- expose you to fresh perspectives
- encourage deep dives into alternatives to regulation
- provide a framework for further discussion
- provide justification and reinforcement of management decisions



# THIS EXERCISE WILL NOT:

- tell you how to solve the problem
- make you feel comfortable
- force you to change



# WHAT IS THE ROLE OF GOVERNMENT?

- Form a more perfect union
- Establish justice
- Insure domestic tranquility
- Provide for the common defense
- Promote the general welfare
- Secure the blessings of liberty
- Secure and transmit to succeeding generations our heritage of political, civil, and religious liberty within the union of states

# WHAT IS THE ROLE OF GOVERNMENT?

- Form a more perfect union
  - Establish justice
  - Insure domestic tranquility
  - Provide for the common defense
  - Promote the general welfare
  - Secure the blessings of liberty
- Secure and transmit to succeeding generations our heritage of political, civil, and religious liberty within the union of states

**Preamble to the Constitution  
of the United States of  
America**

**Preamble to the Alaska  
Constitution**

# SO, WHY DO WE DO WHAT WE DO?

- Limit risk before it happens
- Provide remedy & redress of wrongs
- Gather, disseminate, and analyze data
- Ensure public process
- Create a revenue stream to pay for services
- Ensure transparency
- Provide public services
- Create stability and maintain order
- Set forth common boundaries, rights, and systems for governance
- Other reasons?

# IS IT *REALLY* GOVERNMENT'S RESPONSIBILITY?

Is it a **proper activity** of government?

Does it **duplicate work** performed in the private sector?

Does it **require a monopoly**, or can multiple entities do it?

Is it **mandated by the federal government**?

For the purpose of this exercise, include any activity performed by your agency.

# IS IT *REALLY* GOVERNMENT'S RESPONSIBILITY?

Or, do we ask government to perform our activity because:

**We have always done it that way?**

**We can't think of another way to do it?**

**We feel ownership over the activity?**

**We don't have the resources to do explore options?**

**We don't have the resources to do manage the change?**

**Statutory change is too volatile and cumbersome?**

**Stakeholders want us to do it / no alternatives?**

**The public is complacent?**

Other legitimate reasons, weak excuses, unexposed biases?

# ARE WE DOING IT WELL?

Is the way we perform our activity:

The most { **effective**  
**cost-efficient**  
**time-efficient**  
**customer-friendly**  
**inclusive** } way to do it?

# ***Annual Report***

---

# ***Fiscal Year 2020***

## **REAL ESTATE COMMISSION**



**Department of Commerce, Community  
and Economic Development**

---

**Division of Corporations, Business  
and Professional Licensing**

This annual performance report is presented in accordance with  
Alaska statute AS 08.01.070(10).

Its purpose is to report the accomplishments, activities, and the past  
and present needs of the licensing program.

**REAL ESTATE COMMISSION**  
**Fiscal Year 2020 Annual Report**

**Regulation Recommendations Proposed Legislation for FY 2021**

**No Recommendations**

The Board has no recommendations for proposed regulations at this time.

---

**Recommendations**

The Board has the following recommendations for proposed regulations:

**12 AAC 64.059(b)(1)(E) and (d)(1)(E) – Review of License Applications**

This regulation will remove the notarized signature requirements for license applications. It will eliminate the need to appear in person before a notary.

**12 AAC 64.063(h) – Minimum Education Requirements for Licensure**

This regulation will give licensees who have completed the required education for initial licensure, the needed extension to take their exams and file their applications due to the closure of testing facilities during a declared disaster by the Governor under AS 26.23.020. This will allow applicants, who have completed the required education, the ability to apply for a real estate license up to 60 days after testing becomes available. This prevents applicants from having to re-complete the education requirement if it expires because of testing facilities being closed.

**12 AAC 64.440(f) – Instructor Approval**

This regulation will change the time period that a person who applies for an initial instructor certification from January 1 through March 31 to January 1 through April 1, which would make it consistent with the expiration of an instructor certification.

The Commission will also be submitting a large regulation project that addresses numerous areas of the regulations in order to bring them into the 21<sup>st</sup> century. This was identified as one of the Commission's objectives in their 2020 Strategic Plan.

**REAL ESTATE COMMISSION**  
**Fiscal Year 2020 Annual Report**

**Goals and Objectives**

**Part I**

***FY 2020's goals and objectives, and how they were met:***

- 1) Rewrite the Alaska Real Estate Commission Consumer Disclosure and Alaska Real Estate Commission Waiver of Right to be Represented forms and create a regulation project as soon as possible.
  - This goal is in process, and is being reviewed by the Department of Law for recommendations.
- 2) Review and revamp the State of Alaska Residential Real Property Transfer Disclosure Statement form.
  - This goal is in process and will be addressed with Commission members at the June 2020 meeting.
- 3) Create a process for disseminating information to the public and licensees by staff and investigator.
  - This is ongoing through the ListServ, providing quarterly reports at Commission meetings, conducting trainings, and providing information at forums/conferences.
- 4) Discuss the potential of a separate Property Management Consumer Disclosure and Waiver of Right to be Represented form.
  - A Property Management Committee was created, and has been working on addressing best practices within the property management industry, as well as looking to see if any regulation changes are necessary. They have been very helpful in providing information to the Commission for consideration and are diligently working on getting approved items posted to the Commission website.
- 5) Long-term goal - to review the Landlord Tenant Act and look at changes in conjunction with the real estate industry.
  - This goal is being accomplished through the Property Management Committee.
- 6) Review and update property management regulations with regards to trust accounts and security deposits issues.
  - This goal is being accomplished through the Property Management Committee.
- 7) Look at Errors & Omissions self-insurance vs. state provided pool insurance.
  - The Commission spoke with their pool insurer and the Department to get a more complete explanation of what the insurance policies covered and how they were administered. This provided the necessary information to satisfy the Commission's objective.

*Goals for FY2021 were discussed and considered at the March 2020 quarterly meeting.*

**REAL ESTATE COMMISSION**  
**Fiscal Year 2020 Annual Report**

**Goals and Objectives**

**Part II**

***FY 2021's goals and objectives, and proposed methods to achieve them.***

***Describe any strengths, weaknesses, opportunities, threats and required resources:***

- 1) With agreement of the appropriate departments, upload informational videos done by appropriate personnel on: a) how to file a complaint against a licensee and its process; and b) if a complaint is filled against a license what the process is for that license.
  - Commission staff will be working with the investigations team in accomplishing this goal over the next fiscal year.
- 2) Provide best practices white papers on various topics, as deemed appropriate, on the Commission website as approved by the Commission.
  - As topics arise, Commission members and staff will work together to draft best practices accordingly and post them on the Commission website.
- 3) Provide to the Commission for consideration, what the Commission should have jurisdiction over in property management; i.e. financial responsibilities of the property owner or property manager. Then, provide next steps should the Commission agree to move forward with recommendations.
  - A Property Management Committee was created, and has been working on addressing best practices within the property management industry, as well as looking to see if any regulation changes are necessary. The Committee will continue to address these items over the next fiscal year.
- 4) Provide a list of property management FAQs (frequently asked questions) for both licensed property managers and property owners, to review to put on the Commission website.
  - This is being addressed through the Property Management Committee over the next fiscal year.
- 5) Refine and rework current processes, to increase the speed of actions to keep outside licensees or non-licensees from transacting business for which an Alaska real estate license or broker's license is required. Then, provide this information on the Commission website.
  - The Commission will review this issue over the next fiscal year.
- 6) Define minimum standards, based on what other jurisdictions have successfully implemented, for team advertising (i.e. the requirement to include brokerage information).
  - The Commission will review this issue over the next fiscal year.

**CONTINUED ON FOLLOWING PAGE**

**REAL ESTATE COMMISSION**  
**Fiscal Year 2020 Annual Report**

**Goals and Objectives (continued)**

**Part II (contined)**

***FY 2021's goals and objectives, and proposed methods to achieve them.***

***Describe any strengths, weaknesses, opportunities, threats and required resources:***

- 7) Long-Term Goal: Review all regulations and propose one major regulation change (clean up) which bring regulations into the 21st century.
- Commission members and staff have been actively working on this project since the implementation of the 2020 Strategic Plan in March. This goal will take considerable time and effort to implement and remains a long-term goal of the Commission.
- 8) Long-Term Goal: Assist staff to clear up the following issues:
- How “inactive status” is logged/started and the notification to the affected licensee;
  - How required education, for those who apply for license by endorsement, is defined and verified;
  - Provided a military spouse has a current license in good standing in another state, streamline the process when they apply for an Alaska real estate license;
  - Change how the Commission receives and disseminates license history; i.e. paper versus digital, or some other process; and
  - Define and simplify the criteria for getting or upgrading an Alaska real estate license; i.e. referring to criminal history and what specifically constitutes a valid reason a license will not be given/upgraded and the timing since conviction or completion of sentence.

Due to the multi-facited nature of this goal, some of which may require regulation changes or coordination with other sections within the Division, this goal will take considerable time and effort to implement and remains a long-term goal of the Commission.

# Elections

# Division Update

Department of Commerce Community, and Economic Development  
Corporations, Business and Professional Licensing

Schedule of Revenues and Expenditures

Real Estate Commission	FY 14	FY 15	Biennium	FY 16	FY 17	Biennium	FY 18	FY 19	Biennium	FY 21	
										FY 20	1st & 2nd QTR
<b>Revenue</b>											
Revenue from License Fees	\$ 1,139,844	\$ 322,870	\$ 1,462,714	\$ 1,086,258	\$ 297,161	\$ 1,383,419	\$ 766,875	\$ 282,453	\$ 1,049,328	\$ 618,451	\$ 148,670
Allowable Third Party Reimbursements	-	-	-	-	-	-	-	-	-	\$ -	\$ -
<b>TOTAL REVENUE</b>	<b>\$ 1,139,844</b>	<b>\$ 322,870</b>	<b>\$ 1,462,714</b>	<b>\$ 1,086,258</b>	<b>\$ 297,161</b>	<b>\$ 1,383,419</b>	<b>\$ 766,875</b>	<b>\$ 282,453</b>	<b>\$ 1,049,328</b>	<b>\$ 618,451</b>	<b>\$ 148,670</b>
<b>Expenditures</b>											
Non Investigation Expenditures											
1000 - Personal Services	179,769	121,773	301,543	137,073	118,908	255,981	115,076	120,856	235,932	65,350	49,615
2000 - Travel	12,096	13,013	25,109	12,781	6,803	19,584	15,632	5,036	20,668	3,046	-
3000 - Services	24,221	20,404	44,624	26,599	14,085	40,684	13,683	9,813	23,496	19,306	2,248
4000 - Commodities	925	600	1,525	1,229	34	1,263	649	-	649	-	-
5000 - Capital Outlay	-	-	-	-	-	-	-	-	-	-	-
Total Non-Investigation Expenditures	217,011	155,790	372,801	177,682	139,830	317,512	145,040	135,705	280,745	87,702	51,863
Investigation Expenditures											
1000-Personal Services	118,045	94,399	212,443	91,700	90,606	182,306	51,422	83,598	135,020	93,884	43,109
2000 - Travel										2,078	-
3023 - Expert Witness	4,651	2,400	7,051	-	4,922	4,922	-	-	-	-	-
3088 - Inter-Agency Legal	59,300	57,113	116,413	43,639	45,154	88,793	646	530	1,176	1,692	14,899
3094 - Inter-Agency Hearing/Mediation	6,956	18,825	25,781	6,929	19,603	26,532	-	3,689	3,689	-	868
3000 - Services other								958	958	1,010	366
4000 - Commodities								-	-	-	-
Total Investigation Expenditures	188,951	172,737	361,688	142,268	160,285	302,553	52,068	88,775	140,843	98,664	59,242
<b>Total Direct Expenditures</b>	<b>405,962</b>	<b>328,527</b>	<b>734,489</b>	<b>319,950</b>	<b>300,115</b>	<b>620,065</b>	<b>197,108</b>	<b>224,480</b>	<b>421,588</b>	<b>186,366</b>	<b>111,105</b>
Indirect Expenditures											
Internal Administrative Costs	85,845	61,048	146,893	95,730	87,001	182,731	108,746	110,362	219,108	108,667	54,334
Departmental Costs	55,495	68,943	124,438	54,735	58,811	113,546	53,154	57,353	110,507	37,533	18,767
Statewide Costs	38,787	39,391	78,178	20,226	23,348	43,574	18,608	20,811	39,419	20,978	10,489
<b>Total Indirect Expenditures</b>	<b>180,127</b>	<b>169,382</b>	<b>349,509</b>	<b>170,691</b>	<b>169,160</b>	<b>339,851</b>	<b>180,508</b>	<b>188,526</b>	<b>369,034</b>	<b>167,178</b>	<b>83,590</b>
<b>TOTAL EXPENDITURES</b>	<b>\$ 586,089</b>	<b>\$ 497,909</b>	<b>\$ 1,083,998</b>	<b>\$ 490,641</b>	<b>\$ 469,275</b>	<b>\$ 959,916</b>	<b>\$ 377,616</b>	<b>\$ 413,006</b>	<b>\$ 790,622</b>	<b>\$ 353,544</b>	<b>\$ 194,695</b>
<b>Cumulative Surplus (Deficit)</b>											
Beginning Cumulative Surplus (Deficit)	\$ (278,770)	\$ 274,985		\$ 99,946	\$ 695,563		\$ 523,449	\$ 912,708		\$ 782,155	\$ 1,047,062
Annual Increase/(Decrease)	553,755	(175,039)		595,617	(172,114)		389,259	(130,553)		264,907	(46,025)
Ending Cumulative Surplus (Deficit)	\$ 274,985	\$ 99,946		\$ 695,563	\$ 523,449		\$ 912,708	782,155		1,047,062	1,001,037
<b>Statistical Information</b>											
Number of Licenses for Indirect calculation	2,761	3,001		3,066	3,558		4,129	4,041		3,771	
<b>Additional information:</b>	<ul style="list-style-type: none"> <li>• Fee analysis required if the cumulative is less than zero; fee analysis recommended when the cumulative is less than current year expenditures; no fee increases needed if cumulative is over the current year expenses *</li> <li>• Most recent fee change: Fee change FY20</li> <li>• Annual license fee analysis will include consideration of other factors such as board and licensee input, potential investigation load, court cases, multiple license and fee types under one program, and program changes per AS 08.01.065.</li> </ul>										

Department of Commerce Community, and Economic Development  
Corporations, Business and Professional Licensing

Appropriation Name (Ex)	(All)
Sub Unit	REC1
PL Task Code	REC1

Sum of Budgetary Expenditures Object Name (Ex)	Object Type Name (Ex)		Grand Total
	1000 - Personal Services	3000 - Services	
1011 - Regular Compensation	50,254.27		50,254.27
1014 - Overtime	14.40		14.40
1023 - Leave Taken	9,177.97		9,177.97
1028 - Alaska Supplemental Benefit	3,644.59		3,644.59
1029 - Public Employee's Retirement System Defined Benefits	664.41		664.41
1030 - Public Employee's Retirement System Defined Contribution	2,992.85		2,992.85
1034 - Public Employee's Retirement System Defined Cont Health Reim	1,648.07		1,648.07
1035 - Public Employee's Retirement Sys Defined Cont Retiree Medical	718.15		718.15
1037 - Public Employee's Retirement Sys Defined Benefit Unfnd Liab	7,041.52		7,041.52
1039 - Unemployment Insurance	91.35		91.35
1040 - Group Health Insurance	14,105.19		14,105.19
1041 - Basic Life and Travel	21.23		21.23
1042 - Worker's Compensation Insurance	552.81		552.81
1047 - Leave Cash In Employer Charge	1,252.55		1,252.55
1048 - Terminal Leave Employer Charge	830.67		830.67
1053 - Medicare Tax	783.83		783.83
1063 - GGU Business Leave Bank Usage	-		-
1077 - ASEA Legal Trust	33.51		33.51
1079 - ASEA Injury Leave Usage	5.58		5.58
1080 - SU Legal Trst	5.10		5.10
1970 - Personal Services Transfer	(1,114.42)		(1,114.42)
3000 - Training/Conferences		75.00	75.00
3002 - Memberships		786.00	786.00
3035 - Long Distance		6.45	6.45
3036 - Local/Equipment Charges		1.83	1.83
3045 - Postage		558.60	558.60
3046 - Advertising		162.99	162.99
3057 - Structure, Infrastructure and Land - Rentals/Leases		76.01	76.01
3088 - Inter-Agency Legal		15,846.57	15,846.57
3094 - Inter-Agency Hearing/Mediation		868.00	868.00
1016 - Other Premium Pay	0.67		0.67
<b>Grand Total</b>	<b>92,724.30</b>	<b>18,381.45</b>	<b>111,105.75</b>

# Division of Corporations, Business and Professional Licensing

## 2021 Legislative Guidance for Professional Licensing Board & Commission Members

As a member of a professional licensing board or commission, you have considerable latitude—as well as responsibility—to recommend changes to your licensing program’s enabling statutes. Members of the public, consumers, other professionals, and your industry’s association confidently approach members of the legislature to affect the change they wish to see in your practice. Whether taking the initiative or reacting to an active bill, board members also need to be prepared to champion their cause!

### **THE OPEN MEETINGS ACT ALWAYS APPLIES**

AS 44.62.310(h) provides detailed definitions of "governmental body," "meeting," and "public entity" that, when combined, define what constitutes a public meeting. A meeting of a decision or policy-making body occurs when more than three members or a majority of the members, whichever is less, engage collectively in discussion of a subject on which the body is authorized to act and set policy and is therefore subject to the Open Meetings Act. Under this definition, it doesn't matter where the meeting occurs, if it was prearranged, or who arranged it and could include unplanned casual or social contact in any location, including the office of a legislator or an industry gathering.

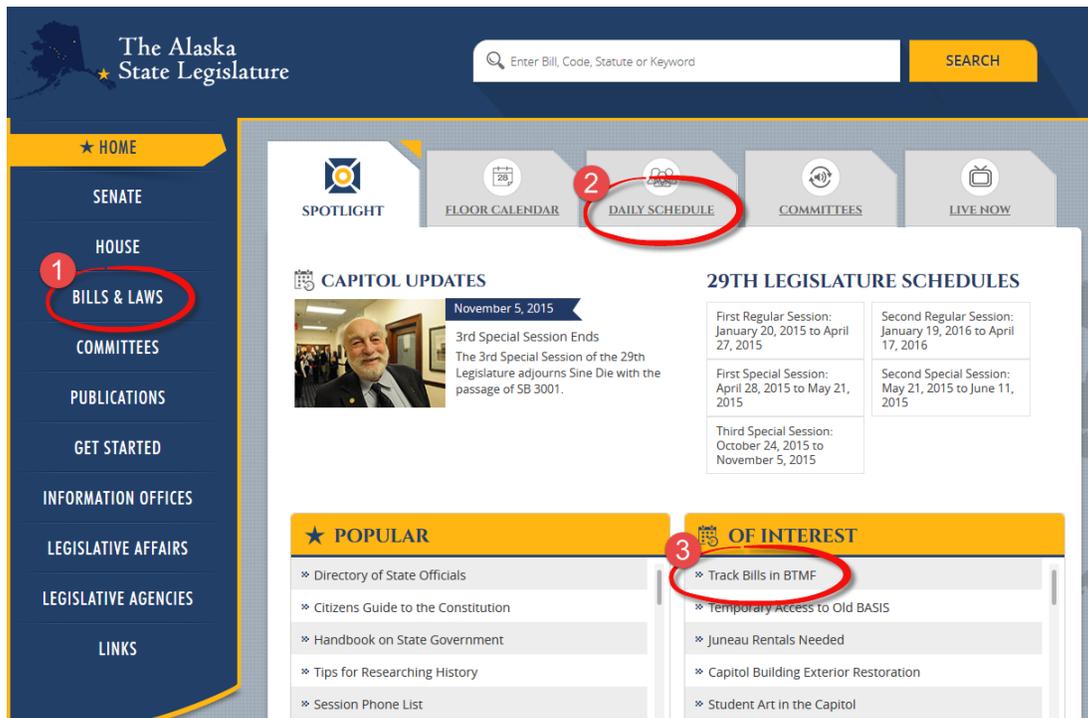
Members of boards and commissions should take care not to conduct business over email, lest the public be removed from the process. Board members should not email each other about board business; if a special meeting is needed, a member can alert staff and a meeting can be arranged and publicly noticed. Remember, all board member email correspondence is discoverable, and your board business is also the public’s business.

This information is contained in the *CBPL Guide to Excellence in Regulation*. Board members are provided a bound copy of this guidance manual; however, if you need another copy, you may download it here:  
[https://www.commerce.alaska.gov/web/Portals/5/pub/CBPL\\_Board.Commission.Guide.pdf](https://www.commerce.alaska.gov/web/Portals/5/pub/CBPL_Board.Commission.Guide.pdf).

### **BE INFORMED: IF NOT YOU, THEN WHO?**

- Ahead of the legislative season, select on the record a member who will serve as the point person for legislative activity. In the absence of this person, the division will look to the chair of the board for input, interpretation, and intervention, if a quick answer is needed. If the board is championing a piece of legislation, a history of the meeting minutes reflecting the issues and board’s perspective should be compiled by this leader and made available to board members and division management, who will be at every hearing. This research and history will be especially helpful to new board members who are appointed.
- When a bill is filed, division management will alert program staff. The examiner or executive should ensure that their board members are made aware of legislation that is filed that will affect them. With sometimes more than 50 bills to track, analyze, and testify on, division management may not be able to keep the board apprised of every late-breaking detail. Division management will periodically send updates to staff regarding legislation or request discussion with the board.
- That said, know where to find your bill using the Alaska State Legislature’s web page: [akleg.gov](http://akleg.gov). (See graphic below.)
  1. The **BILLS & LAWS** section on the sidebar links to a searchable list of documents. If you know the bill number, you can search using the bar at the top of the screen.
  2. The **DAILY SCHEDULE** shows all committee activity for the day you choose. It is subject to change, but it is a good starting place to see what is happening where.

3. The **BTMF**—or Bill Tracking Management Facility is your best friend when trying to keep up with a bill. Take the time to set up your profile and register the bill you want to track, then you will receive email updates when its status changes or is scheduled for a hearing.



## GUIDELINES FOR BOARD MEMBER TESTIMONY

- Encourage the board to become engaged: Track the bill online, participate in hearings, write a letter supporting the board’s official position, and discuss the legislation in a public meeting. It is a best practice for organizations to speak with “one voice.” Any testimony or correspondence by a board member on behalf of a board must represent deliberation and action taken on the record in a public meeting.
- Staff may not express opinions on behalf of the board or discuss legislation with elected officials without prior arrangements with division management and clearance from the Governor’s Legislative Office. If the board has published a resolution or letter regarding the legislation as a result of a vote at a public meeting, staff may provide that document to legislators per department procedures.
- Individual board members may offer their personal or professional opinions on the legislation by clarifying that while they are appointed to a board, they do not speak on behalf of the board.
- Boards must provide a member to testify telephonically (or in person, if in Juneau) at every hearing when being considered for reauthorization per AS 08.03. Without member interest and advocacy for the board or commission’s continuation, it is possible that the sponsor could withdraw the bill and the board could sunset.
- The chair or elected board spokesperson should be prepared to answer questions posed by staff or legislators, testify telephonically (or in person, if in Juneau) on bills that require subject matter expertise or upon request, and otherwise be available on short notice to engage in this process.
- Be sure to differentiate the state licensing board from the industry association. Sometimes, they share the same goals. Sometimes, they do not. Legislators must keep track of a lot of names and organizations, so be sure that you are clear that you represent the State of Alaska.

- Nervous? Don't worry! Please email or call the division director or deputy director to discuss tips or even run through some potential questions/roleplay.

**LEGISLATIVE TESTIMONY CALL-IN DO'S AND DON'TS** - *Note that contact info may change if hearings are held via Zoom.*

**Do** remember this "off-net" system is designed to serve those who do not have any other way to testify or have a legitimate reason for using the system.

**Do** remember that off-net calls to the committee must be authorized prior to the meeting by the chairman. A minimum of 24 hours in advance is appreciated. Please work through the Director, Division Operations Manager, or the committee chairman's office for authorization.

**Do** use the streaming video available at <http://akl.tv/> to watch for your bill to come up. The chairman will announce the order of bills at the beginning of the meeting. Callers may be disconnected from the meeting if they call in prior to their bill being taken up. If video streaming is not an option for you, please contact the committee aide to make arrangements to call in early. Once the bill is before the committee, call 844-586-9085, give your name, bill number and ask to be connected to the \_\_\_\_\_ Committee.

**Do Not** call in before the bill you are testifying on comes before the committee.

**Do** remember the off net call-in lines are for testifiers only. If you wish to listen in, please use the live streaming at <http://akl.tv/>.

**Do** use the "mute" function of your phone until called on to testify. If this function is not available on your phone, ask the Legislative Information Office (LIO) moderator to mute your call.

**Do Not** use the "hold" function.

**Do** try to be in a quiet room without distractions or interruptions. Car noise, open windows, and barking dogs can all be heard by the legislative committee and guests at the hearing. These avoidable disturbances will detract from the credibility of your message. Please treat the important responsibility of testifying with utmost respect and professionalism.

**Do** remember that everything transmitted over your phone will be broadcast directly into the meeting room and recorded to become part of the permanent record.

**Do** remember to be in a location with good reception if using a cell phone. Disruptions coming into the meeting via the phone lines will result in all callers being disconnected from the system. This will require testifiers to call back to be reconnected. Turn off your computer or TV speakers if listening online so you do not create an audio "loop."

**Do** try to adhere to time limits imposed by the chairman.

**Remember:** There are a limited number of phone lines coming into the Capitol. These lines are also used by LIOs around the state. When all the phone lines are used up, an LIO may not be able to call in with a room full of people.

## Professional Licensing General Interest Legislation 2021

\* indicates special interest for health care programs

HB 4	BUSINESS/PROF. LICENSE IMMUNITY COVID-19	An Act providing immunity from liability and disciplinary action for occupational licensees for exposure of clients to COVID-19; providing immunity from liability for persons engaging in business and their employees for exposure of customers to COVID-19; and providing for an effective date.
HB 8	CONVERSION THERAPY PROHIBITIONS*	An Act relating to professional and occupational licensing; and relating to protection of children and vulnerable adults.
HB 15	TEMP PERMITS & LICENSES; MILITARY LICENSE	An Act relating to occupational licensing; relating to temporary licenses and permits; relating to certification of teachers; and providing for an effective date.
SB 15	OPEN MEETINGS ACT; PENALTY	An Act relating to the Open Meetings Act; and establishing a civil penalty for violations of the open meeting requirements by members of governmental bodies.
SB 56	EXTENDING COVID 19 DISASTER EMERGENCY	An Act extending the January 15, 2021, governor's declaration of a public health disaster emergency in response to the novel coronavirus disease (COVID-19) pandemic; providing for a financing plan; making temporary changes to state law in response to the COVID-19 outbreak in the following areas: occupational and professional licensing, practice, and billing; telehealth; fingerprinting requirements for health care providers; charitable gaming and online ticket sales; access to federal stabilization funds; wills; unfair or deceptive trade practices; and meetings of shareholders; and providing for an effective date.
SB 57	ALASKA SUNSET COMMISSION	An Act establishing a violation for hindering the Alaska Sunset Commission; relating to the Legislative Budget and Audit Committee; relating to the duties of the legislature; relating to the legislative audit division and the legislative finance division; establishing the Alaska Sunset Commission to review and make recommendations on discontinuation of or changes to state entities; and relating to the powers and duties of the Alaska Sunset Commission.
SB 65	LIABILITY CONSULTING HEALTH CARE PROVIDER*	An Act relating to immunity for consulting physicians, podiatrists, osteopaths, advanced practice registered nurses, physician assistants, dentists, optometrists, and pharmacists
SB 78	HEALTH CARE SERVICES BY TELEHEALTH*	An Act relating to telehealth.
SB 86	TEMPORARY PERMITS & LICENSES	An Act relating to occupational licensing; relating to temporary licenses, permits, and certificates; and providing for an effective date.
SB 49	APPROP: <b>OPERATING BUDGET/LOANS/FUNDS</b>	An Act making appropriations for the operating and loan program expenses of state government and for certain programs; capitalizing funds; amending appropriations; making re-appropriations; making supplemental appropriations; making appropriations under art. IX, sec. 17(c), Constitution of the State of Alaska, from the constitutional budget reserve fund; and providing for an effective date.
SB 68	APPROP: <b>SUPPLEMENTAL; REAPPROP; AMENDING; CBR</b>	An Act making supplemental appropriations, re-appropriations, and other appropriations; amending appropriations; making appropriations under art. IX, sec. 17(c), Constitution of the State of Alaska, from the constitutional budget reserve fund; and providing for an effective date

# Training

GUIDE TO EXCELLENCE IN REGULATION  
*for*  
PROFESSIONAL LICENSING  
**Boards & Commissions**

UPDATED U ° k#= 2017

DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT

---

DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING

## Contents

I. Welcome .....	2
II. Professional Licensing Boards and Commissions Overview .....	3
III. Executive Branch Ethics .....	16
IV. Board and Commission Framework for Decisionmaking.....	29
V. Meetings and Motions.....	31
VI. Effective Regulations.....	40
VII. Investigation Process .....	46
VIII. Legislative Guidance for Board & Commission Members .....	50
IX. Overview of State Travel Policy & Division Procedures.....	53
X. Board Finances: How Do They Work?.....	62
XI. Evaluating Your Board (and Yourself) .....	70
XII. Updates and Credits.....	77
XIII. Comments and Suggestions.....	78
IXX. Appendices.....	79

---

It is the obligation of each board or commission member, as well as the staff, to ensure that the public's business is conducted in a manner that is consistent with the standards set out in applicable law. We hope this summary assists you in ensuring that your obligations are met.

---

Welcome to service as a member of a State of Alaska licensing board or commission. The mission of the Division of Corporations, Business and Professional Licensing (CBPL) is to ensure that competent, professional and regulated commercial services are available to Alaska consumers. This means that members of boards and commissions, as well as division staff, are charged with providing access to services and employment opportunities while maintaining high standards of public protection.

You are embarking on an important role as a regulator of Alaska professions. There is prestige in being a board or commission member. However, the position of a board or commission member is like a second job, involving many hours of work with little public recognition. It is a labor of love and commitment, and the reward is reflected in an improved quality of life for residents of the State of Alaska.

Board and commission members bring valuable experience and perspective to this responsibility. However, you must learn about new ideas and situations that require you to stretch your existing knowledge and skill levels. You are expected to be problem-solvers, to be responsive, to be fair, to work hard, and to be knowledgeable about the activities of your board or commission. You are also expected to know and follow state law and regulation, acting in the best interests of the State of Alaska and its communities.

The purpose of this orientation is to provide newly-appointed board and commission members with information that makes the transition from state resident to state board or commission member a rewarding experience. Please ask questions and let division staff know when you require assistance. We are partners in accomplishing this mission, and we look forward to working together.

A handwritten signature in blue ink that reads "Sara Chambers". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Sara Chambers, Deputy Director  
Division of Corporations, Business and Professional Licensing

## II. Professional Licensing Boards and Commissions Overview

This section describes the authority of regulatory boards and commissions, as well as the purpose and duties of board and commission members. It also discusses the board and commission members' roles in the State of Alaska system and in upholding public interest under the guidelines of state statutes.

### **Purpose and Authority of Regulatory Boards and Commissions**

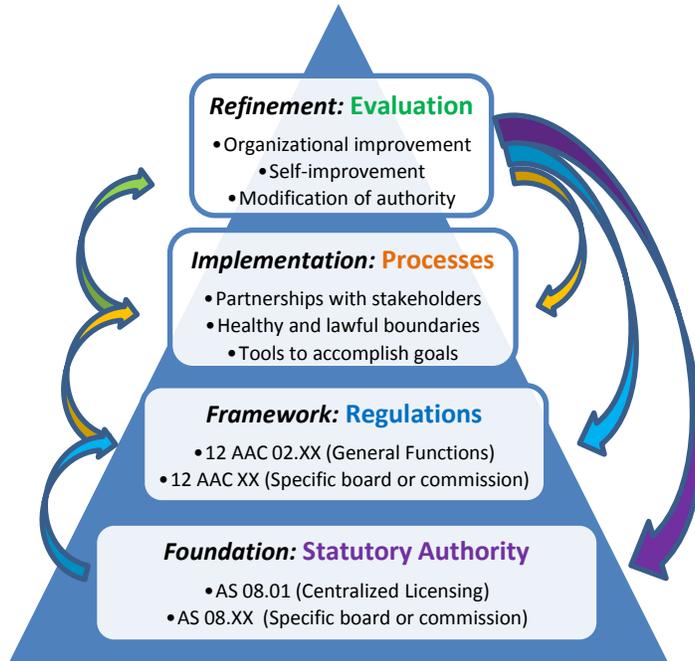
The chief purpose of boards and commissions is to protect the public's health and safety and assure the competency of those providing the services regulated. *Allison v. State, 583 P.2d. 813 (Alaska 1978)*

Boards and commissions are bodies whose members are appointed by the Governor of Alaska through the Office of Boards and Commissions. Quasi-judicial board and commission members must be approved by the Alaska State Legislature. State statute spells out the duties for which each board and commission is responsible. These duties are listed below under "Duties of the Boards and Commissions." The Office of Boards and Commissions may be contacted at (907) 269-7450 or through the Governor's web page. Please contact them if you have questions about your role as a board member, extension of your term of service, or resignation from office.

The authority of state boards and commissions is tied to the powers afforded by the legislature. All professional licensing boards and commissions have authority from the state as found in Title 8 of Alaska Statute. The authority of the different boards and commissions is limited and spelled out in two primary locations: Chapter 1 of Title 8 (referred to as AS 08.01 or Centralized Licensing) and in each chapter within Title 8 that pertains to the profession(s) regulated by a particular board. Boards and commissions are granted certain powers, which may differ according to statute. While statutes authorize certain powers, they also limit the activity of the board to what is allowed by law.

Based on the foundation of these statutes, professional licensing boards and commissions have the authority to adopt regulations to clarify statute and further define the requirements of the licensing program and its licensees. Regulations have the effect of law; however, they clarify, define, and implement statutes to which they are subordinate. Boards and commissions are required to follow the public process and carefully consider all draft regulations before adoption. The Department of Law publishes a manual explaining the process, and division staff can provide guidance along the way.

Boards can adopt specific procedures in partnership with the division, which may also establish processes as the legal administrator of these programs. Boards and the division may evaluate all processes, regulations, and statutes to determine whether they best serve the public interest.



## Duties of the Boards and Commissions

### List of all licensing programs managed by the Division and their statutory authority (AS 08.01.010)

Board of Public Accountancy ([AS 08.04.010](#));

regulation of acupuncturists under [AS 08.06](#);

State Board of Registration for Architects, Engineers, and Land Surveyors ([AS 08.48.011](#));

Athletic Commission ([AS 05.05](#) and [AS 05.10](#));

regulation of athletic trainers under [AS 08.07](#);

regulation of audiologists and speech-language pathologists under [AS 08.11](#);

Board of Barbers and Hairdressers ([AS 08.13.010](#));

regulation of behavior analysts under [AS 08.15](#);

Big Game Commercial Services Board ([AS 08.54.591](#));

regulation of business licenses under [AS 43.70](#);

Board of Chiropractic Examiners ([AS 08.20.010](#));

regulation of collection agencies under [AS 08.24](#);

regulation of concert promoters under [AS 08.92](#);

regulation of construction contractors and home inspectors under [AS 08.18](#);

Board of Dental Examiners ([AS 08.36.010](#));

regulation of dietitians and nutritionists under [AS 08.38](#);

Board of Certified Direct-Entry Midwives ([AS 08.65.010](#));  
regulation of dispensing opticians under [AS 08.71](#);  
regulation of electrical and mechanical administrators under [AS 08.40](#);  
regulation of agencies that perform euthanasia services under [AS 08.02.050](#);  
regulation of professional geologists under [AS 08.02.011](#);  
regulation of private professional guardians and private professional conservators ([AS 08.26](#));  
regulation of hearing aid dealers under [AS 08.55](#);  
Board of Marine Pilots ([AS 08.62.010](#));  
Board of Marital and Family Therapy ([AS 08.63.010](#));  
Board of Massage Therapists ([AS 08.61.010](#));  
State Medical Board ([AS 08.64.010](#));  
regulation of morticians under [AS 08.42](#);  
regulation of the practice of naturopathy under [AS 08.45](#);  
Board of Nursing ([AS 08.68.010](#));  
regulation of nursing home administrators under [AS 08.70](#);  
Board of Examiners in Optometry ([AS 08.72.010](#));  
regulation of pawnbrokers ([AS 08.76.100](#) - 08.76.590);  
Board of Pharmacy ([AS 08.80.010](#));  
State Physical Therapy and Occupational Therapy Board ([AS 08.84.010](#));  
Board of Professional Counselors ([AS 08.29.010](#));  
Board of Psychologist and Psychological Associate Examiners ([AS 08.86.010](#));  
Real Estate Commission ([AS 08.88.011](#));  
Board of Certified Real Estate Appraisers ([AS 08.87.010](#));  
Board of Social Work Examiners ([AS 08.95.010](#));  
Board of Veterinary Examiners ([AS 08.98.010](#)).

### **Administrative Duties of Boards (AS 08.01.070)**

Boards and commissions have specific responsibilities to administer their programs in partnership with the division. In addition to the duties required by its chapter, each board must:

- (1) take minutes and records of all proceedings;
- (2) hold a minimum of one meeting each year;
- (3) hold at least one examination each year;
- (4) request, through the department, investigation of violations of its laws and regulations;
- (5) prepare and grade board examinations;

- (6) set minimum qualifications for applicants for examination and license and may establish a waiver of continuing education requirements for renewal of a license for the period in which a licensee is engaged in active duty military service as described under AS 08.01.100 (f);
- (7) forward a draft of the minutes of proceedings to the department within 20 days after the proceedings;
- (8) forward results of board examinations to the department within 20 days after the examination is given;
- (9) notify the department of meeting dates and agenda items at least 15 days before meetings and other proceedings are held;
- (10) submit before the end of the fiscal year an annual performance report to the department stating the board's accomplishments, activities, and needs.

## **Disciplinary Powers of Boards (AS 08.01.075)**

Boards have specific disciplinary powers, which are executed in partnership with the division's Investigative Unit:

- (a) A board may take the following disciplinary actions, singly or in combination:
  - (1) permanently revoke a license;
  - (2) suspend a license for a specified period;
  - (3) censure or reprimand a licensee;
  - (4) impose limitations or conditions on the professional practice of a licensee;
  - (5) require a licensee to submit to peer review;
  - (6) impose requirements for remedial professional education to correct deficiencies in the education, training, and skill of the licensee;
  - (7) impose probation requiring a licensee to report regularly to the board on matters related to the grounds for probation;
  - (8) impose a civil fine not to exceed \$5,000.
  
- (b) A board may withdraw probationary status if the deficiencies that required the sanction are remedied.
  
- (c) A board may summarily suspend a licensee from the practice of the profession before a final hearing is held or during an appeal if the board finds that the licensee poses a clear and immediate danger to the public health and safety. A person is entitled to a hearing conducted by the office of administrative hearings (AS 44.64.010 ) to appeal the summary suspension within seven days after the order of suspension is issued. A person may appeal an adverse decision of the board on an appeal of a summary suspension to a court of competent jurisdiction.
  
- (d) A board may reinstate a suspended or revoked license if, after a hearing, the board finds that the applicant is able to practice the profession with skill and safety.

(e) A board may accept the voluntary surrender of a license. A license may not be returned unless the board determines that the licensee is competent to resume practice and the licensee pays the appropriate renewal fee.

(f) A board shall seek consistency in the application of disciplinary sanctions. A board shall explain a significant departure from prior decisions involving similar facts in the order imposing the sanction.

In addition to those listed in the statutes, a board or commission may:

- Establish meeting procedures and determine board or commission members' leadership roles.
- Maintain awareness of licensing program revenues and expenditures.
- Hear and evaluate public testimony.

One of the primary responsibilities of a board or commission is adopting and adhering to regulations pertaining to the scope of authority granted to that body in statute. Centralized Licensing (12 AAC 02.XX) pertain to all professions governed by Title 8, and each board has its own regulatory authority within Title 12 of the Alaska Administrative Code. Boards and Commissions are also bound to laws pertaining to all state entities, including the U.S. and Alaska Constitutions, and the Administrative Procedure Act (AS 44.62).

## **Responsibilities of Board and Commission Members**

Doing Alaska's boards and commissions' business (in effect, the public's business) is a group activity that requires patience, vision, cooperation, and compromise. As a member of a regulatory board, you have a responsibility to several groups:

- **To the general public.** Consumers expect that licensees will be qualified to perform properly and safely. They expect oversight to ensure qualifications for licensure and practice meet acceptable standards. They expect licensees to be accountable to the law. The public has a right to know what's going on within the board.
- **To potential licensees.** A person who wishes to earn a living in a regulated profession should be able to demonstrate competency through a reasonable and transparent process. Every applicant should have easy access to information about entering the profession, including testing and transferring a license to between states.
- **To other board members.** Board and commission members should listen to their fellow board members and consider one another's views and contributions. All board members are responsible for developing good policy and procedures and contributing to the effective and efficient operation of the board.
- **To licensees.** A licensed professional has an expectation that regulators will determine matters fairly and impartially, and be responsive.

**The primary objectives of regulatory boards are to ensure professional competency and the health and safety of the public.** Boards often have positions dedicated to members from specific backgrounds; this is intended to bring a broad range of perspective to the boards, including the perspective of consumers, people who have no affiliation with the regulated profession, and people who practice within the regulated profession. Together, the members of a regulatory board serve the public's interest.

## **What Does It Take to Successfully Serve on a Regulatory Board?**

1. **A demonstrated interest in public service.**
2. **Common sense and a willingness to ask questions.** Do the policies, procedures, and decisions of the board seem sensible? If not, say so and ask for clarification. You are responsible for what goes on with the board. If you are not sure about something and you do not ask, the board may miss an opportunity to avoid or correct a problem.
3. **A commitment to attend.** Consistent attendance is essential to keeping informed about what is going on and to providing direction and support. An individual who accepts an appointment to a board and does not take seriously the duty to be there regularly and actively, does a disservice to the board and to the public he/she is supposed to represent.
4. **Healthy assertiveness.** Respect your own rights and needs as well as those of others by maintaining boundaries and seeking information in a healthy, professional manner.
5. **Understanding of the board structure and resources.** Find out how the Department of Commerce, Community, and Economic Development, the Division of Corporations, Business and Professional Licensing, the Department of Law, and the Office of Administrative Hearings operate in relation to your board, and investigate other available resources.

Effective board members have these characteristics in common:

1. Able to work with a group to make decisions
2. Understand and follow democratic processes
3. Willing to devote time and effort to the work of the board
4. Work to find alternative solutions to problems whenever necessary
5. Use good communication skills
6. Recognize that the goal of the board is the service and protection of the public
7. Aware that authority is granted by the law to the board as a whole, not to any member individually, and can only be used in open meeting or executive session by vote of the majority of board members

8. Avoid becoming involved in the daily functions of staff
9. Delay making judgements until adequate evidence is in and has been fully discussed
10. Separate personal feelings toward others from their decision-making process

## **What is the Purpose of Appointing Public Members to Licensing Boards?**

Nearly every state's law mandating public members on boards states that a public member shall have no association or relationship with the profession or with a member of the regulated profession. The public members on a licensing board are there to express and be watchful of the public interest—not the interest of the profession or occupation. Public members are not expected to be, indeed are not supposed to be, technically expert or experienced in the licensed occupation.

The importance of public members on regulatory boards was expanded by the United States Supreme Court's 2015 decision in *North Carolina Board of Dental Examiners v. Federal Trade Commission*. The unique and important role of the public member mitigates the potential anticompetitive effects of a board's actions, which may happen where the board is dominated by "active market participants"—those whom the board itself is regulating.

Well-informed and engaged public members bring several advantages to regulation:

1. Reduce the potential for board decisions which favor the industry over the public
2. Reduce the potential for decisions which illegitimately favor one faction of an industry over another
3. Encourage public participation in government decision-making
4. Augment public confidence and trust in government by facilitating communication of consumer issues to the board
5. Expand the range of skills, talent, training, and perspectives available for higher quality and more creative board action
6. Raise the level of board discussion to scrutinize the "givens" in any industry
7. Strengthen the board's credibility in its decisionmaking and advocacy

Public members must take care to avoid common pitfalls and may, in fact, have to work harder than the board's industry members to overcome these disadvantages:

1. Public members may be intimidated by industry members' experience in the field.
2. Public members may impede board activity if they do not demonstrate a reasonable working knowledge of technical issues facing the board.

When appointed to a regulatory board, the member agrees to follow a high code of conduct that is grounded in state law. This means giving up some freedoms in order to protect other rights and processes.

- All inquiries regarding matters within the board's jurisdiction should be directed to the board office so that they can be brought to the attention of the board at a duly-constituted meeting. Board members may not take action on behalf of the board outside this venue.
- Certain information is protected by law as "confidential and deliberative." These details of board activity should not be released by a board member unless and until they become part of the public record. Any disclosure of such information should be made only after consultation with legal counsel.
- Board members are prohibited from conducting private meetings pertaining to board business outside of full, publicly noticed board meetings.
- Special care should be taken when considering disciplinary matters, as important privacy rights may be implicated, in addition to the board's statute, regulations, and policies.
- Board members should remember that the public may see them as representatives of the board even when they are outside of a board meeting setting. When board members appear at industry or professional gatherings, they should make it clear that they are acting as private citizens and not speaking for the board.

## **Participate in All Issues**

When candidates are appointed to specific boards or commissions, they must become knowledgeable and participate or they are certain to become frustrated and ineffective. Board and commission members must deal with different issues on a regular basis. Board members bring varying perspectives and experience. Members who are unwilling to listen to the points of others on the board reduce the board's effectiveness.

## **Focus on Policy, Not Politics**

Policymaking is an important board activity. Policies help guide the board's approach, generally, and can be very helpful in focusing the board's analysis of complex issues. A board's policies must always serve the board's work for the public; they must not be tied to special or political interests.

## **Discussion and Debate Leads to Growth**

No one expects board and commission members to agree on everything. In fact, when disagreement exists, it means that different viewpoints are being considered before a decision is made. Looking at different perspectives of board members is an important part of the decision-making process and ensures that the interests of all concerned are given some thought.

## **Address Issues within the Board or Commission's Scope of Authority**

Some issues may be important to the state and to board or commission members but may not be within the board or commission's power or authority to manage. An issue, for example, may be important to the industry or association pertaining to a licensed profession but not within a board or commission's statutory authority. Consequently, boards and commissions may adopt resolutions stating the board or commission's opinion and send the resolution to state and federal agencies or it may directly address State or Federal officials on these concerns. Board and commission members should avoid being diverted from their mission by competing interests from industry associations or issues outside the board or commission's scope of authority, as dictated by statute.

The following recommendations are addressed to board and commission members to help you carry forward your mission effectively:

- 1) **Read your meeting packet:** Be informed before meetings. Board and commission members usually receive meeting materials at least two weeks before the meeting. Read them and be ready to discuss the issues at the meeting. Information provided in the packet can help you better understand the issues and participate in more detailed discussion during the meeting.
- 2) **Become familiar with the board or commission's knowledge base and history:** Take time to read any existing documents pertaining to the issues at hand.
- 3) **Know the laws regulating the board or commission:** Know the statutes, regulations, and scope of authority pertaining to the board or commission you have been appointed to, as well as those centralized for all CBPL regulatory bodies and requirements (such as travel or ethics) pertaining to any state board or commission.
- 4) **Learn all sides of an issue before forming an opinion:** A board or commission member makes better-informed decisions or opinions when he or she learns all sides of an issue. If a member takes the position that he or she already knows everything about an issue, he or she may miss an opportunity to learn something important to the debate.

- 5) **Take part in discussion and debate:** As a rule, the quality of the board and commission decision-making process is improved when all members contribute to the discussion. Participation does not ensure that the outcome will be exactly what you want, but it will ensure that your opinions have been considered.
- 6) **Ask questions:** If you have a question about a subject, other members probably do as well. If you don't know something, the best way to learn about it is by asking questions.
- 7) **Seek solutions:** Be a problem-solver. Contribute to debate in a way that will lead to solutions and not merely add to the difficulty or complexity of a situation. When faced with a challenge, look for ways it can be done.
- 8) **Don't be shy:** Nobody else is going to speak up for you. Your idea may be the one that will lead to an answer or a solution, so speak up when you have something to say.
- 9) **Be inquisitive:** Dig into a matter and be assertive to get the information you need. The most productive environment for decision-making respects all opinions and everyone's right to express them. Relationships should be polite and professional. Board and commission members are state leaders who can set an example for others to follow.
- 10) **Share information:** If you know something about a proposal before the board or commission that other members may not be aware of, share it. The decision-making process will benefit when board and commission members share important information with the entire group. This encouragement does not extend to disciplinary or other situations that may result in ex parte communication by the board.
- 11) **Put in extra effort:** Volunteer to serve on committees and working groups and perform special assignments. Your expertise and perspective are important to the success of the board.
- 12) **Take the time to make a difference:** The time you actually spend at meetings is only a small part of the time it takes to be an effective board or commission member. Be prepared to spend a fair amount of time preparing for meetings, staying informed, serving on subcommittees or special projects, and being actively involved as a board or commission member.

## **Board and Commission Relationships**

Members of boards and commissions interact with many different individuals and groups of people. This section addresses the business nature of these relationships.

## **Relationship with the Chairperson**

It is important that the board or commission works together to ensure the competency of licensed professionals and the health and safety of the public. If the chair and the board or commissions are in opposition, the disputes project a negative image to the public, waste valuable time, promote conflict, slow down work and progress, and distance members from each other. Board and commission members may not always agree with the chairperson, but they must work with the chairperson. The board chair should strive to guide the board to:

- Project a positive image as the state’s regulator of a given profession.
- Make best use of the board or commission’s time.
- Promote teamwork among its members, the division, and the public.
- Permit work to go forward and progress to be made.
- Involve the whole board or commission in solving problems.

## **Clarifying Roles of Boards and Staff**

The roles of the board, staff, the Division, and the Department are generally set forth in Alaska Statute under AS 08.01 (see above). Each has an important part in the administrative and investigative functions of the state’s regulatory programs. However, as the governance partner, the board is primarily concerned with the “what” and “why” and management is focused on the “how.”

Clarifying these roles:

- Ensures accountability
- Facilitates a good working relationship
- Enhances the productivity and effectiveness of both board and staff
- Reduces redundancy and waste of time or resources
- Must be supported by both the board and staff

## **The Board’s Governance Role**

Boards have a governance role in the regulation of licensed professions. To successfully focus on their own role, boards must take care to separate themselves from the day-to-day staff/management responsibilities by asking:

- Is it a big-picture concern?
- Does it affect board statutes or regulations?
- Is it statutorily the board’s decision?
- Does it need high-level scrutiny or support?
- Does it pertain to the “what” and “why” of the mission?

If “yes,” then it’s a board responsibility.

Board and commission instructions to examiners should go through the chairperson by way of a formal motion. This provides clarity to the division when resources are expended. It helps supervisors direct examiner workloads and provides for more effective management of program funds. Additionally, individual board and commission members should not give instructions to the staff without the knowledge or consent of the chair, because one member's viewpoint or request may not represent the shared viewpoint or position of the full board or commission.

## **The Staff's Management Role**

The staff's role in regulation is to facilitate the mission of the board through strategic use of resources allocated by the board or provided for in legislation or regulation. It is the staff's job to provide the board or commission with the facts and information needed to make a decision. In fact, it is customary for the staff to make a recommendation for board or commission action. However, the board or commission should not turn any staff person into an additional board or commission member by expecting that person to make decisions that the board or commission is appointed to make. Such expectation for decision-making can place a staff member in the awkward position of substituting his or her judgment for the collective judgment of the board or commission. This expectation is unfair to the staff person and can make him or her a scapegoat for mistakes. It may also be a violation of law or the staff's position description or employment bargaining agreement.

An examiner may advise the board on procedural issues and other topics that may provide a "bridge" to the division during the meeting. An executive administrator may have a more fluid role and provide input on board policy and regulations as requested by the board.

The Division of Corporations, Business and Professional Licensing provides many staff members with varying types of expertise to aid the work of the board or commission:

- **Specialized staff:** The Investigators, Regulations Specialist, Paralegal, and Publications Specialist provide resources to boards and commissions as pertains to their fields. These staff members may be requested to present fiscal or enforcement information at board meetings, assist with drafting of regulations, facilitate continuing education audits, or perfect public documents, among other services. These staff members work daily behind the scenes to maintain the work of the boards and the division and report to division executive management.
- **Licensing Examiner:** The Occupational Licensing Examiner is primarily responsible for screening and issuing licenses per board or commission statutes and regulations. In many cases, the examiner helps administer the meeting, take notes, and maintain the day-to-day office activities of the board or commission. The examiner may staff multiple licensing programs and assist various boards and commissions. The examiner is expected to have a thorough understanding of the statutes and regulations that apply to their programs and to seek assistance when problems or questions arise.
- **Records and Licensing Supervisor:** All examiners are supervised by a Records and Licensing Supervisor, who is responsible for the accuracy and consistency of the examiner's work. The

supervisor is responsible for training and monitoring licensing examiners under his or her purview and directs their workflow. The supervisor must have a thorough knowledge of the statutes, regulations, and procedures of all programs for which he or she is responsible.

- **Executive Administrator/ Secretary:** The Executive Administrator or Marine Pilot Coordinator manages the affairs of one board or commission. The “exec” is appointed by the governor and is expected to engage the board or commission at a deeper level than the examiner. The executive receives additional program- or content-related assignments from the board as permitted by statute or regulation, represents the board or commission at professional meetings, cultivates a body of knowledge about the workings of the profession in order to better advise the board, and performs other duties as outlined in statutes and regulations.
- **Administrative Officer:** The Administrative Officer II of the division oversees all administrative and accounting functions. This position is responsible for providing the quarterly Schedules of Revenues and Expenditures to each board and collaborates with the Division Operations Manager, Chief Investigator, and Director to make final budgetary decisions for the division and its programs. The Administrative Officer reports to the Division Director.
- **Deputy Director/Division Operations Manager:** This position manages the functions and staff of all licensing sections within the division: professional licensing, business licensing, and corporate registration. The manager is responsible for the “big picture” systems required to plan, organize, direct, and coordinate board and division activities and resources as they pertain to all licensing activities. This position reports to the Division Director.
- **Division Director:** The director is the principal executive officer of the entire division, including Professional Licensing, Corporations and Business Licensing, Administration, and Investigations. The director bears substantial responsibility for the determination of policy and for the way in which policies are carried out. The Division Director reports to the department’s Deputy Commissioner.

## III. Executive Branch Ethics

Service on a state board or commission is a public trust and members are expected to conduct the public's business in a way that preserves the integrity of the governmental process and avoids conflicts of interest. The Ethics Act (AS 39.52) doesn't forbid public officers from having opinions, interests, or professional pursuits outside of their service on boards or commissions, but it does require that members disclose certain matters, so that a determination can be made about whether they constitute a conflict of interest.

### General Guidance

All board and commission members and staff should be familiar with the procedures outlined below. The Act covers a board, commission, authority, or board of directors of a public or quasi-public corporation, established by statute in the executive branch of state government. Additional information is available from the Alaska Department of Law at <http://law.alaska.gov/doclibrary/ethics.html>. Much of the information in this section of the manual is taken directly from this site.

#### Misuse of Official Position (AS 39.52.120)

Members of boards or commissions may not use their positions for personal gain or to give an unwarranted benefit or treatment to any person. For example, members may not:

- use their official positions to secure employment or contracts;
- accept compensation from anyone other than the State for performing official duties;
- use State time, equipment, property or facilities for their own personal or financial benefit or for partisan political purposes;
- take or withhold official action on a matter in which they or an immediate family member have a personal or financial interest;
- coerce subordinates for his/her personal or financial benefit, or
- attempt to influence the outcome of an administrative hearing by privately contacting the hearing officer.



Terry knew that a proposal that was before the board would harm Terry's business partner. Instead of publicly disclosing the matter and requesting recusal, Terry engaged in discussions about the proposal, and voted on the proposal.



Jack serves on a board that regulates parts of the building construction industry. Wearing a nametag that identifies him as a member of the industry board, Jack goes to a contractors' trade show and sets up a booth for his consulting business, called "Building a Future in Alaska."

#### Improper Gifts (AS 39.52.130)

A board or commission member may not solicit or accept a gift if it could reasonably be inferred that the gift is intended to influence the member's action or judgment. "Gifts" include money, items of value, services, loans, travel, entertainment, hospitality, and employment. All gifts from registered lobbyists

are presumed to be improper unless the giver is an immediate family member of the person receiving the gift.

A gift worth more than \$150 to a board or commission member or the member's family must be reported within 30 days if:

- the board member can take official action that can affect the giver, or
- the gift is given to the board member because he or she is on a state board or commission.

The receipt of a gift worth less than \$150 may be prohibited if it could reasonably be inferred that the gift is intended to influence the board member's action or judgment. Receipt of such a gift should be disclosed.

Any gift received from another government, regardless of value, must be reported; the board or commission member will be advised as to the disposition of this gift.

A form for reporting gifts is available at [law.alaska.gov/doclibrary/ethics.html](http://law.alaska.gov/doclibrary/ethics.html) or from the board or commission staff.

This restriction on gifts does not apply to lawful campaign contributions.

 The commission is reviewing Roy's proposal for an expansion of his business. Roy invites all the board members out to dinner at an expensive restaurant. He says it will be okay, since he isn't excluding any of the members.

 Sam buys a holiday gift every year for Jody. Jody was recently appointed to a board, but Sam has no business that is up before the board.

#### **Improper Use or Disclosure of Information (AS 39.52.140)**

No former or current member of a board or commission may use or disclose any information acquired through official duties if that use or disclosure could result in a financial or personal benefit to the board member (or a family member), unless that information has already been disseminated to the public.

 Sheila has been on the board for several years. She feels she has learned a great deal of general information about how to have a successful business venture. So she sets up her own business and does well.

 Delores has always advised and assisted the other doctors in her clinic on their continuing education requirements. After Delores is appointed to the State Medical Board, she discloses this role to the board and continues to advise the doctors in her clinic in her capacity as a private individual, not a board member.

#### **Improper Influence in State Grants, Contracts, Leases or Loans (AS 39.52.150)**

A board member who can affect the award or administration of a State grant, contract, lease, or loan may not apply for, or have an interest in that State grant, contract, lease, or loan. This prohibition also applies to the board member's immediate family.

A board member (or a family member) may apply for or be a party to a *competitively solicited* State grant, contract or lease, if the board member does not serve in the same administrative unit awarding or administering the grant, contract, or lease *and* so long as the board member does not take official action in the award or administration of the grant, contract, or lease.

A board member (or a family member) may apply for and receive a State loan that is generally available to the public and has fixed eligibility standards, so long as the board member does not take (or withhold) official action affecting the award or administration of the loan.

Board members must report to the board chair any personal or financial interest (or that of a family member) in a State grant, contract, lease or loan that is awarded or administered by the agency the board member serves. A form for this purpose is available at [law.alaska.gov/doclibrary/ethics.html](http://law.alaska.gov/doclibrary/ethics.html) or from the board or commission staff.

 John sits on a board that awards state grants. John hasn't seen his daughter for nearly ten years but he figures that it doesn't matter when her grant application comes up before the board; he votes on the grant to his daughter, without disclosing the relationship to the board. (While voting for the grant looks worse than voting against the grant, the Ethics Act prohibits deliberating or voting on the issue regardless of what position the board member takes.)

 The board wants to contract out for an analysis of the board's decisions over the last ten years. Kim bids on the contract since she has been on the board for ten years and feels she could do a good job.

#### **Improper Representation (AS 39.52.160)**

A non-salaried board or commission member may represent, advise, or assist in matters in which the member has an interest that is regulated by the member's own board or commission, if the member acts in accordance with AS 39.52.220 by disclosing the involvement in writing and on the public record, and refrains from all participation and voting on the matter. This section does not allow a board member to engage in any conduct that would violate a different section of the Ethics Act. So, the member must disclose the fact of the member's involvement in the regulated matter, and abide by the board or commission's finding as to the existence of a conflict of interest.

#### **Restriction on Employment after Leaving State Service (AS 39.52.180)**

For two years after leaving a board, a former board member may not work on any matter on which the former member had personally and substantially participated while on the board. This prohibition applies to cases, proceedings, applications, contracts, and similar matters.

Former members of the governing boards of public corporations and former members of boards and commissions that have regulation-adoption authority, except those covered by the centralized licensing provisions of AS 08.01, may not lobby for pay for one year.

This section does not prohibit a State agency from contracting directly with a former board member.

With the approval of the Attorney General, the board chair may waive this prohibition if a determination is made that the public interest is not jeopardized.

☹️ The board has arranged for an extensive study of the effects of the Department's programs. Andy, a board member, did most of the liaison work with the contractor selected by the board, including some negotiations about the scope of the study. Andy quits the board and goes to work for the contractor, working on the study of the effects of the Department's programs.

😊 Andy takes the job, but specifies that he will have to work on another project.

### **Aiding a Violation Prohibited (AS 39.52.190)**

Aiding another public officer to violate this chapter is prohibited.

### **Agency Policies (AS 39.52.920)**

Subject to the Attorney General's review, a board may adopt additional written policies further limiting personal or financial interests of board members.

### **Disclosure Procedures (AS 39.52.220-250)**

All board and commission members and staff should be familiar with the Executive Branch Ethics Act procedures outlined below.

### **Who Is My Designated Ethics Supervisor (DES)?**

Every board or commission subject to the Ethics Act has several ethics supervisors designated by statute. The Act covers a board, commission, authority, or board of directors of a public or quasi-public corporation, established by statute in the executive branch of state government.

- The chair serves as DES for board or commission members.
- The chair serves as DES for the executive director. This does not apply to professional licensing boards and commissions, whose staff are employees for the Department, not the board.
- The Department of Commerce, Community, and Economic Development has assigned a Special Assistant to serve as DES for staff.
- The governor is the DES for a chair. The governor has delegated the DES responsibility to the Director of Administrative Services in the Office of Governor.

### **What Do I Have To Disclose?**

The Ethics Act requires members of boards and commissions to disclose:

- Any matter that is a potential conflict of interest with actions that the member may take when serving on the board or commission.
- Any circumstance that may result in a violation of the Ethics Act.
- Any personal or financial interest (or that of an immediate family member) in a state grant, contract, lease or loan that is awarded or administered by the member's board or commission.
- The receipt of certain gifts.

The staff of a board or commission, as state employees, must also disclose:

- Compensated outside employment or services.

- Volunteer service, if any compensation, including travel and meals, is paid or there is a potential conflict with state duties.

For more information regarding the types of matters that may result in violations of the Ethics Act, board or commission members should refer to the guide, *“Ethics Information for Members of Boards and Commissions.”* Staff should refer to the guide, *Ethics Information for Public Employees.”* Both guides and disclosure forms may be found on the Department of Law’s ethics website: <http://law.alaska.gov/doclibrary/ethics.html>.

### **How Do I Avoid Violations of the Ethics Act?**

- Make timely disclosures
- Follow required procedures
- Provide all information necessary to a correct evaluation of the matter! You may supplement the disclosure form with other written explanation as necessary. Your signature on a disclosure certifies that, to the best of your knowledge, the statements made are true, correct and complete. False statements are punishable.
- When in doubt, disclose and seek advice
- Follow the advice of your DES

### **What Are The Disclosure Procedures for Board and Commission Members?**

The procedural requirements for disclosures by members are set out in AS 39.52.220 and 9 AAC 52.120. One goal of these provisions is to help members avoid violations of the Ethics Act. The procedures provide the opportunity for members to seek review of matters in advance of taking action to ensure that actions taken will be consistent with the Act.

### **Procedure for declaring actual or potential conflicts**

Members must declare potential conflicts and other matters that may violate the Ethics Act on the public record and in writing to the chair. Public disclosure only takes the place of a written disclosure if the meeting is recorded, a tape or transcript of the meeting is preserved, and there is a method for identifying the declaration in the record. Boards and commissions that meet these requirements may note the exception below.

*Disclosure on the public record.* Members must identify actual and potential conflicts orally at the board or commission’s public meeting in advance of participating in deliberations or taking any official action on the matter.

- A member must always declare a conflict and may choose to refrain from voting, deliberations or other participation regarding a matter. In most, but not all, situations, refraining from participation ensures that a violation of the Ethics Act does not occur. Abstention does not cure a conflict with respect to a significant direct personal or financial interest in a state grant, contract, lease, or loan because the Ethics Act prohibition applies whether or not the public officer actually takes official action.
- If a member is uncertain whether participation would result in a violation of the Act,

the member should disclose the circumstances and seek a determination from the chair.

*Disclosure in writing at a public meeting.* In addition to an oral disclosure at a board or commission meeting, members' disclosures must be made in writing.

- If the meeting is recorded, a tape or transcript of the meeting is preserved and there is a method for identifying the declaration in the record, an oral disclosure may serve as the written disclosure.
- Alternatively, the member must note the disclosure on the Notice of Potential Violation disclosure form and the chair must record the determination.

*Confidential disclosure in advance of public meeting.* Potential conflicts may be partially addressed in advance of a board or commission's public meeting based on the published meeting agenda or other board or commission activity.

- A member identifying a conflict or potential conflict may submit a Notice of Potential Violation to the chair, as DES, in advance of the public meeting.
- This written disclosure is considered confidential.
- The chair may seek advice from the Attorney General.
- The chair makes a written determination, also confidential, whether the disclosed matter represents a conflict that will result in a violation of the Ethics Act if the member participates in official action addressing the matter. The chair must give a copy of the written determination to the disclosing member. There is a determination form available on the Department of Law's ethics web page. The ethics supervisor may also write a separate memorandum.
- If the chair determines that the member would violate the Ethics Act by taking official action, the chair directs the member to refrain from participating in the matter that is the subject of the disclosure.
- An oral report of the notice of potential violation and the determination that the member must refrain from participating is put on the record at a public meeting. In this manner, a member's detailed personal and financial information may be protected from public disclosure.

*Determinations at the public meeting.* When a potential conflict is declared by a member for the public record, the following procedure must be followed:

- The chair states his or her determination regarding whether the member may participate.
- Any member may then object to the chair's determination.
- If an objection is made, the members present, excluding the member who made the disclosure, vote on the matter.
- Exception: A chair's determination that is made consistent with advice provided by the Attorney General may not be overruled.
- If the chair, or the members by majority vote, determines that a violation will exist if the disclosing member continues to participate, the member must refrain from voting,

deliberating or participating in the matter. When a matter of particular sensitivity is raised and the ramifications of continuing without an advisory opinion from the Attorney General may affect the validity of the board or commission's action, the members should consider tabling the matter so that an opinion may be obtained.

*If the chair identifies a potential conflict that he or she has, the same procedures are followed. If possible, the chair should forward a confidential written notice of potential violation to the Office of the Governor or to the Department of Law for a determination in advance of the board or commission meeting. If the declaration is first made at the public meeting during which the matter will be addressed, the members present, except for the chair, vote on the matter. If a majority determines that a violation of the Ethics Act will occur if the chair continues to participate, the chair shall refrain from voting, deliberating or participating in the matter. A written disclosure or copy of the public record regarding the oral disclosure should be forwarded to the Office of the Governor for review by the chair's DES.*

### **Procedures for Other Member Disclosures**

A member's interest in a state grant, contract, lease or loan and receipt of gifts are disclosed by filling out the appropriate disclosure form and submitting the form to the chair for approval. The disclosure forms are found on the Department of Law's ethics website: [law.alaska.gov/doclibrary/ethics.html](http://law.alaska.gov/doclibrary/ethics.html).

*Other Disclosures.* The DES also reviews other ethics disclosures and either approves them or determines what action must be taken to avoid a violation of the Act. In addition to the disclosures of certain gifts and interests in the listed state matters, state employees must disclose all outside employment or services for compensation.

- The DES must provide a copy of an approved disclosure or other determination to the employee.

### **How Are Third Party Reports of Potential Violations or Complaints Handled?**

Any person may report a potential violation of the Ethics Act by a board or commission member or its staff to the appropriate DES or file a complaint alleging actual violations with the Attorney General.

- Notices of potential violations and complaints must be submitted in writing and under oath.
- Notices of potential violations are investigated by the appropriate DES who makes a written determination whether a violation may exist. The DES provides a copy of the notice to the employee or board/commission member who is the subject of the notice and may seek input from the employee or board/commission member, his or her supervisor and others. The DES may seek advice from the Attorney General. A copy of the DES' written determination is provided to the subject employee or board/commission member and the complaining party. The DES submits a copy of both the notice and the determination to the Attorney General.

for review as part of the DES' quarterly report. If feasible, the DES shall reassign duties to cure a potential violation or direct divestiture or removal by the employee or board/commission member of the personal or financial interests giving rise to the potential violation.

- Complaints are addressed by the Attorney General under separate procedures outlined in the Ethics Act.
- These matters are confidential, unless the subject waives confidentiality or the matter results in a public accusation.

### **What Are The Procedures for Quarterly Reports?**

Designated ethics supervisors must submit copies of notices of potential violations received and the corresponding determinations to the Attorney General for review by the state ethics attorney as part of the quarterly report required by the Ethics Act.

- Reports are due in April, July, October and January for the preceding quarter.
- A sample report may be found on the Department of Law's ethics website.
- An executive director may file a quarterly report on behalf of the chair and combine it with his or her own report.
- If a board or commission does not meet during a quarter and there is no other reportable activity, the DES advises the Department of Law's Ethics Attorney and no other report is required.

If the state ethics attorney disagrees with a reported determination, the attorney will advise the DES of that finding. If the ethics attorney finds that there was a violation, the member who committed the violation is not liable if he or she fully disclosed all relevant facts reasonably necessary to the ethics supervisor's or commission's determination and acted consistent with the determination.

### **How Does A DES or Board or Commission Get Ethics Advice?**

A DES or board or commission may make a written request to the Attorney General for an opinion regarding the application of the Ethics Act. In practice, the Attorney General, through the state ethics attorney, also provides advice by phone or e-mail to designated ethics supervisors, especially when time constraints prevent the preparation of timely written opinions.

- A request for advice and the advisory opinion are confidential.
- The ethics attorney endeavors to provide prompt assistance, although that may not always be possible.
- The DES must make his or her determination addressing the potential violation based on the opinion provided.

### **Complaints, Hearings, and Enforcement (AS 39.52.310-370, AS 32.52.410-460)**

Any person may file a complaint with the Attorney General about the conduct of a current or former board member. Complaints must be written and signed under oath. The Attorney General may also

initiate complaints from information provided by a board. A copy of the complaint will be sent to the board member who is the subject of the complaint and to the Personnel Board.

All complaints are reviewed by the Attorney General. If the Attorney General determines that the complaint does not warrant investigation, the complainant and the board member will be notified of the dismissal.

The Attorney General may refer a complaint to the board member's chair for resolution.

After investigation, the Attorney General may dismiss a complaint for lack of probable cause to believe a violation occurred. The complainant and board member will be promptly notified of this decision.

Alternatively, if probable cause exists, the Attorney General may initiate a formal proceeding by serving the board or commission member with an accusation alleging a violation of the Ethics Act. An accusation may result in a hearing.

When the Personnel Board determines a board member has violated the Ethics Act, the member must refrain from voting, deliberating, or participating in the matter. The Personnel Board may order restitution and may recommend that the board member be removed from the board or commission. If a recommendation of removal is made, the appointing authority will immediately remove the member.

If the Personnel Board finds that a former board member violated the Ethics Act, the Personnel Board will issue a public statement about the case and will ask the Attorney General to pursue appropriate additional legal remedies.

## **Conflict of Interest and Ex Parte Communication**

A conflict of interest occurs when a board or commission member has a direct and substantial personal interest, usually a financial interest, in a matter before the board or commission. The provisions of conflict-of-interest laws are these:

- 1) A member of the board or commission should declare a substantial financial interest the member has in an official action and ask to be excused from a vote on the matter;
- 2) The presiding officer should rule on a request by a member of the board or commission to be excused from a vote; and
- 3) The decision by the presiding officer on a request by a member of the board or commission to be excused from a vote may be overridden by a majority vote of the board or commission.

It is not unusual for board and commission members to have conflicts of interest. Not all conflicts involve a substantial financial interest, however. Some conflicts may only appear to be improper or have the appearance of an unfair advantage. These conflicts should be declared, so the public does not think that board and commission members are self-serving and ignoring public interest. If a board or commission member thinks he or she has a conflict, the conflict should be declared and the presiding officer should be notified to decide whether the board or commission member should vote. A conflict should only be declared when a conflict is really believed to exist, and the determination of the

declaration should be read into the public record of the meeting. A conflict should never be declared to avoid having to vote on a difficult issue.

Conflicts may arise due to improper communication with a stakeholder. “Improper communication” can be any communication with an interested party where the communication is about something on which the board has authority to act, and which comes outside of a publicly-noticed meeting. A familiar example is the contact that a member of a jury could have with people or even news stories that could bias their opinion unfairly. Sometimes it is impossible for juries in high-profile cases to avoid hearing information that is inadmissible in court, so they are sequestered in hotel rooms with no television or public contact. Board and commission members are not likely to be treated to such extremes, but they must take care not to discuss investigations before a vote takes place. This type of discussion should result in the recusal of the member from the vote on that issue.

### **Ex-Parte Contact**

The foundation of due process is that each side in a dispute has the opportunity to be heard. If one side has the opportunity to make an argument, the other side must have the opportunity to respond. It is sometimes tempting for an applicant, licensee, or attorney to attempt to circumvent the usual application decision-making procedures, to seek information on a pending application, to discuss a pending disciplinary action, or to seek to influence an individual’s decision by directly contacting one of the board members. Such communications are called “ex parte” communications.

***Ex parte communications are improper. The result of such a communication is that the board member so contacted may be unable to discuss, participate in, or vote on the application or disciplinary action.***

The risk to the applicant or licensee who attempts such communication is that a board member who might have been favorably disposed to their license application or disciplinary case may not be able to participate in the decision or vote.

Ex parte communication must be disclosed. Should any individual attempt to contact you to discuss a license application or disciplinary case, please refer them to a staff member (licensing examiner, investigator, or executive administrator) for response.

Should you experience an ex parte communication, please so indicate when that issue is addressed by the board in session. Alert the chair about the contact in writing before the meeting and on the record at the beginning of the meeting so he or she can determine whether it is appropriate that you be recused from the discussion, deliberation, and vote. As the DES for the board, the chair is required to make this determination on the record.

If you are unsure about the nature and extent of the contact, please contact the board’s staff for guidance.

Another interesting conflict of interest issue that is gaining awareness is that of the potential for disproportionate influence of “active market participants” on boards. An active market participant is

defined as someone who is currently engaged in the profession that the board regulates. A 2015 United States Supreme Court decision (*North Carolina Board of Dental Examiners v. Federal Trade Commission*) resulted in a ruling that stripped the board of its immunity because it violated the Sherman Act when sending cease-and-desist letters to unlicensed teeth whiteners. The case is complex, yet under the state's current statutes, the takeaway for Alaska boards is straightforward:

- Ensure that the division's investigative standard operating procedures are followed.
- Adhere to the Administrative Procedure Act when taking action against anyone, licensed or unlicensed.
- Invite an agency attorney to be involved in policymaking that may restrict those outside the profession from engaging in business practices.
- Encourage and engage public member participation in decisionmaking.

## The Alaska Open Meetings Act

Regarding meetings, we have to make sure to read the guidance fully and in context:

First, let's look at the definitions in AS 44.62.310. To whom does the Open Meetings Act apply?

AS 44.62.310(h)(1) "governmental body" means an assembly, council, board, commission, committee, or other similar body of a public entity with the authority to establish policies or make decisions for the public entity or with the authority to advise or make recommendations to the public entity; "governmental body" includes the members of a subcommittee or other subordinate unit of a governmental body if the subordinate unit consists of two or more members

The establishment of a meeting has three "ingredients": **Who** is present, **how many** are present, and **what** are they doing:

AS 44.62.310(h)(2) "meeting" means a gathering of members of a governmental body when

(A) more than three members or a majority of the members, whichever is less, are present, a matter upon which the governmental body is empowered to act is considered by the members collectively, and the governmental body has the authority to establish policies or make decisions for a public entity; or

(B) the gathering is prearranged for the purpose of considering a matter upon which the governmental body is empowered to act and the governmental body has only authority to advise or make recommendations for a public entity but has no authority to establish policies or make decisions for the public entity;

The guidance to staff in Division P&P-1 on meeting management clarifies a subcommittee as a different type of meeting. It is not a board meeting because "the membership of a subcommittee, advisory committee, working group or similar group by another name may not include a quorum of a board. Any

meeting that includes a quorum of a board is considered a board meeting and must be noticed accordingly.”

So, these types of meetings must be publicly noticed:

**BOARD MEETING:** If a group is gathering that IS a quorum of the board OR three or more members of a board AND is considering a matter on which they have the power to act.

**SUBCOMMITTEE MEETING:** If a group is gathering that is NOT a quorum of a board OR three or more members of a board AND is recognized by the board/division AND has authority to advise the board/division, AND is considering a matter for recommendation to a board.

Here’s a tool combining all of these considerations. Try it when evaluating a meeting, and see if it’s helpful:

1. **Will a quorum of a board be present?** If YES, it’s a board meeting if they are considering board business.
2. **Will three or more members of a board be present?** If YES, it’s a board meeting if they are considering board business.
3. **Is the entity recognized by the board/division?** If YES, it’s a subcommittee meeting.
4. **Does the entity have authority to advise/make recommendation to the board/division?** If YES, it’s a subcommittee meeting.

Below are some theoretical examples. As with the rest of this manual, it is intended to provide general guidance but cannot cover every situation. Please contact staff with concerns about specific situations.

- A. **The board votes to approve a working group on a potential regulation and bring it back to the next meeting. The member assigned in that motion recruits three licensees to join the working group.** YES to #3 and #4: Subcommittee meeting.
- B. **The board publicly notices a subcommittee meeting, and three board members attend.** YES to #2, #3, and #4 (and maybe #1, depending on the size of the board). It’s now a board meeting, must be adjourned and renoticed for a later date if the members wish to participate.
- C. **Two board members have coffee and talk about board business.** NO to all four. Not a meeting.
- D. **Three board members have coffee and talk about board business.** YES to #2 and maybe #1. They don’t have to go home, but they shouldn’t finish that coffee together.
- E. **Three board members have coffee and talk about the weather.** NO to all four because they are not talking about board business. So, technically it’s not a violation. However, a licensee walks into the coffee shop and sees them and posts on Facebook that there was a secret board meeting at Starbucks, files a Freedom Of Information Act inquiry, and ignites legal dispute over

a current topic. This costs the board thousands of dollars, a lot of extra time, and their reputation. Probably best that the three avoid having coffee together because of the public's reasonable perception that it is a board meeting.

- F. **Twenty disgruntled licensees get together to plan a protest of the next board meeting.** NO to all four, assuming none are board members. They can paint picket signs to their hearts' content.
- G. **Two board members email each other with general questions about upcoming item on the meeting agenda.** NO to all four. Not a meeting.
- H. **The two members in Example G decide they need more information and email the board chair.** YES to #2 and maybe #1. The chair should not respond but should ask staff to assist with providing needed information to the entire board.
- I. **One of the two board members in Example G is the Reviewing Board Member of a case that is to be decided at the meeting.** NO to all four, but since they have veered into ex parte communication, they need to cease the conversation for reasons outside the Open Meetings Act. Depending on what s/he heard, the non-reviewing board member may wish to declare a potential conflict of interest at the meeting and ask the chair for a ruling on whether the member should be allowed into the discussion and vote on the case.
- J. **A board member attends an industry association meeting and speaks on the board's behalf without prior authorization on topics the board has not voted on.** NO to all four, but the member should be counseled by the chair that this is improper and that the information provided could be inaccurate or misleading. Depending on the situation, the chair may want to write a letter to the association to clear up the matter.
- K. **The entire board attends an industry association meeting. They take great care not to sit together or huddle together in a darkened corner of the hallway.** NO to all four, and good job making sure they did not give the appearance of conducting board business.
- L. **The entire board attends an industry association meeting. They get upset about an issue raised by one of the speakers and meet together later that day in a small, empty conference room to discuss the board's position on the issue.** YES to #1 and #2. Not good judgment on their part.

There's also the question about what "prearranged" means. This brief guidance suggests that board and subcommittee members should avoid "spontaneous" discussions about their official business when these thresholds are met. A chance meeting at a social event that turns into an hour-long conversation about official business is avoidable and, by sustaining the conversation over a period of time, may not be considered by a court to be a spontaneous conversation.

## IV. Board and Commission Framework for Decisionmaking

Utilizing a consistent and defensible process to make decisions is the board’s best tool in achieving desirable outcomes that have a lasting effect. Alaska’s professional licensing boards should seek consistency in the application of disciplinary sanctions. And if a board’s decision breaks from precedent in a matter involving similar facts, the board must explain why in its order, (AS 08.01.075(f)).

The first step in consistent and defensible decisionmaking is to establish the criteria on which a decision will be made. This is often called a Decision Framework or Decision Tree. (Several examples follow in this section.)

The next step is to ensure that a record exists showing the board’s decisions on similar matters, the facts that were considered when reaching the decision, and rationale for the decision, especially if there is a surface appearance of inconsistency.

A black-and-white rule that unequivocally dictates what discipline will be imposed for a particular infraction is a de facto regulation. Precedent informs the board’s exercise of discretion while inflexible rules prevent the board from exercising its discretion.

In non-disciplinary matters, the board may establish a framework for determining how to spend their time and resources. To avoid unnecessary expenses, the board could use a Decision Framework or Decision Tree like the ones below to objectively and dispassionately determine whether to take on a particular issue.

### Framework for deciding what issues the board will address:

CRITERIA	INFORMATION NEEDED
Public Protection	How does the issue directly lead to harm to the public or individual clients?
Public Interest	How is the issue or its resolution a matter of public interest?
Mission and Mandate	How does the issue relate to the board’s statutory mandate and mission.
Ability, Resources, Priority	What resources must the board and the division employ to address the issue? Do the board and division currently have capacity to address the issue? How does addressing the issue advance the board’s goal?
Association	Does resolution of the issue necessitate association with other interests? Who? Why? How?
Ownership	Does it make sense for this board to take the lead on this issue? If not

	this board, which?
Perception	How might the board be judged by the public, including other boards, for the role and actions it takes?
Best Response	What actions is the board to take to address the issue? Are there alternatives?

**Suggested statements of board principles:**

Because board membership changes over time, it is important for boards to establish principles or values that they agree to guide their decision-making. These common, agreed-upon statements can be used by individuals to check their own biases before speaking or voting.

**1. Public Protection Primacy**

The board will make all decisions to protect the public, and public protection will always have primacy over all other considerations.

**2. Public Interest Favored**

Board decisions will always favor the public interest over all other interests.

**3. Objective**

Board decisions will objectively consider reasonable options and consider all available evidence to arrive at an objective decision.

**4. Fair**

Board decisions will consider the impact of options on all people and organizations affected by them.

**5. Purposeful and Effective**

Board decisions will effectively achieve public protection by regulating the profession(s) and supporting licensees to provide competent, ethical and safe services. Board decisions will not result in unnecessary regulation.

**6. Transparent**

Board decisions will be clearly presented to stakeholders along with the regulatory goal and public interest rationale.

## V. Meetings and Motions

### Rules of Procedure

Rules of procedure are not statutes or regulations but guidelines the board or commission has agreed to follow. Contained in these rules might be a list identifying the board or commission's standing committees, the parliamentary procedure for running meetings, or perhaps a requirement to end meetings at a certain time. Boards and commissions may also pass regulations that specify how many absences are allowable before a member is removed from the board. Additional guidance on meeting management is published in the Division Policy and Procedure Manual.

### The Agenda

The board or commission must approve an agenda format to be used at all regular meetings. A sample agenda might include the following:

- I. Call to Order
- II. Roll Call
- III. Statement of Conflicts of Interest
- IV. Approval of Minutes of Previous Meeting
- V. Public Comment on Non-Agenda Items
- VI. Consent Agenda (if using)
- VII. Staff Reports
  - i. Executive Administrator (if applicable)
  - ii. Director or other management staff
  - iii. Administrative Officer (for fiscal report)
- VIII. Regulations for Introduction
- IX. Public Hearing on Regulations
- X. New Business
- XI. Old Business
- XII. Committee Reports
- XIII. Board or Commission Comments and Questions
- XIV. Adjournment

The order of the agenda may be changed at the meeting. For example, an item toward the end of the agenda may be moved up and dealt with earlier in the meeting; this can be done by a motion to amend the agenda. The agenda should be amended only when there is a good reason. Try to maintain the posted public comment periods since constituents may have taken great care to arrive at that time.

### Taking Part in Debate

Debate and discussion are not the same. Discussion is general and does not necessarily lead to closure

of an issue. It is the method used for less formal meetings and work sessions. Debate occurs after a motion has been made, and formal board or commission actions are required. Board discussion is not a formal request for action, so members should take care to make a motion in order to propose an actionable item--particularly one that involves a fiscal matter, policy change, or staff response.

Debate at board and commission meetings goes through the chairperson. If a board or commission member wants to speak, he or she must raise a hand and be recognized by the chairperson (or presiding officer, if the chairperson is absent or doesn't run the meeting). If there is a motion on the floor, then the member may only speak to that motion. Members should never interrupt one another. Comments should be brief and to the point.

Members may mingle with the public in other settings, but meetings are the events at which the public's business is conducted and decisions are made, so meetings should be conducted in a calm, orderly environment free from disruptions. After all, good decisions are more likely in a quiet, controlled, uninterrupted setting. When the public informally interacts with the board during a meeting, the business can be disrupted and the outcome of the motion could become unclear. It also provides an uneven playing field for solicitation of input to the board.

Members of the public are not members of the board, so they should refrain from engaging in board business. Members of the public may speak during the common public comment period, or they may formally request to address the board by requesting to be on the agenda well ahead of time or by signing in to address the board during a publicly noticed oral comment period on proposed regulations.

## **Parliamentary Procedure**

One of the greatest procedural tools a board can adopt is one of parliamentary procedure, which sets the protocol for meeting management. Parliamentary procedure is not as complex as many fear. Most boards and commissions use Robert's Rules of Order ([www.robertsrules.com](http://www.robertsrules.com)), and there are many guides available online or in hard copy to demystify the process. A guide to the parliamentary motions used most frequently is included in this manual.

The use of parliamentary procedure for meetings fulfills several important purposes. It provides structure for deliberation of issues. It ensures that only one item at a time is before the board or commission for debate. It provides a forum for debate that is fair to everyone and partial to no one. Finally, it permits the will of the majority to prevail while protecting the rights of the minority and permitting all sides of an issue to be heard. Boards can use their own rules for parliamentary procedure, but most use Robert's Rules of Order because this set of guidelines is familiar and well-established.

## **Types of Motions**

The backbones of parliamentary procedure are in motions and how they are made and disposed of, the various categories of motions, and the relationship between motions. There are four types of motions, but the most common is the main motion, which brings an item of business before the board or

commission for its formal deliberation. Only a main motion can bring matters before the board or commission for a vote.

## Robert's Rules of Order Motions Chart

<b>Part 1: Main Motions.</b> These motions are listed in order of precedence. A motion can be introduced if it is higher on the chart than the pending motion. § indicates the section from Robert's Rules.							
§	<i>PURPOSE:</i>	<i>YOU SAY:</i>	<i>INTERRUPT?</i>	<i>2ND?</i>	<i>DEBATE?</i>	<i>AMEND?</i>	<i>VOTE?</i>
§21	Close meeting	I move to adjourn	No	Yes	No	No	Majority
§20	Take break	I move to recess for ...	No	Yes	No	Yes	Majority
§19	Register complaint	I rise to a question of privilege	Yes	No	No	No	None
§18	Make follow agenda	I call for the orders of the day	Yes	No	No	No	None
§17	Lay aside temporarily	I move to lay the question on the table	No	Yes	No	No	Majority
§16	Close debate	I move the previous question	No	Yes	No	No	2/3
§15	Limit or extend debate	I move that debate be limited to ...	No	Yes	No	Yes	2/3
§14	Postpone to a certain time	I move to postpone the motion to ...	No	Yes	Yes	Yes	Majority
§13	Refer to committee	I move to refer the motion to ...	No	Yes	Yes	Yes	Majority
§12	Modify wording of motion	I move to amend the motion by ...	No	Yes	Yes	Yes	Majority
§11	Kill main motion	I move that the motion be postponed indefinitely	No	Yes	Yes	No	Majority
§10	Bring business before assembly (a main motion)	I move that [or "to"] ...	No	Yes	Yes	Yes	Majority

**Part 2: Incidental Motions.** No order of precedence. These motions arise incidentally and are decided immediately.

<b>§</b>	<b>PURPOSE:</b>	<b>YOU SAY:</b>	<b>INTERRUPT?</b>	<b>2ND?</b>	<b>DEBATE?</b>	<b>AMEND?</b>	<b>VOTE?</b>
§23	Enforce rules	Point of Order	Yes	No	No	No	None
§24	Submit matter to assembly	I appeal from the decision of the chair	Yes	Yes	Varies	No	Majority
§25	Suspend rules	I move to suspend the rules	No	Yes	No	No	2/3
§26	Avoid main motion altogether	I object to the consideration of the question	Yes	No	No	No	2/3
§27	Divide motion	I move to divide the question	No	Yes	No	Yes	Majority
§29	Demand a rising vote	I move for a rising vote	Yes	No	No	No	None
§33	Parliamentary law question	Parliamentary inquiry	Yes	No	No	No	None
§33	Request for information	Point of information	Yes	No	No	No	None

**Part 3: Motions That Bring a Question Again Before the Board**

No order of precedence. Introduce only when nothing else is pending.

<b>§</b>	<b>PURPOSE:</b>	<b>YOU SAY:</b>	<b>INTERRUPT?</b>	<b>2ND?</b>	<b>DEBATE?</b>	<b>AMEND?</b>	<b>VOTE?</b>
§34	Take matter from table	I move to take from the table ...	No	Yes	No	No	Majority

§35	Cancel previous action	I move to rescind ...	No	Yes	Yes	Yes	2/3 or Majority with notice
§37	Reconsider motion	I move to reconsider ...	No	Yes	Varies	No	Majority

## Making a Motion

A main motion is the way an item is placed before the board or commission for consideration and action. A board or commission member, after being recognized by the chair, may say, “I move to approve the minutes from the November 2015 meeting as amended.” The chairperson then asks for a second person to support the motion and, when the motion is seconded, asks if there is any debate on the motion. Any subsidiary motions that may be made, such as a motion to amend, table, or send the statute to a committee, must be voted on before the main motion may be voted on.

### Every motion consists of eight steps (if following Robert’s) that follow in order:

- 1) A board or commission member seeks recognition from the chair.
- 2) The member is recognized by the chair and “has the floor.”
- 3) The member makes a motion.
- 4) The motion is seconded (if appropriate, see chart).
- 5) The chair (or staff, if delegated) restates the motion to the body.
- 6) Board or commission debates the motion.
- 7) Board or commission votes on the motion either by roll call or unanimous consent.
- 8) The chair (or staff) announces the result of the vote.

## Voting

Once debate on a motion is completed, the board or commission has to vote. Every member present has to vote unless the member declares a conflict of interest and the chairperson (or presiding officer) rules that the member has a conflict of interest that prevents him or her from voting. Voting may be given orally or as a show of hands—as long as the individual votes are recorded in the minutes. If the board or commission’s custom does not already dictate it, anyone on the board or commission may request a roll-call vote in which the clerk calls each member’s name and each name and vote are entered into the record. The public has a right to know how each member voted, so the minutes should reflect each person’s vote on each motion.

## Abstaining from Voting

Boards and commissions perform their work through decisionmaking in a public setting. A board cannot take action without voting. Members are appointed with the expectation that they will participate by letting their voice be heard through their vote. It is highly advisable that each board and commission member vote on every issue. A member should only abstain if the chairperson has ruled that he or she has a conflict of interest on the particular matter being voted on. A board or commission member must

explain his or her conflict and receive a ruling on whether a conflict exists. The chairperson's ruling, whichever way it goes, may be overridden by a majority of the board or commission. This is discussed further in another section of this manual.

It is a misconception that the chair can only vote in the case of a tie. From [www.robertsrules.com](http://www.robertsrules.com):

If the chair is a member of the voting body, he or she has exactly the same rights and privileges as all other members have, including the right to make motions, to speak in debate, and to vote on all questions. So, in meetings of a small board (where there are not more than about a dozen board members present), and in meetings of a committee, the presiding officer may exercise these rights and privileges as fully as any other member.

When will the chair's vote affect the result? On a vote that is not by ballot, if a majority vote is required and there is a tie, he or she may vote in the affirmative to cause the motion to prevail. If there is one more in the affirmative than in the negative, the chair can create a tie by voting in the negative to cause the motion to fail. Similarly, if a two-thirds vote is required, he or she may vote either to cause, or to block, attainment of the necessary two thirds.

The Governor's Office of Boards and Commissions requests that boards with members who regularly abstain ensure that the practice is codified in that body's policy and that the policy is—as with other board policies—available to the public via the board's web page.

## **Unanimous Consent**

Unanimous consent occurs when all members vote in favor of a motion. Sometimes unanimous consent simply occurs after a vote, when all members vote the same way. Other times, unanimous consent may be requested as part of a motion. Typically, this request happens when the person making the motion knows the item is not controversial. The person making the motion might say, "Mr. [or Madam] Chair, I move to approve the minutes from the November 2014 meeting and ask unanimous consent." The chair then asks if there is any objection. If there is none, the item is adopted by unanimous consent. Discussion may also be permitted but usually only for clarification. If there is objection, then debate occurs and the matter goes to a vote.

## **Using a Consent Agenda to Improve Meeting Efficiency**

At every board meeting, at least a few items come to the agenda that do not need any discussion or debate either because they are routine procedures or are already bound for unanimous consent. A consent agenda allows the board to approve all these items together without discussion or individual motions. Depending upon the organization, this can free up anywhere from a few minutes to a half hour for more substantial discussion.

### **What belongs on the consent agenda?**

Typical consent agenda items are routine, procedural decisions, and decisions that are likely to be noncontroversial. Examples include:

- Approval of the minutes

- Final approval of proposals or reports that the board has been dealing with for some time and all members are familiar with the implications
- Routine matters such as appointments to committees
- Reports provided for information only
- Correspondence requiring no action

### **How are consent items handled?**

A consent agenda can only work if the reports and other matters for the meeting agenda are known in advance and distributed with agenda package in sufficient time to be read by all members prior to the meeting. A typical procedure is as follows:

1. When preparing the meeting agenda, the chair determines whether an item belongs on the consent agenda.
2. The chair prepares a numbered list of the consent items as part of, or as an attachment to, the meeting agenda.
3. The list and supporting documents are included in the board's agenda package in sufficient time to be read by all members prior to the meeting.
4. At the beginning of the meeting, the chair asks members what items they wish to be removed from the consent agenda and discussed individually.
5. If any member requests that an item be removed from the consent agenda, it must be removed. Members may request that an item be removed for any reason. They may wish, for example, to discuss the item, to query the item, or to register a vote against the item.
6. Once it has been removed, the chair can decide whether to take up the matter immediately or place it on the regular meeting agenda.
7. When there are no more items to be removed, the chair reads out the numbers of the remaining consent items. Then the chair states: "If there is no objection, these items will be adopted." After pausing for any objections, the chair states "As there are no objections, these items are adopted." It is not necessary to ask for a show of hands.
8. When preparing the minutes, include the full text of the resolutions, reports or recommendations that were adopted as part of the consent agenda so the record is clear.

It is important to make sure that all members know what items belong on the agenda and how to move items to and from the consent agenda. For this reason, the chair should ensure that new members become familiar with this process when they join the board.

## **Quorum**

A quorum is the minimum number of board or commission members required to conduct business. A majority of the total membership of the board or commission constitutes a quorum.

A member who is disqualified from voting is considered present for purposes of a quorum. If a quorum is not present, any number of the members present may recess or adjourn the meeting to a later date. Formal actions of the board or commission must be considered by a majority of the full membership. A quorum requirement does not mean that a majority has to adopt a measure, only that a majority has to consider a measure.

AS 44.62.450(c) provides that “an agency member may not withdraw voluntarily or be disqualified if the disqualification would prevent the existence of a quorum qualified to act in the particular case.” Also known as the rule of necessity, it means that the board cannot recuse itself out of a quorum. When a vote is before the board and recusal of a reviewing board member would remove the quorum, the member should remain in the discussion and vote, if that is what is required to maintain a quorum. This situation should be recorded in case the vote is challenged.

It is important for all members to be present at every meeting. As in the example above, sensitive, complex, or difficult matters should come before the board or commission as often as possible when all members are present. If absences must occur, then proper notice must be given in order to determine whether to reschedule the meeting. The cost of travel and consideration of public notice have a great impact on the program’s licensees, so absences must be taken seriously. Boards and commissions may adopt regulations regarding removal of members for excessive absences. Board members who find they need to resign may do so in writing to the Office of Boards and Commissions with a copy to the Division.

## **Role of the Chair in Board and Commission Meetings**

Board and commission members, staff, and the public look to the chairperson to provide leadership during the meeting. The chair should understand the issues before the board or commission, know and understand the philosophies of the fellow members of the board or commission, and be able to bring the board or commission to decisions on difficult or complicated issues. The chairperson should be able to do all of the following effectively:

- **Run a Meeting:** The chair is responsible for running an orderly meeting and conducting public business in a fair and timely manner. Everyone looks to the chairperson for leadership. The chair grants or denies members, staff, and the public the floor to speak.
- **Maintain Order:** The chairperson should not allow cheering, hissing, booing, or other demonstrations from the audience. Nor should he or she permit board or commission members to become rude, confrontational, or argumentative with one another or the audience. Members should not cut off one another or staff when they are speaking, nor monopolize the floor when granted by the chair.

- **Keep Business Moving:** It is the chairperson's job to keep business moving by bringing matters to a vote.
- **Manage Public Testimony:** By using a sign-up list, the chairperson will know who wants to speak on items before the board or commission. If a large number of people wish to speak, the chairperson should set a time limit per speaker (usually three minutes). Rambling, irrelevant testimony should be discouraged, as should commentary from the public during board deliberation of an issue.
- **Maintain Relevance:** Discussion between board or commission members and members of the public who are testifying should be limited to fact gathering that helps the board or commission make informed decisions.
- **Use Parliamentary Procedure:** The chairperson needs to know enough parliamentary procedure to run the meeting. Someone else may serve as the parliamentarian, but the chairperson must have a working knowledge of parliamentary procedure.
- **Tie Things Together:** The chairperson should have the ability to take into account public testimony, board or commission deliberations, and an understanding of the issues at hand when guiding the board or commission toward a decision.
- **Implement Approved Actions:** The chairperson should have the ability to create an action plan and follow through with staff or other entities on the actions decided at the meeting.
- **Uphold the Law:** The chairperson should guide the board to prevent decisions that are contrary to law or legal advice. The chairperson should minimize the board's exposure to legal risk and seek its attorney's advice through staff as the need becomes apparent, checking the agenda to schedule the attorney's presence or tabling votes until the next meeting if needed. The chairperson may recess the meeting for a few minutes to confer with the board executive or division management regarding securing an attorney during a board meeting.

## VI. Effective Regulations

This section is intended to provide you with a general overview of the regulations process. It is not legal guidance; the applicable statutes control. Any legal questions should be addressed to the Department of Law.

Regulations must be based on statutory authority. Within the division, regulations typically clarify the requirements of the occupational licensing program as set forth by the Alaska State Legislature in statute. As mentioned in the beginning of this manual, statutes are state laws that authorize and set out the scope of a board or commission's governance authority of a licensing program. Statutes may also authorize and direct the division's management role in all licensing programs overseen by the division. Where statutes assign to a board the responsibility of adopting regulations, that board must follow the process set forth in the Administrative Procedure Act (APA) (AS 44.62.010–44.62.305) unless the legislature has by statute directed a board or commission to follow another process. The APA's requirements are explained in detail in the *Drafting Manual for Administrative Regulations*. The Drafting Manual is at [http://law.alaska.gov/doclibrary/drafting\\_manual.html](http://law.alaska.gov/doclibrary/drafting_manual.html).

State agencies subject to the APA must follow the statutory procedures in order to adopt, amend, or repeal a regulation. A significant step in the APA requires that the public receive notice of a proposed regulation and an opportunity to comment on a proposed regulatory action. This ensures that the public and interested parties—predominantly licensees and prospective licensees—are aware of the proposed changes affecting their programs and provides adequate opportunity to comment on them. By ensuring public notice and ability to comment, the APA's procedures support the public's vital role in the regulations process.

### Overview of the Regulations Process

When a board identifies the need to propose a regulation to implement, interpret or make specific a state statute, the board, it should begin organizing its collective thoughts on the matter, at a publicly noticed meeting. If the subject matter is highly technical or complex, it may be helpful for the board to form a working group from among its members. That group may engage in fact-finding outside of public meetings, for the purpose of sharing its findings with the entire board at an appropriate meeting.

The maker of the motion to propose amendment, adoption, or repeal of regulations should provide the board with a written draft of the proposal. It is the board's responsibility to be certain that the record reflects what the board intended. This means that the board should articulate what it is hoping to accomplish with the project, and it should carefully review written drafts, to ensure that the language conveys what the board intended. It is the board's job to provide at least the initial draft of language for a proposed regulation or amendment to regulation. Some boards find it helpful to request assistance from their staff, executive director, and the department's regulations specialist.

Under the APA, the public must have a minimum of 30 days to comment (either orally or in writing, or both) on proposed regulations. During the comment period, the staff must publish on the website answers to questions from the public on the proposed regulations received in writing unless the questions are received within 10 days before the close of the comment period; in that case the staff may, but is not required to, answer the questions. The board will meet either telephonically or in person after this period closes to review written comments and amend or adopt the proposal. A board may also notice a meeting at which oral testimony may be heard on the proposal.

If the board chooses to substantially amend its proposal, it must go out for another 30-day public comment period. Whether the amendments to the proposed regulations would require a new notice and comment period should be reviewed by the Department of Law. If the changes are minor and do not alter the meaning of the regulations, it may then be forwarded for review by the Department of Law.

The Department of Law will assign an agency attorney who is familiar with licensing issues to review the proposal for content. Once the agency attorney review is complete, either the regulations attorney or the assistant regulations attorney will review for legality, consistency with other provisions of law and conformance to the state's drafting style. If there are questions, the regulations attorneys will contact the agency attorney. Once the regulations have been approved by the regulations attorney in the Department of Law, the regulations are transmitted to the Office of the Lieutenant Governor for filing. Once signed by the Lieutenant Governor or the Lieutenant Governor's designee, his/her designee, the regulation will become effective in 30 days *unless* another effective date is specified in the adoption order or certification of adoption.

A typical board or commission regulations process can take 90-180 days, depending on the workload of the division Regulations Specialist, the complexity of the project, and scheduling a review with the Department of Law.

Due to Alaska's small population, Board members may be easily accessible to their licensees and public stakeholders. Board members must remember that comments on proposed regulations must be received as requested in the notice of proposed regulations. Comments may only be received on proposed regulations by

Written comments that are received by the division Regulations Specialist during the public comment period as set out in the notice of proposed regulations Oral comments that are received by the board during the public comment period noticed on the state Online Public Notice System

Board members may not receive comments directly via email, text, in the grocery store, at the lodge, in the hair salon, or on the golf course. When well-meaning members of the public offers input, thank them for their interest but remind them that you are only one of several board members and the board can only act as one; therefore, they should submit their comment as directed in the public notice.

The Division Director may also draft and notice regulations through the same process, though there may not be a public meeting to deliberate or adopt final regulations. The same public notice provisions apply, and the Director must consider all written comments received. When setting fees for licensing programs, the Director will seek board input on proposed fees as required in AS 08.01.065. The Director may adopt regulations that pertain to all licensing programs in general (known as Centralized Regulations) and may adopt regulations that direct the licensing programs in AS 08.01 that do not have a governing board or commission.

## **Where to Seek Help**

The division Regulations Specialist II is trained to assist in drafting regulations and moving them through the adoption process. The Division Director, Division Operations Manager, or Executive Administrator should also be able to walk the board through the process of adopting regulations. They may also request attorney advice independently or on behalf of the board. The flow charts that follow should clarify the processes of board and division regulation adoption, though the process is ultimately administered by the Department of Law.

## **Is It A Regulation Or Policy?**

### **REGULATIONS**

- Anything that affects the public or is used by the agency in dealing with the public;
- Have the force and effect of law;
- Licensees must follow them;
- Prospective licensees must comply with them in order to be licensed;
- Can only be created by following the process outlined in the Administrative Procedure Act – AS 44.62;
- This process can be time-consuming, taking months or years. It involves at a minimum:
  - 30-day public notice,
  - Review by Department of Law, and,
  - Can't be changed, except by formal process.

### **POLICIES, ADVISORIES, AND GUIDELINES**

- Anything a regulatory boards says that:
  - Sets out the regulatory board's expectations in general, nonbinding terms,
  - Does not have the force and effect of law.
- Disciplinary Matrix is a *guideline* if it is used as a reference point, along with:

- Careful consideration of facts and circumstances, as well as,
- Underlying goals of the statute and purpose for the discipline.
- Disciplinary Matrix is a *regulation* if it is used:
  - As a formula: “If licensee did X, then disciplinary response = Y.”
  - To achieve or demonstrate consistency by showing how the board will respond in every case where certain facts are present: “All licensees who do X get Y.”

#### **GENERAL PRINCIPLES APPLICABLE TO BOTH REGULATIONS AND POLICIES**

- Clarity
  - If it affects licensees or the public, it should be available and understandable. *Ex.:* if the board keeps a list of activities that it will approve as uncompensated professional activities under 12 AAC 44 620((a)(2)(E), the list should be accessible on the board’s website.
- Consistency
  - With other communications about similar facts;
  - With the governing statute’s purpose.
  - Proportionality
    - License denials and disciplinary actions including suspension, revocations, and fines should be consistent with the statute’s goals.

## Steps in the Board Regulation Adoption Process

<i>Day 1</i>	<b>1</b>	At an open meeting, the board votes on language to change regulations. This motion is forwarded to the Division Regulations Specialist for drafting.	<i>Day 65</i>	<b>7</b>	Division Regulations Specialist compiles answers to questions and posts FAQ on the program web page.	<i>Once Regulations Are Effective</i>  <b>14a</b> Agency posts summary on Alaska Online Public Notice System  <b>14b</b> Lt. Governor's office sends regulation to ARRC  <b>14c</b> Regulation published in Alaska Administrative Code  <b>14d</b> Forms & FAQ updated on program web page
<i>Day 30</i>	<b>2</b>	Once drafting is complete, the board holds another public meeting to edit or approve draft for public notice.	<i>Day 75</i>	<b>8</b>	Regulations Specialist compiles public comments for distribution to board.	
	<b>3</b>	Approved language is reviewed by Division attorney.	<i>Day 90</i>	<b>9</b>	Board holds an open meeting to review public comments, make minor changes, and adopt regulations. Substantive changes may require additional drafting and public notice (Step 2).	
	<b>4</b>	Department of Law opens file.		<b>10</b>	Division submits final regulation package to Department of Law for review and approval. Law submits to the Governor's office and Legislative Administrative Regulations Review Committee (ARRC) for review.	
<i>Day 45</i>	<b>5</b>	Division publishes and distributes public notice, additional regulation notice information, and proposed regulation to all licensees and interested parties. Public notice posted in newspaper and on Alaska Online Public Notice System		<b>11</b>	Agency attorney reviews regulation	
	<b>6</b>	Public comment period and/or hearing (if applicable).	<i>Day 110</i>	<b>12</b>	Regulations attorney reviews and either approves or disapproves regulation	
			<i>Day 150</i>	<b>13</b>	Unless returned by the Governor, Lt. Governor's office files approved regulation; regulations become effective in 30 days	

## Steps in the Fee Regulation Adoption Process

<i>Day 1</i>	<b>1</b>	Division performs fee analysis		
<i>Day 30</i>	<b>2</b>	Division discusses proposed fees with board at a public meeting. Board provides feedback in form of a motion. If no meeting or motion, board members are invited to communicate directly with Division.	<i>Day 90</i>	<b>7</b>
				Public comment period and/or hearing (if any). FAQ posted on program web page.
<i>Day 45</i>	<b>3</b>	Division develops a draft regulation and public notice information.		<b>8</b>
			<i>Day 100</i>	Agency amends and/or adopts regulation
	<b>4</b>	Consultation with Division attorney, if needed.		<b>9</b>
				Division submits final regulation package to Department of Law for review and approval. Law submits to the Governor's office and Legislative Administrative Regulations Review Committee (ARRC) for Review.
	<b>5</b>	Department of Law opens file		<b>10</b>
				Agency attorney reviews regulation
<i>Day 60</i>	<b>6</b>	Division publishes and distributes public notice, additional regulation notice information, and proposed regulation to all licensees and interested parties; posts public notice on Alaska Online Public Notice System	<i>Day 120</i>	<b>11</b>
				Regulations attorney reviews and either approves or disapproves regulation
			<i>Day 150</i>	<b>12</b>
				Unless returned by the Governor, Lt. Governor's office files approved regulation; regulation is effective in 30 days
				<b>13a</b>
				Agency posts summary on Alaska Online Public Notice System
				<b>13b</b>
				Lt. Governor's office sends regulation to ARRC
				<b>13c</b>
				Regulation published in Alaska Administrative Code
				<b>13d</b>
				Forms updated on program web page

*Once Regulations Are Effective*

## VII. The Investigative Process

One function of the board or commission is to monitor and enforce compliance with the statutes and regulations governing a licensed profession. The process of denying or disciplining a license involves many areas of law, including the U.S. and state constitutions, the Administrative Procedures Act, case law, and the particular statutes and regulations of a profession.

### Complaints

A complaint may be reported directly to the Division. Sometimes a member of the public, or a licensee, may bring a complaint directly to a board member. When this happens, the board member should direct the complainant to contact the Division and forward a summary of the contact to the Division. All written complaints, or reports, alleging a violation of statute or regulations should provide a specific and detailed summary of the complaint. If available, the complaint should include any documentation, and list any potential witnesses. Anonymous complaints are not accepted.

A board or commission has “jurisdiction” over a complaint if the subject of the complaint falls within the scope of the board or commission’s regulatory authority. Upon receipt, the complaint and evidence are reviewed by investigators to ensure jurisdiction over the person named in the complaint and the alleged violation by that person. The Division’s investigators evaluate each complaint; gather evidence, and interview witnesses. This review takes into account informal guidelines established by the board or commission and the statutes and regulations of that specific practice area. If the complaint does not appear to allege a violation that is within the board's jurisdiction, the division may close the complaint. If the complaint does center on a violation that is within the board's jurisdiction, an initial letter may be sent to the licensee against whom the complaint is filed. This letter provides notice of the complaint and allegations and may request records, an interview, or other response by the licensee.

Complaints or reports that present an immediate threat to public safety are given priority. The steps taken in the investigation are determined on a case by case basis by the specifics of the allegations. This portion of the investigative process may be quite lengthy and may require additional information or evidence from the complainant, licensee, businesses, other governmental agencies or state boards, witnesses, or related parties.

### Inquiry and Investigation

A division investigator conducts an inquiry into the complaint; generally, the steps for an inquiry include the following:

- obtaining records, documentation and evidence related to the complaint;
- locating and interviewing the complainant, the client, the subject and any witnesses;
- drafting and serving subpoenas for necessary information.

After investigators have gathered pertinent information or evidence to prove or disprove an alleged violation, the matter is reviewed with the Chief Investigator and, when appropriate, the board or commission's liaison, a panel of two board members or an expert in the field who is carefully screened for objectivity by the Chief Investigator and who agrees to maintain confidentiality. This review may result in a recommendation that more information be obtained, that the case be closed, or that the case continues forward. The board's liaison or review panel does not determine a final outcome; it simply reviews the complaint to determine whether the allegations, supported by un-contested or sufficient evidence, would warrant proceeding with disciplinary action even if contested by the licensee.

If the complaint is supported by evidence, it proceeds to a case, or investigation. Once an investigation is opened, the licensee is notified they are under official investigation by the division on behalf of the board or commission. This distinguishes between allegations brought against a licensee and a matter where allegations were brought and it was determined the licensee committed a violation of statutes or regulations governing their license. This is an important step because complaints can be unfounded or determined to be unsupported by evidence, and they are closed before becoming an official investigation, protecting the subject of the complaint from unwarranted repercussions in the community, with the board, in their area of practice. If a violation is supported by evidence and the matter proceeds to an investigation, the next step is determining an appropriate result.

## **Disposition of Cases**

The majority of cases are resolved through a consent agreement, an amicable settlement of a case between the two parties short of a public hearing. This type of settlement spells out agreed-upon obligations and responsibilities between the board and the licensee.

The consent agreement is written by the division. To be effective, a consent agreement must be adopted by the board. Consent agreements may involve:

- reprimand
- revocation
- assessment of a civil penalty (fine)
- suspension (for a specific period of time)
- probation
- condition to take additional continuing education over and above the annual requirement
- restrictions on practice
- surrender

If an agreement cannot be reached, or if the agreement is rejected by the board, the case is referred to division counsel—an Assistant Attorney General (AAG)—for review and possible litigation. The next step is to file an accusation charging the violations. If an accusation is filed, the licensee is entitled to a hearing. All involved parties may be requested to appear and testify at the hearing, conducted by the Office of Administrative Hearings (OAH) through an Administrative Law Judge (ALJ). After the hearing,

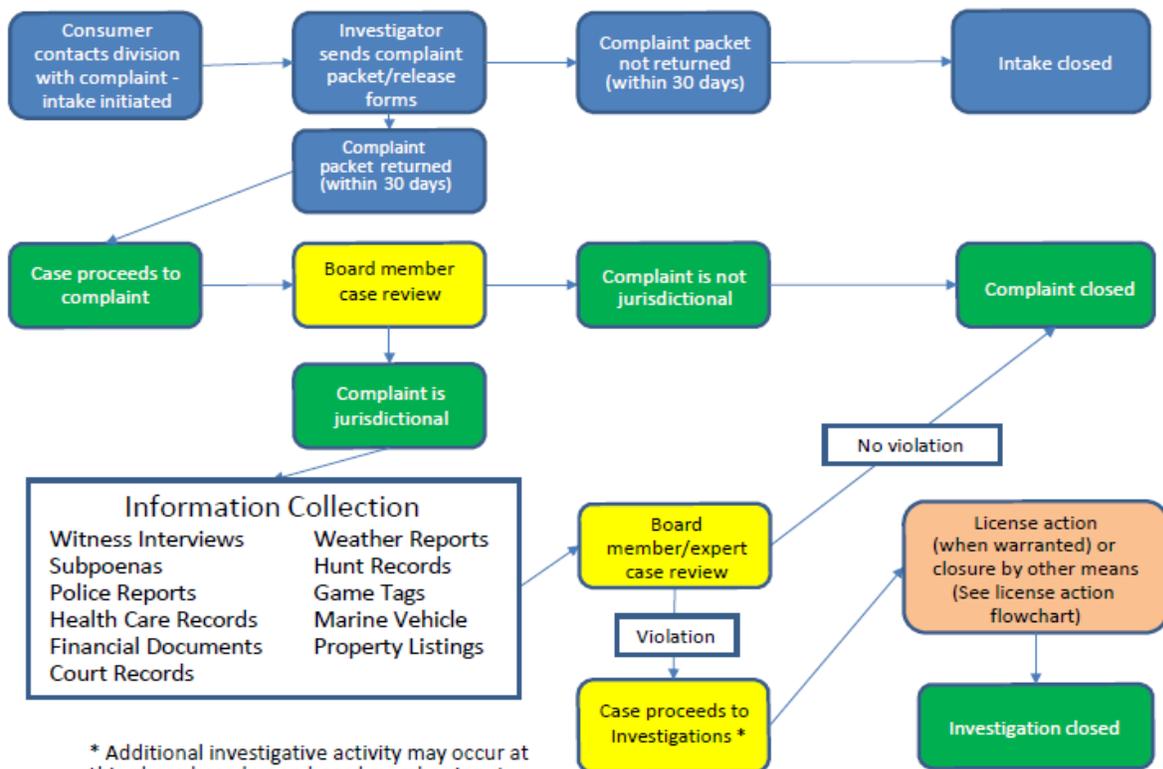
the ALJ issues a proposed decision.. The division’s counsel and the licensee (or the attorney for the licensee) may propose a different outcome in a document called a Proposal For Action. Once it has considered the proposed decision from the ALJ and the proposals for action from the litigants, the board may adopt, amend, or reject the proposed decision from the ALJ and issue its own decision. The board should state its reasons clearly. If the board changes the sanctions proposed by the ALJ, it must explain why. The board may request counsel of its own. Any final decision may be appealed to the superior court.

## Confidentiality

Investigations are required by statute to be kept confidential. The Public Records Act provides some exceptions which allow certain documents collected during discovery to be produced as public records. This often prevents the complainant, licensee, and the board from obtaining progress reports or information that may disclose the current status of an open investigation. Even the fact that an investigation is underway is protected. Cases often involve other agencies, businesses, and practices; disclosing information during an ongoing case can compromise the investigation, create conflicts for reviewing board members, or result in unnecessary hardship to the licensee.

Once disciplinary action is final, the final decision becomes public automatically. Certain licensing programs may require that this discipline is reported to a national database for that profession.

## Investigative Process



# Board/Commission License Action Options

Circumstance	Response/Options
<p><b>Cease and Desist Order</b></p> <p>On notice of possible violation, the Commissioner may, if in public's interest, issue Cease and Desist Order. AS 08.01.087(b). The board is polled for objection.</p>	<p><b>Board can object.</b></p> <p>Must be majority, within 10 days.</p>
<p><b>Summary Suspension</b></p> <p>Investigation shows "clear and immediate threat to public health and safety", Division presents petition for summary suspension.</p>	<p><b>Board issues summary suspension; hearing to follow within 7 days.</b></p> <p>AS 08.01.075(c)</p> <p>Post-hearing there is a proposed decision (from a judge), requires adoption by board.</p>
<p><b>License Denial</b></p>	<p><b>Board issues or denies license based on Alaska statutes specific to the profession.</b></p> <p>Possible hearing if license is denied, proposed decision, and final adoption by board.</p>
<p><b>Consent Agreement</b></p> <p>Investigation Unit presents a Consent Agreement, either before or after an Accusation is filed.</p>	<p><b>Board may approve or reject.</b></p> <p>If board rejects Consent Agreement, further negotiations may follow or a hearing may be held.</p>
<p><b>Accusation</b></p> <p>Investigation informed by the professional opinion of a Reviewing Board Member leads to filing an Accusation; if requested, hearing follows, decision goes to board with proposals for action from both parties, if any.</p>	<p><b>Board determines whether to accept, reject, or modify proposed decision and determine which sanctions to impose.</b></p> <p>AS 08.01.075</p>
<p><b>Violation of Consent Agreement: Automatic Suspension</b></p> <p>Board is informed of violation warranting immediate suspension under terms of Consent Agreement.</p>	<p>Division initiates suspension (per delegated authority) within Consent Agreement. Hearing possible, after which the board considers proposed ALJ decision, and adopts, rejects or amends.</p>

## VIII. Legislative Guidance

As a member of a professional licensing board or commission, you have considerable latitude—as well as responsibility—to recommend changes to your licensing program’s enabling statutes. Members of the public, consumers, other professionals, and your industry’s association confidently approach members of the legislature to affect the change they wish to see in your practice. Whether taking the initiative or reacting to an active bill, board members need to be prepared to champion their cause!

### **The Open Meetings Act Always Applies**

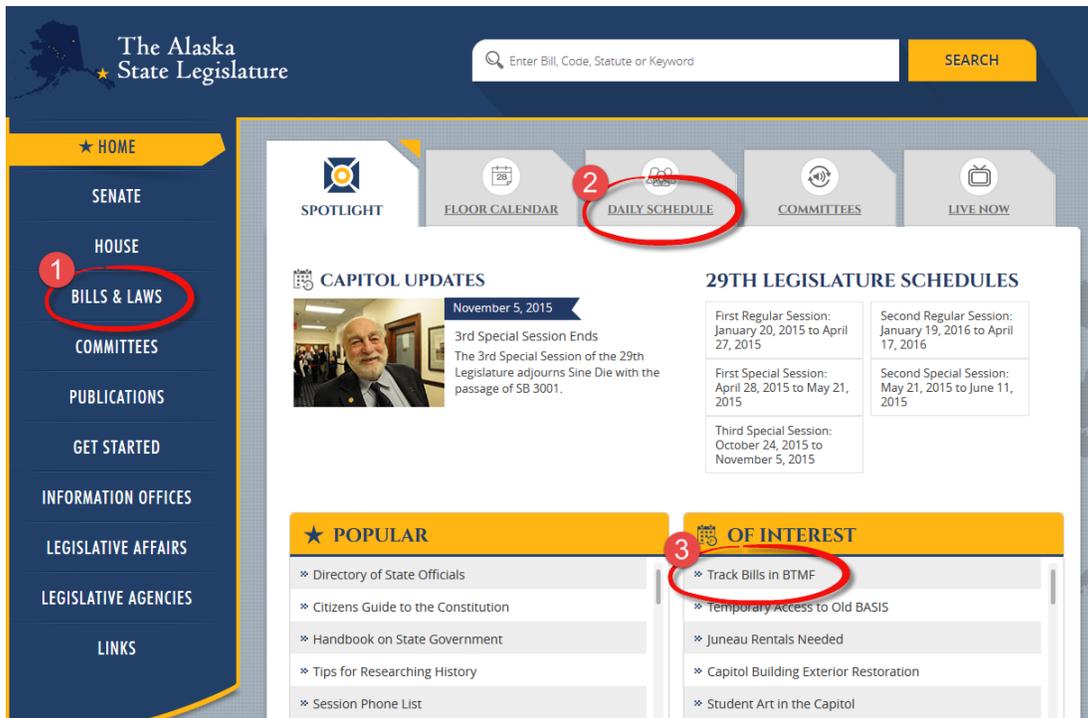
AS 44.62.310(h) provides detailed definitions of "governmental body," "meeting," and "public entity" that, when combined, define what constitutes a public meeting. A meeting of a decision or policy-making body occurs when more than three members or a majority of the members, whichever is less, engage collectively in discussion of a subject that the body is authorized to act and set policy on and is therefore subject to the Open Meetings Act. Under this definition, it doesn't matter where the meeting occurs, if it was prearranged, or who arranged it and could include unplanned casual or social contact in any location, including the office of a legislator.

Members of boards and commissions should take care not to conduct business over email, lest the public be removed from the process. Board members should not email each other about board business; if a special meeting is needed, a member can alert staff and a meeting can be arranged and publicly noticed. Remember, all board member email correspondence is discoverable, and your board business is also the public’s business.

### **Be Informed: If Not You, Then Who?**

- Ahead of the legislative season, select on the record a member who will serve as the point person for legislative activity. In the absence of this person, the Division will look to the Chair of the board for input and interpretation. If the board is championing a piece of legislation, a history of the meeting minutes reflecting the issues and board’s perspective should be compiled by this leader and made available to board members and Division management, who will be at every hearing. This research and history will be especially helpful to new board members who are appointed.
- When a bill is filed, Division management will alert program staff. The examiner or executive should ensure that their board members are made aware of legislation that is filed that will affect them. With sometimes close to 50 bills to track, analyze, and testify on, Division management may not be able to keep the board apprised of every late-breaking detail. Division management will periodically send updates to staff regarding legislation or request discussion with the board.
- Know where to find your bill using the Alaska State Legislature’s web page: [akleg.gov](http://akleg.gov). (See graphic below.)
  1. The **BILLS & LAWS** section on the sidebar links to a searchable list of documents. If you know the bill number, you can search using the bar at the top of the screen.
  2. The **DAILY SCHEDULE** shows all committee activity for the day you choose. It is subject to change, but it is a good starting place to see what is happening where.

3. The **BTMF**—or Bill Tracking Management Facility is your best friend when trying to keep up with a bill. Take the time to set up your profile and register the bill you want to track, then you will receive email updates when its status changes or is scheduled for a hearing.



## Guidelines for Board Member Testimony

- Encourage the board to become engaged: Track the bill online, participate in hearings, write a letter, and discuss the legislation in a public meeting. It is a best practice for organizations to speak with “one voice.” Any testimony or correspondence by a board member on behalf of a board must represent deliberation and action taken on the record in a public meeting.
- Staff may not express opinions on behalf of the board or discuss legislation with elected officials without prior arrangements with Division management and clearance from the Governor’s Legislative Office. If the board has published a resolution or letter regarding the legislation as a result of a vote at a public meeting, staff may provide that document to legislators per department procedures.
- Individual board members may offer their personal or professional opinions on the legislation by clarifying that while they are appointed to a board, they do not speak on behalf of the board.
- Boards must provide a member to testify at every hearing when being considered for reauthorization per AS 08.03. Without member interest and advocacy for the board or commission’s continuation, it is possible that the sponsor could withdraw the bill and the board could sunset.
- Nervous? Don’t worry! Please email or call the Division Director or Deputy/Operations Manager to discuss tips or even run through some potential questions.

## Legislative Testimony Call-In Do's and Don'ts

**Do** remember this “off-net” system is designed to serve those who do not have any other way to testify or have a legitimate reason for using the system.

**Do** remember that off-net calls to the committee must be authorized prior to the meeting by the chairman. A minimum of 24 hours in advance is appreciated. Please work through the Director, Division Operations Manager, or the committee chairman's office for authorization.

**Do** use the streaming video available at <http://akl.tv/> to watch for your bill to come up. The chairman will announce the order of bills at the beginning of the meeting. Callers may be disconnected from the meeting if they call in prior to their bill being taken up. If video streaming is not an option for you, please contact the committee aide to make arrangements to call in early. Once the bill is before the committee, call 844-586-9085, give your name, bill number and ask to be connected to the \_\_\_\_\_ Committee.

**Do Not** call in before the bill you are testifying on comes before the committee.

**Do** remember the off net call-in lines are for testifiers only. If you wish to listen in, please use the live streaming at <http://akl.tv/>.

**Do** use the “mute” function of your phone until called on to testify. If this function is not available on your phone, ask the Legislative Information Office (LIO) moderator to mute your call.

**Do Not** use the “hold” function.

**Do** try to be in a quiet room without distractions or interruptions. Car noise, open windows, and barking dogs can all be heard by the legislative committee and guests at the hearing. These avoidable disturbances will detract from the credibility of your message. Please treat the important responsibility of testifying with utmost respect and professionalism.

**Do** remember that everything transmitted over your phone will be broadcast directly into the meeting room and recorded to become part of the permanent record.

**Do** remember to be in a location with good reception if using a cell phone,. Disruptions coming into the meeting via the phone lines will result in all callers being disconnected from the system. This will require testifiers to call back to be reconnected. Turn off your computer or TV speakers if listening online so you do not create an audio “loop.”

**Do** try to adhere to time limits imposed by the chairman.

**Remember:** There are a limited number of phone lines coming into the Capitol. These lines are also used by LIO's around the state. When all the phone lines are used up, an LIO may not be able to call in with a room full of people.

# IX. Overview of State of Alaska Travel Policy and Division Procedures

The purpose of travel policy is to provide parameters for approval of actual and necessary expenses incurred by travelers while traveling on state business, to ensure wise management of state resources, and to minimize risks to the state and its travelers. The travel policy of the State of Alaska is adopted by the Commissioner of the Department of Administration in accordance with [AS 39.20.160](#).

State agencies and travelers are required to comply with these policies whenever traveling on state business and are prohibited from adopting their own policies that differ from statewide policies without the approval of the Commissioner of Administration.

The purpose of this guidance from the division of Corporations, Business and Professional Licensing (the division) is to clarify the process of funding, approving, and booking volunteer board member travel on behalf of the State of Alaska. While the Department of Administration sets the state's travel policy, it is the division's responsibility to manage costs and provide approval for state business travel for board members. Travel administration is comprised of a few major stages:

**Stage 1: Funding authority and availability:** The *authority* to spend must be authorized by the legislature in the division's annual budget. *Availability* of funds to cover expenses for travel on behalf of any program is dependent on that program's bottom line. If the program does not have sufficient funds to meet its obligations through the next biennium, board members are advised to defer travel requests until the deficit position improves.

**Stage 2: Approval:** When travel is requested, it goes through an approval process to ensure the request meets state policy and to create documentation for planning and risk management purposes. It also clarifies for the traveler the types of approved expenses so there is less opportunity for misunderstanding at the time of reimbursement. The approval process also establishes the minimum business itinerary or window of time the traveler is on state business to identify the business portion of travel. Board members may only enter travel status to represent the state after obtaining prior approval for the estimated costs through this standard process.

Information provided in order to approve travel includes the event description and agenda, dates, estimated costs for transportation, hotel, parking, registration fees, and other allowable expenses. Also requested is the board's rank preference for this travel and potential for third-party reimbursement, as well as whether personal deviation from the minimum business itinerary for the traveler's convenience will occur.

This stage requires the division to work with board members to set forth meeting dates, locations, and individual traveler preferences—such as driving instead of flying or personal deviation from the itinerary by staying an extra day.

**Stage 3: Reconciliation:** Once travel is completed, receipts are collected, and actual costs are

reconciled. State policy requires receipts to be submitted within five days of travel. Any significant overages in approved cost from the original estimate will require *reapproval*—potentially delaying reimbursement. Additional review is also required when the traveler deviates for personal convenience. Travelers are required to approve any estimated reimbursement; please respond to the email requesting approval as soon as it is received so your travel process can be reconciled and completed.

**Stage 4: Reporting:** The governor’s office is tracking cost savings incurred on every trip. A form called the Travel Cost Savings Report is due within seven business days of completing travel. Submit to your program staff no later than seven business days after out-of-state travel has concluded. Licensing staff will submit the report on behalf of the board for regular business meetings.

**Stage 5: Reimbursement:** Final reimbursement of allowable expenses is remitted electronically to the traveler’s bank account if you have direct deposit set up with the state; otherwise it is sent by check and may take several weeks to process. Check your bank statement to confirm receipt of funds that have been direct-deposited.

The approval request and final travel authorization (TA) form are prepared by planners at the the division travel desk. The final TA and attached receipts are audited and processed by the Division of Administrative Services. This is the division that provides centralized accounting, human resources, information technology, budget, procurement, and travel services and oversight for all agencies within the Department of Commerce, Community, and Economic Development.

The state travel policy (AAM 60) is available online through the Department of Administration, Division of Finance or through your board staff. Additional information on board-specific procedures is included to help make the process as smooth as possible. At any time, should you have questions or need to book travel, please contact the division Travel Desk.

#### CONTACT INFORMATION

DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING  
**TRAVEL DESK**

P.O. Box 110806, Juneau, Alaska 99811-0806

Phone: 907.269.8160 - Fax: 907.465.2974

[08occlctravel@alaska.gov](mailto:08occlctravel@alaska.gov)

(For faster response, email instead of call.)

## Board Member Travel Procedures

Board members must now utilize division staff to book their travel through the state’s travel contractor’s online system, E-Travel. This will allow board members to travel without worrying about booking their own itineraries in accordance with state policy, personally fronting costs associated with airfare on their personal credit cards, or wondering whether their costs will be reimbursed. Most itineraries will also receive discounted rates because of state-negotiated contracts with Alaska Airlines and other hotel and car rental partners.

## Steps in Planning Your Official Travel Itinerary

1. To initiate this process, complete the Travel Approval Request Form (attached) and email to the Travel Desk ([08occlctravel@alaska.gov](mailto:08occlctravel@alaska.gov)).
2. Your travel planner will discuss any questions or concerns with you, then finalize the form according to the information you have provided in accordance with state policies, and the travel approval will be emailed to you once it has final approval. There is no opportunity for personal deviation using this booking method. If you wish to deviate from the minimum business itinerary, please discuss with staff at the Travel Desk.
3. The itinerary, including airline, hotel, and rental car confirmation numbers, will be emailed to you when booked. Staff will also provide the hotel with instruction to bill the division's credit card; however, since hotels must ensure they bill the proper party, the traveler must ensure that they were not charged for the room or taxes. Travelers are required to get a copy of the hotel receipt, even if they do not pay for the stay. Travelers may still be requested to provide a credit card for any room incidentals, such as movies, room service, telephone calls, etc., which are not covered by the state.
4. Turn in all receipts to the division within five days of trip completion to begin the reimbursement process. Any expenses not covered up front will be processed directly to the traveler's bank account once the traveler has completed an EDI form, which is included in this manual.
5. Once the TA is completed, an estimated reimbursement e-mail will be sent to the traveler asking them to approve the expenses. Travelers must respond in order for the approval to be reconciled and the traveler reimbursed.

## Booking Travel Through a Third Party

When associations are able to directly arrange travel for the division board members or staff, there are a few simple steps required to accept their offer:

1. To initiate this process, complete the Travel Approval Request Form (attached) and email to the travel desk ([08occlctravel@alaska.gov](mailto:08occlctravel@alaska.gov)). All expenses and personal deviation from the minimum business itinerary must be estimated on the approval request. Clearly identify all expenses being booked by the association.
2. Your travel planner will discuss any questions or concerns with you, then finalize the form according to the information you have provided in accordance with state policies, and the travel approval will be emailed to you once the plan receives final approval.
3. Turn in all receipts to the division within five days of trip completion to begin the reimbursement process. Any expenses not covered up front will be processed directly to the traveler's bank account. Receipts are needed to track the amount of travel that is being covered by a third party for audit and ethics purposes.

## Reimbursement of Qualifying Expenses by a Third Party

Occasionally, an association will offer to reimburse the traveler for expenses incurred while on state business. For example, the profession's national organization may pay a \$1000 stipend to cover the cost of travel to the conference. Or, the association will pay all the airfare and hotel expenses for new board members.

This offer may be accepted under a few conditions:

1. Program staff must follow up with the association once the travel has been reconciled to ensure proper reimbursement occurs.
2. Checks may only be written and mailed to the State of Alaska, addressed to the division. Board members may not accept checks for this purpose and must immediately endorse any payment of this kind over to the division travel desk for receipting.
3. In FY17, the legislature has authorized \$50,000 to receipt third-party travel reimbursements back to the boards that incurred the expense. Any reimbursements over the authorized amount will be reported but not available to the boards to expend. This tracking is important as it may demonstrate the boards' ability to collect receipts above the authorized limit and allow the division to advocate for additional budget authority in future years.

---

We have been listening to board member travel concerns and—within our power—have implemented changes to meet your needs. Some of these processes are new to the division and may need some adjustment as they are implemented. Some may be temporary while the state's budget issues are addressed. Your feedback and suggestions are welcomed. Please contact the Division Operations Manager at 907.465.2144 or [license@alaska.gov](mailto:license@alaska.gov).

If you have questions about a specific scheduled trip or reimbursement, please contact the Travel Desk at 907.465.2550 or 907.269.8160 or by email at [08occlctravel@alaska.gov](mailto:08occlctravel@alaska.gov).

## Frequently Asked Questions About Travel

### **Before Traveling:**

**Q: I would like the travel planners to book my travel. What do they need to know before they can book?**

A: We will need the following information:

- Your name as it is written on a government issued form of identification
- Your birth date
- Your mileage plan number, if any
- A preferred hotel in the city to which you are traveling
- A valid e-mail address so the travel itinerary can be sent to you
- An agenda for the meeting or conference—even a draft is helpful

**Q: When you book my travel, what are the rules?**

A: All state travel rules apply, regardless of whether we act as your agent. However, booking your flight, hotel, rental car, or other travel is a commitment through the state travel agency. So, keep in mind that non business-related changes and no-shows may result in additional fees, and you may be asked to reimburse the state for those types of avoidable fees .

Unless it has been pre-approved, we can only book the minimum business itinerary. This means that only the lowest ticket class fare for the most direct route will be purchased. We cannot book travel for spouses or other guests. We also will generally only use approved State of Alaska vendors, as we will get the best state negotiated deals on hotels, airfare, and rental cars. This means lower travel expenses for your licensing program.

*Alaska Statute 39.20.140(b) requires that the state pay no more than “the lowest ticket class fare for the most direct route.” (AAM 60.050)*

**Q: If you book my hotel but the hotel asks to see the credit card, what should I do?**

A: You can have the hotel call one of your travel planners to confirm the credit card number with them. Your travel planners are available Monday-Friday 8:00am- 5:00pm at either 465-1071 or 465-2591. You may be asked to provide a personal card for incidentals, since the state will not pay for amenities such as room service, tips, mini-bar, etc.

**Q: I want to mix my board business trip with pleasure. How can I do this?**

Regardless of who books the travel, we need to know if you are deviating from the business itinerary before your trip is submitted for division approval. Please let the Travel Desk or your board staff know if you are deviating as soon as the meeting is being planned. If your original travel plans change, please let your program staff know as soon as possible so they can request reapproval of the trip. If the cost of personal itinerary is greater than the cost of business itinerary you need to book the trip yourself and work with the Travel Desk for reimbursement of qualifying business expenses.

Unapproved deviation from the minimum business itinerary may result in additional costs that you were not anticipating, and the state cannot cover that portion of your travel expenses. For example, if the meeting ends at 2:00 p.m. and you want to stay in Anchorage until the following afternoon, you will be responsible for the hotel, meals, and difference in flight cost. Any rental cars approved for state business use must be turned in at the time of the first flight after the meeting ends. Keeping the car longer may incur personal expenses, and you may not be covered in case of an accident.

If you are planning your own travel, we still need to know the difference in prices between the business itinerary and the deviation that you are taking before you travel. Please provide your board staff with a flight itinerary for both the business itinerary and the deviation. If we do not receive the business itinerary, the travel planner will obtain a quote for the lowest fare currently available. This may result in a lower reimbursement than you were expecting.

**Q: What are the rules for renting a car when I travel for the state?**

A: When necessary, the rental of a car may be authorized for travelers in travel status according to the minimum business itinerary for the trip. The estimated cost for the rental car must be included in the approval request prior to travel. The cost and intended use of the car must be considered in determining the size and type of car to rent. The State of Alaska supports a mid-size or smaller car rental. Rental of a car larger than mid-size may be allowed when several travelers are traveling together or circumstances require the use

of a larger car. Such situations must also be documented on the completed travel authorization. Planning ahead is recommended.

When a rental car is desired, but not required for state business, it is considered personal deviation. A traveler who submits a receipt for a rental car will receive reimbursement for ground transportation for the minimum business itinerary.

**Q. I don't want to stay at the hotel that is closest to the meeting location. What are my options?**

A. You will be booked at a state-contracted hotel that most closely meets the meeting's minimum business itinerary. There are often several hotels close to the facilities most used for meetings—the Atwood Building in Anchorage and the State Office Building in Juneau.

If you prefer to stay at a hotel outside of walking distance, we will book the hotel mentioned in your written request as long as it has a contract with the state and is under \$300 per night. You will be responsible for any amount over the standard hotel. If it requires one, a rental car or taxi between the hotel and meeting location will be considered personal deviation, and you will be responsible for any amount over the customary ground transportation.

**Q. I want to stay an extra day at the meeting location. Can you still book my flight?**

A. Yes, and the difference in cost will be deducted from your reimbursement. If the difference is over \$100, then you may opt to purchase your own ticket and receive reimbursement for the flight listed in the minimum business itinerary.

**After Traveling:**

**Q: What documentation do I need to turn in to be reimbursed?**

A: Board staff can provide you with a travel reimbursement envelope to help keep your receipts together. Because you are paid a state Meals and Incidental Expenses (M&IE) rate, you do not need to submit meal receipts unless a third-party reimbursement agreement requires it.

Within FIVE days of completion of travel, please submit:

- Airport receipt and boarding passes
- Hotel receipt(s)
- Taxi receipt(s)
- Rental car receipt(s)
- Parking receipt(s)
- If you went to a conference, we will need a final meeting agenda and a registration fee receipt (if you paid for it).

**Q: What if I do not have a receipt for my taxi ride?**

A: You will be reimbursed up to \$75 for anything without a receipt. This means if you took a taxi to the airport and back but forgot to get a receipt, you will only get \$75 total for the entire trip. Most taxis cost around \$20-\$30 one way, so it is always a good idea to remember to get the receipt. Please note that taxis for food and entertainment are not reimbursable—only transportation to/from the meeting location or hotel and airport.

**Q: The state booked my travel. Do I still need to get a hotel receipt?**

A: Yes, we still need to make sure there were only charges that the state allows to be made on the state credit card. If a third party is paying for the hotel, we will still need a receipt to track those expenses for audit and ethics purposes. Please, remember that if you had the state book your travel, there should be no taxes on the bill when traveling within Alaska. Check to ensure that room service, mini-bar, fitness, or other hotel charges are not settled to the state credit card. Look over the hotel receipt carefully before checking out and ask for the bill to be split, if necessary.

**Q: What is “mileage,” and why do you need my physical address?**

A: You are eligible to request reimbursement for the mileage between your house or place of work to the airport and back if you live more than 50 miles from the airport/meeting location. In order to give you the correct mileage, we need the physical address of your house or place of work so that we can have an accurate calculation. Please make sure to include a note with your receipts if you drove to the airport from a different location than you usually do so that we can give you the correct reimbursement for mileage.

**Q: I drove to the board meeting. Why am I not getting reimbursed for all the mileage between locations?**

A: If the amount of the mileage is greater than what a plane ticket would cost, you will only be reimbursed for the amount of the minimum business itinerary plane ticket. Also, reimbursement is only available to/from your “duty station,” which is the city in which you claim as your primary location. So, if you are driving (or flying) from a different location, you will receive reimbursement for the lesser of the two legs. For example: If you live in Anchorage but are flying to a Fairbanks meeting while on vacation in Seattle, you will only receive reimbursement for the value of the ANC-FAI flight, unless your actual expense is lower.

**Q: I live in the city that the board is meeting in. What am I reimbursed?**

A: You may request reimbursement for meals for the time when you are at the board meeting, which is typically lunch. You are also reimbursed for parking if applicable, but remember to get a receipt. Please remember to give the travel planner your exact physical address so you are reimbursed accurately.

**Q: I took a trip where part of the travel is being booked or reimbursed by a third party. What do I need to turn in?**

A: We need to know the amount the third party paid for airfare and hotel and need all the receipts for travel even if some or all expenses are being paid for by a third party. This is required for state auditing purposes. All expenses must be settled between the Travel Desk and the third party after your travel has been finalized. Board members are not allowed to accept payment from third parties. All payments must be made to the State of Alaska, and any checks to board members must be turned in to the office immediately. Please do not submit receipts directly to the third party; division staff will handle this.

**Q: How do I know how much M&IE I will be reimbursed?**

A: M&IE is determined by the minimum business itinerary and how long you are in travel status during mealtime portions of the day (see chart below). If you are traveling in state, you will be reimbursed using the state authorized M&IE rate. If you travel out of state, you will receive the federal rate for your destination. The first and last days of travel will be paid a flat 75% of the daily per diem.

**Q: I was only able to attend the meeting for a few hours. Will I be reimbursed?**

A: To be eligible, you must be in travel status during the meal allowance period for at least three consecutive hours to receive reimbursement for that meal and the daily incidental amount.

**Other Questions:**

**Q: What are the rates and timeframes for M&IE?**

A: Here are the rates and the timeframes for breakfast, lunch, and dinner while in state:

- Breakfast: Midnight-10am, \$12
- Lunch: 10am-3pm, \$16
- Dinner: 3pm-Midnight, \$32
- Incidentals are included in the above rates

**Q: I am a volunteer—not an employee of the State of Alaska. Why do I need to follow your rules?**

A: Board and commission members are appointed by and serve at the pleasure of the Governor. When you are performing board business, you represent the State of Alaska. When you travel for the State of Alaska, you are treated like an employee and thus must follow the same rules that an employee must follow.

*The travel policies of the State of Alaska are adopted by the Commissioner of the Department of Administration in accordance with AS 39.20.160. State agencies and Travelers are required to comply with these policies whenever traveling on state business and are prohibited from adopting their own policies that differ from statewide policies without the approval of the Commissioner of Administration. (AAM 60.010)*

**Q: Travel planners use a lot of terms that I do not know. What do they mean?**

A: Here is a list of commonly used terms that are used for travel:

- Travel Planner: Individuals within each department that support travelers by making travel arrangements, explaining policies, ensuring travel is approved prior to purchase, and ensuring reimbursement occurs timely after travel is complete.
- Traveler: A person employed by the state, a board member, or volunteer that travels for state business outside their duty station.
- M&IE: Meals and incidental expense allowance. Incidental expense includes tips and other personal costs of travel.
- Residence: The location, or within 50 miles thereof, where the traveler maintains their primary dwelling.
- Duty Station: The city, town, or village within 50 miles of where the traveler spends the major portion of their working time.

- Travel Authorization (TA): The form that must be completed to show travel related expenses. This is completed by the travel planner.
- Minimum Business Itinerary: Travel plans that fit with the state-authorized business trip, without any personal travel.

**Q: Where can I find more information on travel?**

A: We are glad you asked! Please visit <http://doa.alaska.gov/dof/travel/index.html>. Here you can find more FAQs and all of the travel policies you may ever want to know.

**Q: I have more questions about travel. Who can I contact?**

A: The best way to contact any of the planners at the division Travel Desk is by e-mailing [08occlctravel@alaska.gov](mailto:08occlctravel@alaska.gov). Please read all travel information as it is released since policies do change.

## X. Board Finances: How Do They Work?

The division is authorized revenues and expenditures in the budget adopted annually by the Alaska State Legislature. The division’s annual budget is published by the Office of Management and Budget; fiscal year 2016 is shown below as an example in Figure 1 as the *Final FY16 Operating as Passed*. Once the budget is signed into law, it goes into effect for the next fiscal year, which begins July 1. Any adjustments to the current year’s budget are adopted as incremental or decremental supplements by the legislature during Legislative Session.

**FIGURE 1: FY16 CBPL OPERATING BUDGET (IN MILLIONS):**

	Final FY2016 Operating as Passed (12605)
1000 Personal Services	7,249.6
2000 Travel	677.1
3000 Services	4,074.7
4000 Commodities	110.4
5000 Capital Outlay	137.4
7000 Grants, Benefits	0.0
8000 Miscellaneous	0.0
<b>Totals</b>	<b>12,249.2</b>

The division’s operating budget is annually around \$12 to \$13 million; however, we do not receive general funds from the legislature; we are granted authority to spend the funds collected through licensing fees. While individual licensing program revenues are segregated, the total spending authority ceiling is shared among all CBPL activities. The division as a whole cannot spend more than its appropriated amount.

This total includes all aspects of administration of all professional and business licensing programs, board activity, corporation registration, and investigation expenses.

Spending authority gives the green light to expend revenues collected through licensing fees up to the stated limit in each functional area (numbers on the left are the account code series):

1000 Personal Services: Payroll and benefits for division staff (licensing, investigations, administration)

2000 Travel: All travel expenses for board members, staff, and investigators

3000 Services/Contractual:	<p>Agreements with other agencies to perform services outside the division’s expertise, including Department of Law, Office of Administrative Hearings, fingerprinting by the Department of Public Safety, inspections by Department of Environmental Conservation</p> <p>Contracts with vendors to provide services outside the state’s purview, such as printer maintenance, professional testing, program-specific consulting, postage and mailing</p>
4000 Commodities/Supplies:	Consumable supplies, such as paper, pens, envelopes, and staples
5000 Equipment/Capital Outlay:	Major durable purchases, including computers, desks, and office equipment

These functional areas shown in the division budget are the same as board members receive in the Quarterly Schedules of Revenues and Expenditures for their licensing programs and in the division’s Annual Report to the Legislature, the summary of which is included in this report as Appendix D. (The entire report, including individual licensing program detail, is on the division web site at the link shown in Appendix F.) This consistency allows board members to compare how their expenditures fit within the division’s overall spending authority—including all expenses for professional licensing functions and investigations for 40+ programs, corporations and business licensing, and administrative support for each of these sections of the division.

## **Professional Licensing Fee-Setting Process**

The division is tasked in statute (AS 08.01.050) with proper administration of licensing fees, revenues, and expenditures. The state’s professional licensing activities are funded wholly by “receipt supported services.” This means that by statute, all costs must be covered by licensing fees.

State law delegates the responsibility for fee-setting to the division, which in turn must consult with the board when proposing changes to that program’s fees. It requires the division to “annually review each fee level to determine whether the regulatory costs of each occupation are approximately equal to fee collections.” The annual review informs fee-setting for the biennial licensing period—a cycle that, by design, collects a program’s significant source of revenue only once every two years.

Because AS 08.01.065 requires the division to assess fees that approximate the cost of that particular licensing program, boards should not maintain too large a roll-forward surplus or carry too extreme a deficit. If a licensing program collects a higher fee amount than needed, those funds carry forward from

one fiscal year to the next. The surplus may provide a future benefit to the licensees by allowing fees to be maintained or lowered and for use to offset ongoing program-specific expenses. Conversely, if the amount collected is not adequate to cover expenses, that deficit carries forward as a liability for the next fiscal year. This often results in fee increases for the next renewal or—if the deficit is significant—the deficit can be amortized through incremental increases over multiple licensing periods. (Dept. of Law opinion, Milks, 2014)

## **Board and Commission Review of Fiscal Documentation**

Your board's staff liaison will include documentation of the board's most current finances in materials available before each scheduled meeting. In your board meeting packet, you will receive:

- Quarterly Schedule of Revenue & Expenditure (i.e. the board's quarterly report)
- Breakout of direct program expenditures

The fourth quarter report will contain all year-end revenue and expense information, including the final annual indirect allocation, as well as additional fiscal back-up documentation.

Board meetings may happen more frequently than new reports are published, which may result in a meeting without updated financial information. Please keep that in mind as meetings are scheduled.

Report publication schedule:

1<sup>st</sup> Quarter (July-September) = Reports ready the 15th of November

2<sup>nd</sup> Quarter (October-December) = Reports ready at the end of January

3<sup>rd</sup> Quarter (January-March) = Reports ready at the end of April

4<sup>th</sup> Quarter (April-June) = Reports ready mid-October

Due to the statewide year-end financial close-out process, the raw data to produce final end-of-year reports is available to the department becomes available September 1. Reporting for the various agencies within the department then requires additional time, so a little "radio silence" between May and October is necessary. Once this data is final, though, final reports will be issued, followed shortly by each program's first-quarter report.

Around this time, the division also publishes its Annual Professional Licensing Report to the Legislature, which contains a breakout of legal and investigative expenses for the prior six years. This and other reports are always available online at <https://www.commerce.alaska.gov/web/cbpl/AnnualPerformanceReports.aspx>.

Final year-end reporting is complete for FY14; each board member will receive a copy via email from their staff liaison, and these documents will also be included in board packets for the first regular meeting following this report.

## **Direct Expenses**

Direct expenses are incurred specifically on behalf of the licensing program in implementation of the administrative and investigative responsibilities enumerated in statute to the division and/or a board appointed by the Governor.

Personal services charges (account code 1000) include the salaries and benefits of division staff working directly on behalf of a program—typically a licensing examiner, records and licensing supervisor, and investigator. Some programs may also directly utilize the services of an office assistant, project assistant, regulations specialist, paralegal, or executive administrator. Many licensing programs share staff, so only the time actually worked on their activities is charged to that program's code.

Travel expenses (2000) for board members, licensing staff, and investigators working in support of a specific licensing program are charged to that program. Travel through the state system requires adherence to the state travel policy, which is outlined in a separate document. Travel arranged directly through associations after obtaining pre-approval from the CBPL director will not reflect in a program's 2000 line of expenses.

Contractual expenses (3000) include services provided by agencies outside the division. These costs predominantly represent advice provided by an attorney with the Department of Law in conjunction with board meetings, regulations, enforcement, or appeals of board decisions. They may also include appeal expenses incurred by the Office of Administrative Hearings and expenses for licensing examinations, facilities usage, expert witnesses, credit card fees, FedEx, and other similar contracts required to support the mission of the program.

Supplies (4000) and equipment (5000) used for a program are usually fairly minimal and may include binders for board books, folders and labels for licensing files, and other tangible resources requested by a specific employee to meet the needs of their program(s). Equipment and supply requests are reviewed by a supervisor and purchased by the department through processes required by the state's procurement code.

## **Indirect Expenses**

Indirect expenses are services and expenses that are not directly attributable to a singular program or profession. Within the Division of Corporations, Business & Professional Licensing (CBPL), costs meeting this criterion are charged to one administrative code, then allocated among the two revenue-generating units of the division: (1) Corporations and Business Licensing and (2) Professional Licensing.

CBPL's indirect costs include:

- Salaries for CBPL division management, front desk staff, and certain employees performing services for multiple programs.

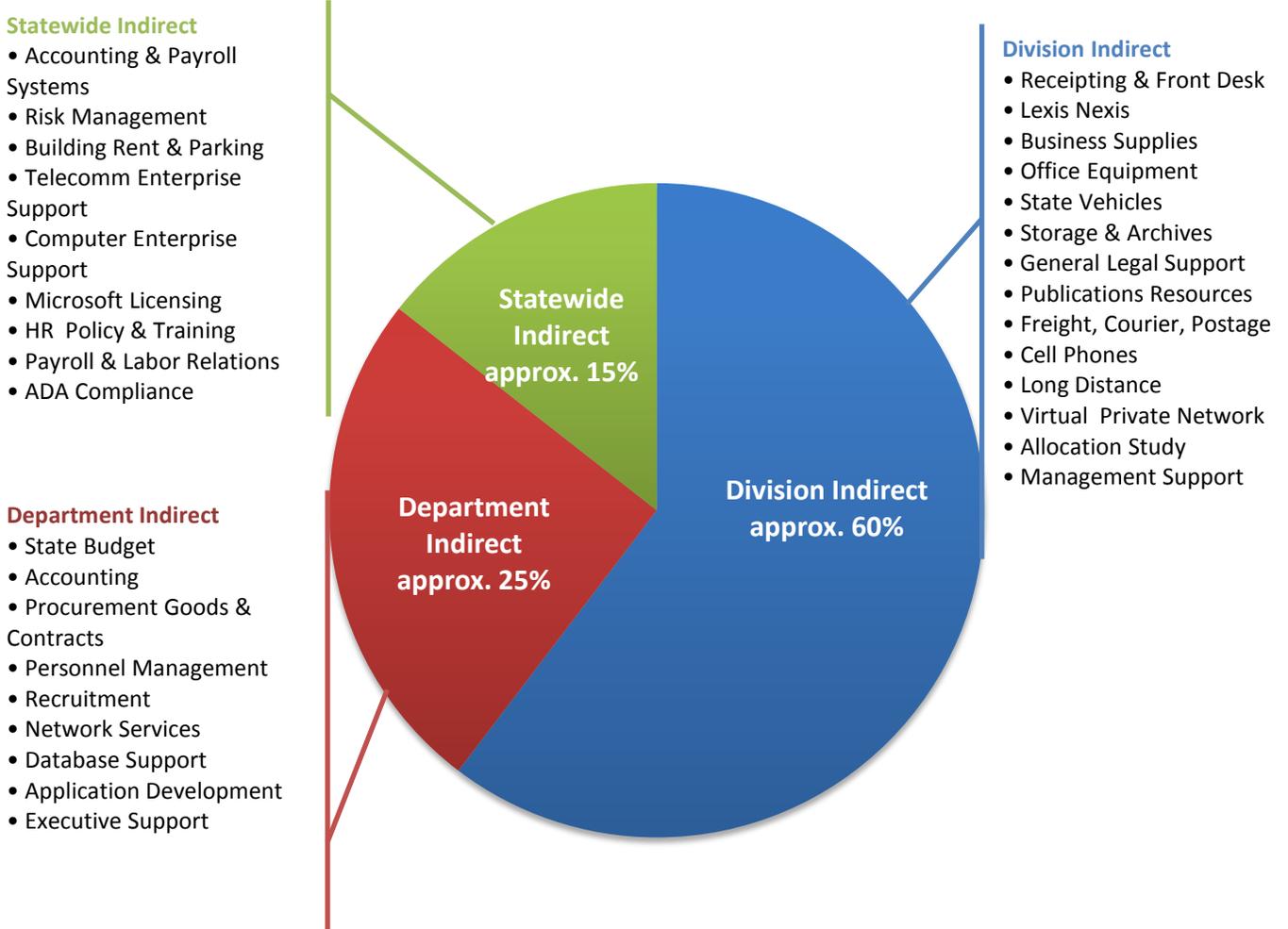
- Travel for management that is not directly chargeable to a singular program.
- Various services and commodities, such as the Lexis Nexis research database subscription, copies of statutes and regulations, records storage, purchase/lease and maintenance of printers and copiers, and other shared supplies and equipment.

It is more cost-effective for the division to share certain central resources with other agencies in the department and across the state. Department cost allocations, to which every department agency contributes, include services of the Commissioner's Office and the Division of Administrative Services (ASD). Costs are distributed equitably in accordance with a plan approved by the Office of Management and Budget and put into place in FY10.

Included in this indirect allocation are:

- Department-wide functional support areas, including fiscal oversight and accounting, network services and support, software programming and support, human resources, and procurement
- Statewide core costs for services that every state agency receives, including:
  - Department of Administration – Human Resources, Risk Management, AKSAS/AKPAY accounting systems, mail services, state-owned building rental, parking garages, Microsoft licenses, enterprise computer services, computer anti-virus protection, telecom support services, telecom PBX phones, pagers, and virtual private networks
  - Department of Labor – ADA management and compliance

**FIGURE 2: BREAKDOWN OF INDIRECT ALLOCATION TO CBPL:**



### Indirect Expense Allocation Methodology

The division has strived to define and further refine its indirect allocation methodology since a Legislative Audit in FY11 revealed a deficiency in the indirect expenses carried by the Corporations and Business Licensing Unit. The legislature in FY12 provided \$3.4 million to recoup the indirect expenses overpaid by professional licensing programs. The division, in partnership with its sister Division of Administrative Services, undertook an exhaustive examination of all revenues and expenses for each of its professional licensing programs, ensuring each transaction was reconciled to the state accounting system. This project, sometimes referred to as the “10-year look-back,” provided boards and commissions with accurate documentation of accounting for their programs since 2001.

This effort did not make “whole” all programs that had been operating at a deficit; it only made correct the operating expenses over the last decade. Some programs converted their negative carry-forward

balances to surplus; some discovered that they were deeper in deficit than anticipated before the reconciliation. Regardless of the outcome of this massive effort in FY12, it paved the way for programs to receive transparent fiscal details—and for the division to be held accountable for its responsibility to accurately manage its fiscal affairs.

Another outflow of the project was to codify a reasonable, defensible, justifiable method of allocating indirect expenses to the division from the state and department levels—and then within the division across the work units and various licensing programs. From FY12-FY13, indirect expenses were allocated to the division according to level of effort, then distributed further to professional licensing programs by licensee count.

In FY14, from this position of strength, CBPL launched a deeper analysis of indirect costs. The result led to implementation of three new indirect allocation methodologies, as represented in Figure 4, below:

- 1) Allocating costs, both statewide and departmental, to agencies based on PCN, or position, count. It was determined that the division should be consistent with the statewide and department allocation methodology whenever possible. This methodology is based on percentage of time coded to each program; these percentages are driven by payroll reports for each position.

Examples of CBPL indirect expenses now allocated by PCN count are indicated by account code; a full explanation of each line of account code can be found on the Department of Administration's website.

Statewide (per federally approved cost allocation plans):

- 3805 IT/Non-Telecom
- 3806 IT/Telecom
- 3810 Human Resources
- 3811 Building Leases

Departmental:

- 3155 Software Maintenance
- 3979 Management/Consulting (support from the Division of Administrative Services and Commissioner's Office)

- 2) Allocation of CBPL personal services costs for administrative and accounting activity during high-volume renewal cycles. Following a review of CBPL administrative staff personal services, specifically the receipting staff & a portion of their supervisor's time, resulted in an updated allocation based on the number of transactions staff processed for each program in the department's receipting system.

This change resulted in the Business Licensing and Corporations programs paying a more accurate, higher percentage of the administrative staff's personal services costs due to the fact that there is a higher volume of business license and corporations transactions processed when compared to

professional licensing transactions. Professional Licensing programs were charged for 49.2% (\$193.9) of the personal services of CBPL administrative staff in FY14 vs. 84% (\$331.2) they would have been allocated if maintaining the allocation methodology used in FY13.

3) Allocation of ASD personal services costs for administrative and accounting activity during high-volume renewal cycles. The allocation for ASD revenue support staff that process CBPL's accounting transactions was similarly adjusted, now driven by the count of financial lines entered to the State Accounting System for each program.

**FIGURE 4: INDIRECT ALLOCATION WITHIN CBPL**



Looking forward, indirect expenses are expected to increase since Undesignated General Fund (UGF) allocations are being reduced to the DCCED Division of Administrative Services, Department of Administration, and other agencies providing services to CBPL. As positions are cut in other DCCED divisions, CBPL's percentage of costs allocated by PCN from the department to divisions will increase. As this dynamic will change year to year, division management will keep board members informed.

## XI. Evaluating Your Board...and Yourself

Feedback is the gift of awareness. Without awareness, boards have no real knowledge of their strengths and weaknesses, successes and failures, realities and perceptions, or positive and negative impacts.

How easily could your board fall into one of these situations without realizing it:

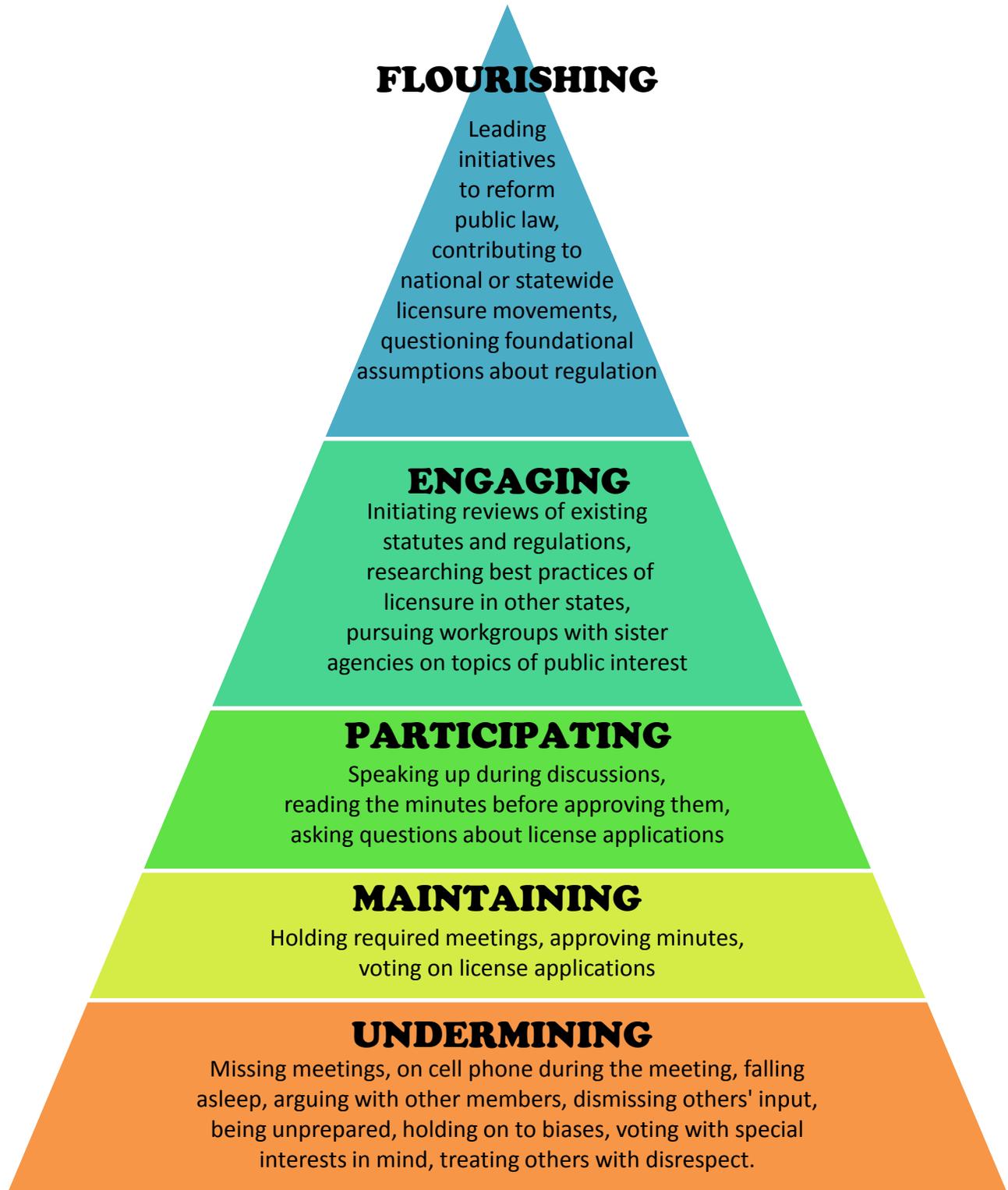
- The chair adjourns, praising the members for an extremely efficient meeting. The next week, the chair discovers that a hasty deliberation and quick vote just to get to lunch on time resulted in the board's passage of a decision that violates state law. All activity on the issue has to stop until the attorney can meet with the board the following month, secure their withdrawal of the vote, and ensure that any replacement is legal.
- Members who are licensees of the profession they govern are deliberating on scope of practice issue by using jargon and terminology specific to specialized practice. Instead of explaining and providing supplementary material to the public member, they railroad him into voting for something he hasn't had the opportunity to learn about.
- A board member takes great pride in her success as a professional—however, she shuts people down midsentence, solicits feedback from friends in the public gallery during the business session, and pressures the chair to change the agenda midday because she wants to get to a certain topic she cares about. Her personality is so offensive that several members are considering resigning from the board.
- During a long, drawn-out discussion, two board members turn on their cell phones and disengage from the discussion. Once the chair requests their input, they jump in with active support for the same controversial viewpoint. A member of the public notices this and files a complaint with the Ombudsman that they were texting about the vote, thus violating the Open Meeting Act. The controversial vote wins, the board is sued, and the members' cell phones are subpoenaed and confiscated.

Tough situations can and will arise during service on a regulatory board or commission. These types of surprises, however, can be avoided if members invest in regular, active evaluation of board practices and of their own contributions (or lack thereof) to the process.

Simply filling out the evaluation form and calling it a day is not enough. Analysis of the responses and communication with members about their needs and contributions deepens the experience of individual members, sowing the ground for a more fertile harvest of ideas, insights, and outcomes.

Following are two evaluation forms that boards and commissions are encouraged to use after each meeting or at least quarterly to ensure awareness becomes the cultural norm.

## Chambers' Hierarchy of Effective Regulators



## MEETING EVALUATION

Board/Commission: \_\_\_\_\_ Date: \_\_\_\_\_ Member Name \_\_\_\_\_

Goal	Agree	Needs Improvement	Suggestions for Improvement
1. The agenda was clear, supported by the necessary documents, and circulated prior to the meeting.			
2. All board members were prepared to discuss materials sent in advance.			
3. Documents were clear and contained needed information.			
4. A variety of opinions was expressed and issues were managed in a respectful manner.			
5. The chair guided the meeting effectively and members participated respectfully and responsibly.			
6. Next steps were identified and responsibility assigned.			
7. All board members were present.			
8. The meeting began and ended on time.			
9. Meeting accommodations were satisfactory.			
10. Presentations/interaction with public and guests was appropriate, productive, and efficient.			
11. The board had enough information to make good decisions on issues.			
12. The objectives of the meeting were met or appropriately tabled until a subsequent scheduled meeting.			

Other Comments (What went well, what needs to be done better next time):

## Board/Commission Member Self-Evaluation

Indicate the degree to which you think you meet each of the following expectations. Follow by completing the Personal Action Plan, then sign and date.

E: Excellent   S: Satisfactory   NI: Need Improvement   I: Inadequate   UR: Unable to Rate (indicate why)					
	E	S	NI	U	UR: Why?
<b>KNOWLEDGE</b>					
I know and understand the board’s mandate, mission, and vision.					
I know and understand the statutory requirements related to the board.					
I know and understand the regulatory framework of the board.					
I am conversant and knowledgeable of the issues before the board and facing its stakeholders.					
I understand the distinction between the board’s governance and division’s management roles.					
I understand and utilize the board’s processes for decisionmaking.					
I understand and adhere to the board’s processes for communication with each other, with the division, and with stakeholders.					
<b>PREPARATION AND PARTICIPATION</b>					
I review all board meeting material sent before the meeting, and I am able to demonstrate a reasonably comprehensive knowledge of the material during the meeting.					
I attend and fully participate in all meetings.					
I contribute fully to board discussions and debates, and participate in its decisions by voting unless formally recused by the chair.					
I facilitate consensus building and commitment towards the board’s mission and its implementation.					
<b>CONDUCT</b>					
I abide by the board/state codes of ethical conduct and support my fellow board members in meeting this standard.					
I treat all members of the board, staff, and guests with respect.					
I raise issues in a respectful manner that encourages open discussion.					

I understand and respect the power, authority, and influence associated with my role as a board member and do not misuse this trust for personal gain.					
I avoid situations that may pose or be perceived as having a possible conflict of interest.					
I disclose all potential conflicts of interest, whether financial or relating to ex parte communication, in writing to the chair and on the record at the beginning of a public meeting.					
<b>DECISIONMAKING</b>					
I always act objectively and in the best interests of the public.					
I am fair, impartial, and unbiased in my decision making.					
I am flexible in my thinking; I listen to the perspective of my fellow members prior to determining my final vote on any matter.					
I consider the perspectives, input, and suggestions received on proposed regulations during the formal written or oral public comment period before voting.					
I base my decisions on all the facts at hand and strive to be consistent when facts are similar. When inconsistent with past decisions, I state my reasons on the record.					
I redirect matters to board staff as appropriate.					
<b>ACCOUNTABILITY</b>					
I ensure that I understand the fiscal structure of the licensing program and its current financial position.					
I publicly support the decisions of the board and provide rationale when asked.					
I maintain confidentiality with all information coming into my possession.					
My fellow board members would agree with my responses on this self-assessment.					
<b>EVALUATION</b>					
I participate in the ongoing monitoring and evaluation of the board's goals and priorities and my performance in furthering them.					
<b>ADDING VALUE</b>					
I anticipate future needs and issues facing the organization and proactively contribute this to the environmental scan.					

I demonstrate my independent judgment through my willingness to respectfully voice my concerns, take an independent stand, or espouse an unpopular or controversial idea when in the public's best interest.					

**Personal Action Plan**

**What did I learn from this self-evaluation?**

---



---



---

**Did I improve in my previously identified areas for development? How do I know this?**

---



---



---

**What areas would I identify for self-improvement at this time?**

---



---



---

**What actions will I take to continually improve in this area(s)?**

---



---



---

**Are there any possible barriers to implementing my strategies?**

---



---



---

**Are resources required to meet my improvement of these goals? What are they?**

---



---



---

**I will hold myself accountable by:**

---



---



---

**Additional thoughts and comments:**

---

---

---

Please submit this self-evaluation to board staff at the end of the meeting. Your board chair or staff will review each confidentially in order to deliver additional support, training, or resources. The evaluation will be returned to you so you can monitor your own accountability to the plan you've created. Sign below to indicate your dedication to continued excellence and improvement as a valued member of this board or commission.

---

Name

---

Signature

---

Board or Commission

---

Date

## XII. Updates to This Manual

The Division of Corporations, Business and Professional Licensing strives to be an efficient and effective partner in meeting the boards' obligation to ensure that competent, professional, and regulated commercial services are available to Alaska consumers.

From time to time, this manual may be updated as regulations or policies change or as new tools become available to assist boards and commissions in fulfilling their important role in this partnership.

First Issued: July 2012

Updated: January 2015, August 2016, March 2017

The manual was last reviewed by Assistant Attorneys General with the Department of Law in August 2016.

Should you have question about the contents of this manual or suggestions for future training materials, please contact the Deputy Director/Operations Manager at 907-465-2144.

Additional credit for certain contents:

- Alaska Office of the Governor and Department of Law
- Alaska Department of Commerce, Community, and Economic Development; Division of Community and Regional Affairs
- Alaska Department of Administration; Division of Finance
- The Council on Licensure, Enforcement, and Regulation (CLEAR) and its members
- The staff of the Division of Corporations, Business and Professional Licensing
- Nathan Garber & Associates

# XIII. Comments and Suggestions

Please complete this form and return to the Deputy Director/Operations Manager:

FAX: (907) 465-2974

MAIL: P.O. Box 110806, Juneau, AK 99811-0806

EMAIL: [license@alaska.gov](mailto:license@alaska.gov)

1) This manual helped clarify issues pertaining to:

	Agree	Somewhat Agree	Somewhat Disagree	Disagree
a) Purpose and Role of a Board/Commission Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Executive Branch Ethics	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Conflicts of Interest	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Open Meetings Act	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e) Public Notice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Executive Session	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g) Ex Parte Contact	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h) Travel	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
i) Finances	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
j) Investigations	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
k) Meeting Procedures	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
l) Making Motions	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
m) Voting	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
n) Board/Staff Relationship	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
o) Other:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2) I would like future manual revisions to include more information about:

3) Other comments/suggestions:

## Ground Rules for Successful Meetings

*Thank you for volunteering to serve Alaska as a designee of the State on behalf of the Office of the Governor. The simple yet effective rules below serve as a set of expectations to keep Alaska's Board and Commission meetings productive and respectful. Most important, the consistent use of the cornerstones of Roberts Rules by the appointed members of Alaska's Boards and Commissions builds the Public's trust, and reflects positively on all involved.*

*Shirley Marquardt,*

*Director of Boards and Commissions, Office of the Governor*

- 1) Everyone participates.** As the Chair, encouraging the full participation of team members allows your support staff and the public to have a clear understanding of everyone's view of the issue at hand. Call on quiet team members as they may only need a clarification or an explanation.
- 2) Different opinions are welcome, but must stay on track.** The Chair helps guide the team to places of agreement, so the discussion can focus on areas that need clarification, legal advice or further vetting. Keep the discussion on track or you may find yourself in the middle of a philosophical argument in which there is no winner and no productive action.
- 3) Limit side conversations.** A quick question or clarification is one thing, but it is disconcerting to say the least when whispered conversations are held between members of the board during an open meeting. It does nothing to encourage trust between the board and the public, and the Chair should not allow it.
- 4) Re-state the Motion and clarify Amendments.** This is a simple way for the Chair to be sure that everyone on the team is on the same page as you move through the process. It also gives support staff the opportunity to clarify the language or intent if needed. It is surprising how often people are halfway through an argument before they realize they didn't have a clear understanding of the motion or amendment before them. As a member of the board/commission, don't hesitate to ask for clarification if you are unsure.
- 5) Hold team members accountable.** If a board member is interrupting others, rude to staff or refusing to keep their comments on track, the Chair should call for a brief time out and address it with him/her directly. Honest mistakes or over-eagerness can be quietly corrected at a break, but obvious, bad behavior by anyone should never be tolerated by the Chair.
- 6) Listen respectfully and thoughtfully to Public testimony.** Remember that the Public has an important role in the process. They have given of their time and effort to be heard, and the issue at hand is probably very important to them personally. If testimony gets heated, the Chair can always call for a short time out so that tempers can cool.
- 7) Cell phones off.** Ringing phones are annoying, but texting someone in the audience or another board member during the meeting is secretive and sneaky. That does not encourage trust between the team members themselves or the public.
- 8) Speak clearly.** When before the public, always speak so that they can hear you. You may not have a good sound system to amplify your voice, so speak loudly and clearly.

DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING  
**TRAVEL DESK**

P.O. Box 110806, Juneau, Alaska 99811-0806  
Phone: 907.269.8160  
Fax: 907.465.2974  
08occlctravel@alaska.gov

## BOARD MEMBER TRAVEL APPROVAL REQUEST FORM

Effective September 1, 2014, Updated August 2016

This form is for board member use when submitting a travel request. Submit 6-8 weeks before anticipated travel. See the board and commission member [Guide to Excellence](#) for details.

**Traveler's Name:** \_\_\_\_\_ **Daytime Phone Number:** \_\_\_\_\_  
**Mailing Address:** \_\_\_\_\_ **Email:** \_\_\_\_\_  
**Board Requesting Travel:** \_\_\_\_\_  
**Association/Conference/Event:** \_\_\_\_\_  
**Dates in Travel Status:** \_\_\_\_\_ **Destination:** \_\_\_\_\_

	Estimated total cost	Cost reimbursed by third party (if any)	Cost of travel booked directly by third party (if any)
Conference Fee			
Air Travel			
Hotel			
Car Rental/Taxi			
Other Expenses			
Describe:			
<b>Totals</b>			

**Deviation from minimum business itinerary for personal convenience?** Yes/No

**Meeting/Conference Agenda:** Attach meeting agenda or link to view the agenda.

**List the number of meals provided by conference/hotel:** \_\_\_\_\_

**Method of travel booking requested for this trip:**

\_\_\_ **I would like CBPL to book this travel through the state system on my behalf.**

Airline: \_\_\_\_\_ Mileage Plan#: \_\_\_\_\_ Birth Date (required for TSA): \_\_\_\_\_

Hotel Preference/Member Number: \_\_\_\_\_ Airline seating preference: \_\_\_\_\_

*You may attach a screen shot of your preferred route from a web site.*

\_\_\_ **A third-party will book this travel, and I will submit a Notification of Receipt of Gift as required by law.**

**Other information:**

# STATE OF ALASKA

## ELECTRONIC PAYMENT AGREEMENT

Mail completed form to:  
 DEPT OF ADMINISTRATION / DIV OF FINANCE  
 PO BOX 110204 / JUNEAU AK 99811-0204  
 or FAX to: (907) 465-2169  
 Questions? Call (907) 465-5622

### FOR VENDORS DOING BUSINESS WITH THE STATE OF ALASKA

#### PAYEE INFORMATION

AKSAS VENDOR NUMBER (PVN)		TAXPAYER ID - SSN / EIN <i>Required</i>		<i>ID number assigned to the legal name below and used for tax reporting</i>	
LEGAL NAME <i>Required</i> (Name that Tax ID above is assigned to and is used for tax reporting)					
BUSINESS NAME (DBA - Doing Business As Name. If different from legal name shown above)				ACCEPT CREDIT CARD PAYMENTS <i>Required</i> YES NO	
MAILING ADDRESS <i>Required</i>			CITY	STATE	ZIP CODE + 4
CONTACT NAME	DAYTIME PHONE <i>Required</i>	FAX NUMBER	EMAIL ADDRESS		

#### BANKING INFORMATION

Per National Automated Clearing House Association (NACHA) Operating Rules, the State of Alaska must send a pre-note zero dollar test transaction to verify the accuracy of the banking information below. Payments will not be sent electronically until the pre-note process is complete, generally ten business days. The State of Alaska will contact you if the pre-note fails.

ARE YOU ADDING, * CHANGING, OR CANCELLING THIS AGREEMENT? <i>Required</i>		
FINANCIAL INSTITUTION NAME <i>Required</i>		ACCOUNT NAME (Business / Legal Name on Account) <i>Required</i>
ABA/ROUTING TRANSIT NUMBER (9-DIGIT RTN) <i>Required</i>		FULL ACCOUNT NUMBER <i>Required</i> <i>Please attach a voided check or other bank verification of account number as applicable</i>
ACCOUNT TYPE <i>Required</i>	CHECKING	SAVINGS
* FOR CHANGES ONLY. If you indicated you are changing banks, please list your prior banking information:	ABA/ROUTING TRANSIT NUMBER	FULL ACCOUNT NUMBER
IS THIS ACCOUNT PRIMARILY A PERSONAL OR BUSINESS ACCOUNT? <i>Required</i>		
<p><b>PERSONAL.</b> Payments are deposited separately with one addendum (remittance) record for each payment.</p> <p>- OR -</p> <p><b>BUSINESS.</b> Choose <b>ONE</b> of the business account addenda information format options below.</p> <p>Payments deposited separately with one addendum (remittance) record for each payment.</p> <p>Payments combined into one deposit with multiple addenda (remittance) records for each payment in the deposit (used by large businesses expecting multiple daily payments).</p>		
<p>NACHA Operating Rules requires your banking institution to provide you with addenda (remittance) information that the State includes on each payment. Any banking charge to receive this information is the responsibility of the account holder.</p> <p><b>For EDI Payment Inquiry and other electronic payment information, visit our website at:</b>  <a href="http://doa.alaska.gov/dof/epay/">http://doa.alaska.gov/dof/epay/</a></p>		

#### AGREEMENT AND AUTHORIZATION

I hereby authorize the State of Alaska to satisfy payment obligations due me by making deposits to the account indicated above. I understand that receipt of the electronic fund transfer(s) will fulfill the State's payment obligation and the State will be credited for the full amount on the date the fund transfer is completed. I understand the State will make a reasonable effort to notify me within 24 hours if a reversing entry is made against this account. This authority is to remain in full force through the duration of this agreement. I understand that thirty (30) days written notice is required if I change financial institutions, account numbers or type of account.

In addition, as required by the Federal Office of Foreign Asset Control in support of U.S.C. Title 50, War and National Defense, I attest that the full amount of my direct deposit is not being forwarded to a bank in another country and that if at any point I establish a standing order with my receiving bank to forward the full direct deposit to a bank in another country, I will inform the State of Alaska immediately.

I certify all information regarding this authorization is true and correct. Any intent to falsify information is punishable under AS 11.56.210 as a class A misdemeanor.

If the State discovers that the full amount of a direct deposit has been forwarded to another country or if information on the form has been falsified, this agreement shall be terminated. All correspondence with the State concerning this agreement or any changes to account information should be sent to the address at the top of this form. All terms remain in effect until this agreement is terminated by either party.

PRINTED NAME <i>Required</i>	TITLE
SIGNATURE <i>Required</i>	DATE <i>Required</i>



## Travel Action Summary Report

Submit to the CBPL Travel Desk no later than seven business days after the meeting has concluded. Save a copy in your program files for the end-of-year compilation of all travel-related savings and deliverables for your program.

Board:

Dates of Business:

Person Reporting:

# of Travelers: *Employees*      *Board Members*

Type of Meeting:	<input type="checkbox"/>	Regular board business	<input type="checkbox"/>	Adjudication only
	<input type="checkbox"/>	Special board meeting	<input type="checkbox"/>	Subcommittee meeting
	<input type="checkbox"/>	On-site Investigation/Inspection	<input type="checkbox"/>	Other:

### Cost Savings

---

What expenses were reduced?

What is the estimated savings?

- 1.
- 2.
- 3.

### Meeting Deliverables

---

Information gained:

Action recommended:

# Executive Administrator's Report

# EDUCATION REPORT

March 17, 2021

(as of 3/03/2021)

<b><u>Course Type</u></b>	<b><u>Currently Approved</u></b>
Pre-Licensing (SPL)	13
Broker Upgrade Pre-Licensing (BPL)	4
Elective Continuing Education (ECE)	342
Designated Continuing Education (DCE)	53
Post Licensing Education (PLE)	72
	<b>Total: 484</b>
<b><u>Instructor</u></b>	
Permanent	70
<b><u>New Instructor</u></b>	1
Robert Collins – Austin, TX	
Temporary Instructor	0

LICENSING REPORT  
MARCH 17, 2021

<b>New Licensees December 9, 2020 - March 3, 2021: 107</b>
<b>Total Number of <u>Active</u> Licensees with 1/31/2022 exp: 2,795</b>
<b>Total Number of Licensees with 1/31/2022 exp: *2,931</b>

<b>ACTIVE: 1/31/22 exp</b>	<b>Sept</b>	<b>Dec</b>	<b>Mar</b>
Broker	412	420	418
Associate Broker	382	387	391
Salesperson	1886	1989	1986
<b>Total Active:</b>	<b>2680</b>	<b>2796</b>	<b>2795</b>

<b>INACTIVE: 1/31/22 exp</b>	<b>Sept</b>	<b>Dec</b>	<b>Mar</b>
Broker	2	0	0
Associate Broker	2	1	1
Salesperson	42	24	19
<b>Total Inactive:</b>	<b>46</b>	<b>25</b>	<b>20</b>

<b>LAPSED: NON-COMPLIANCE OF PLE w/exp date of 1/31/22</b>			
	<b>Sept</b>	<b>Dec</b>	<b>Mar</b>
Broker	0	0	0
Associate Broker	0	0	0
Salesperson	4	7	17
<b>Total:</b>	<b>4</b>	<b>7</b>	<b>17</b>

<b>LAPSED: 1/31/20 exp</b>	<b>Sept</b>	<b>Dec</b>	<b>Mar</b>
Broker	29	28	28
Associate Broker	34	34	35
Salesperson	308	309	346
<b>Total Lapsed:</b>	<b>371</b>	<b>371</b>	<b>409</b>

<b>Transfers:</b>	<b>Sept</b>	<b>Dec</b>	<b>Mar</b>
	279	296	236

<b>PLE Completed:</b>	<b>Sept</b>	<b>Dec</b>	<b>Mar</b>
	77	51	78

<b>Upgrades:</b>	
S - AB = 10	S - B = 1

<b>In this reporting period</b>	<b>Sept</b>	<b>Dec</b>	<b>Mar</b>
License Returned	58	49	28
Probation License	1	2	1
Suspended	0	0	1
Revoked	0	0	0
Surrendered	1	0	0

\*includes licensees that are active, inactive, lic rtnd, probation, suspension, surrender, and lapsed (PLE), all with 1/31/2022 expiration date

RICE INSURANCE SERVICES COMPANY, LLC  
 CLAIMS LISTING FOR CNA CLAIMS  
 ALASKA REAL ESTATE COMMISSION GROUP POLICY  
 FOURTH QUARTER 2020

Claim #	Loss Date	Report Date	Date Notified	Allegation	Policy #	Status	Claim Reserves	Expense Reserves	Claims Payment	Expense Payment	Subr	Incurred
CC13284	9/1/2016	10/16/2018	9/5/2018	Non-Disc / Misrep Mold	18 EO 0001AK-	O	\$1,000.00	\$1,000.00	\$0.00	\$0.00	\$0.00	\$2,000.00
							\$1,000.00	\$1,000.00	\$0.00	\$0.00	\$0.00	\$2,000.00

CLAIMS COUNT:	1		--Losses---	----	---
CLOSED CLAIMS:	0	Closed Paid:	\$0.00	\$0.00	\$0.00
OPEN CLAIMS:	1	Closed Recovery:	\$0.00	\$0.00	\$0.00
		Closed Incurred:	\$0.00	\$0.00	\$0.00
		Open Paid:	\$0.00	\$0.00	\$0.00
		Open Reserves:	\$1,000.00	\$1,000.00	\$2,000.00
		Open Incurred:	\$1,000.00	\$1,000.00	\$2,000.00
		Current Recov's:	\$0.00	\$0.00	\$0.00
		Total Incurred:	\$1,000.00	\$1,000.00	\$2,000.00

Claim #	Loss Date	Report Date	Date Notified	Allegation	Policy #	Status	Claim Reserves	Expense Reserves	Claims Payment	Expense Payment	Subr	Incurred
CC14132	10/25/2017	9/19/2019	9/19/2019	Incident / Allegations Unknown	19 EO 0002AK-	C	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
CC13986	4/4/2019	7/25/2019	6/28/2019	Negligent Hiring of Contractor	19 EO 0002AK-	C	\$3,000.00	\$0.00	\$3,000.00	\$0.00	\$0.00	\$3,000.00
CC14231	4/15/2017	10/28/2019	10/28/2019	Subpoena	19 EO 0002AK-	D	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
							\$3,000.00	\$0.00	\$3,000.00	\$0.00	\$0.00	\$3,000.00

CLAIMS COUNT:	3		--Losses---	----	---
CLOSED CLAIMS:	3	Closed Paid:	\$3,000.00	\$0.00	\$3,000.00
OPEN CLAIMS:	0	Closed Recovery:	\$0.00	\$0.00	\$0.00
		Closed Incurred:	\$3,000.00	\$0.00	\$3,000.00
		Open Paid:	\$0.00	\$0.00	\$0.00
		Open Reserves:	\$0.00	\$0.00	\$0.00
		Open Incurred:	\$0.00	\$0.00	\$0.00
		Current Recov's:	\$0.00	\$0.00	\$0.00
		Total Incurred:	\$3,000.00	\$0.00	\$3,000.00

Claim #	Loss Date	Report Date	Date Notified	Allegation	Policy #	Status	Claim Reserves	Expense Reserves	Claims Payment	Expense Payment	Subr	Incurred
CC14970	6/24/2019	8/11/2020	7/23/2020	Misrep Water Damage	20 EO 0003AK-	C	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
CC15349	5/7/2020	12/21/2020	10/26/2020	Ethics Complaint	20 EO 0003AK-	D	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
CC15332A	10/13/2020	12/14/2020	12/7/2020	Misrep Other	20 EO 0003AK-	O	\$1,001.00	\$1,001.00	\$0.00	\$0.00	\$0.00	\$2,002.00
CC14979	8/23/2018	8/17/2020	8/7/2020	Breach of Prprty Mgmt Contract	20 EO 0003AK-	O	\$5,000.00	\$9,000.00	\$0.00	\$0.00	\$0.00	\$14,000.00
CC15332	10/13/2020	12/14/2020	12/7/2020	Misrep Other	20 EO 0003AK-	O	\$5,000.00	\$9,000.00	\$0.00	\$0.00	\$0.00	\$14,000.00
							\$11,001.00	\$19,001.00	\$0.00	\$0.00	\$0.00	\$30,002.00

CLAIMS COUNT:	5		--Losses---	----	---
CLOSED CLAIMS:	2	Closed Paid:	\$0.00	\$0.00	\$0.00
OPEN CLAIMS:	3	Closed Recovery:	\$0.00	\$0.00	\$0.00
		Closed Incurred:	\$0.00	\$0.00	\$0.00
		Open Paid:	\$0.00	\$0.00	\$0.00
		Open Reserves:	\$11,001.00	\$19,001.00	\$30,002.00
		Open Incurred:	\$11,001.00	\$19,001.00	\$30,002.00
		Current Recov's:	\$0.00	\$0.00	\$0.00
		Total Incurred:	\$11,001.00	\$19,001.00	\$30,002.00

**RICE INSURANCE SERVICES COMPANY, LLC  
ALASKA REAL ESTATE COMMISSION  
GROUP POLICY CLAIMS INFORMATION  
FOURTH QUARTER 2020**

Group Policy Number	TOTAL PAID FOR CLOSED CLAIMS			TOTAL INCURRED FOR OPEN CLAIMS			Claims Count	Total Incurred
	Claims Count	Loss	Legal	Claims Count	Loss	Legal		
18 EO 0001AK-	0	\$0.00	\$0.00	1	\$1,000.00	\$1,000.00	1	\$2,000.00
19 EO 0002AK-	3	\$3,000.00	\$0.00	0	\$0.00	\$0.00	3	\$3,000.00
20 EO 0003AK-	2	\$0.00	\$0.00	3	\$11,001.00	\$19,001.00	5	\$30,002.00
<b>TOTALS</b>	<b>3</b>	<b>\$3,000.00</b>	<b>\$0.00</b>	<b>4</b>	<b>\$12,001.00</b>	<b>\$20,001.00</b>	<b>9</b>	<b>\$35,002.00</b>

**Total Incurred Closed Claims \$3,000.00**

**Total Incurred Open Claims \$32,002.00**

\*The incurred amount for open claims includes payments and reserve amounts set by the adjusters (the estimated amount needed for damages and claims expenses to close the open claims) but does not include any amounts incurred but not reported (IBNR), loss development amounts (a factor used by actuaries to determine the ultimate loss incurred), or administrative costs (the insurer's costs to provide the program, including their staffing costs and expense allocations, program administration, marketing, and claims adjustment costs). All of these factors are additional costs for the program.

**Statement of Net Positions  
Real Estate Recovery Funds  
December 31, 2020**

	Actuals						Projected	
	For the Fiscal Year Ending June 30, 2015	For the Fiscal Year Ending June 30, 2016	For the Fiscal Year Ending June 30, 2017	For the Fiscal Year Ending June 30, 2018	For the Fiscal Year Ending June 30, 2019	For the Fiscal Year Ending June 30, 2020	For the Fiscal Year Ending June 30, 2021	For the Fiscal Year Ending June 30, 2022
<b>ASSETS</b>								
Cash and Investments	\$ 454,264	\$ 465,770	\$ 392,207	\$ 394,514	\$ 277,675	\$ 327,850	\$ 211,011	\$ 261,186
Total Assets	<u>454,264</u>	<u>465,770</u>	<u>392,207</u>	<u>394,514</u>	<u>277,675</u>	<u>327,850</u>	<u>211,011</u>	<u>261,186</u>
<b>LIABILITIES</b>								
Accounts Payable and Accrued Liabilities	7,211	(30)	1,517	(10,691)	11,230	4,857	18,514	4,857
Total Liabilities	<u>7,211</u>	<u>(30)</u>	<u>1,517</u>	<u>(10,691)</u>	<u>11,230</u>	<u>4,857</u>	<u>18,514</u>	<u>4,857</u>
<b>FUND BALANCES</b>								
Reserved for Education and Claims	447,053	465,800	390,691	405,205	266,445	322,993	192,497	256,329
Total Fund Balance	<u>447,053</u>	<u>465,800</u>	<u>390,691</u>	<u>405,205</u>	<u>266,445</u>	<u>322,993</u>	<u>192,497</u>	<u>256,329</u>
Total Liabilities and Fund Balances	<u>\$ 454,264</u>	<u>\$ 465,770</u>	<u>\$ 392,207</u>	<u>\$ 394,514</u>	<u>\$ 277,675</u>	<u>\$ 327,850</u>	<u>\$ 211,011</u>	<u>\$ 261,186</u>
Average 2 year licensing cycle fund balance:		<u>Average of 6/30/15 &amp; 6/30/16</u> \$ 460,017	<u>Average of 6/30/16 &amp; 6/30/17</u> \$ 428,988	<u>Average of 6/30/17 &amp; 6/30/18</u> \$ 393,361	<u>Average of 6/30/18 &amp; 6/30/19</u> \$ 336,095	<u>Average of 6/30/19 &amp; 6/30/20</u> \$ 302,763	<u>Average of 6/30/20 &amp; 6/30/21</u> \$ 269,431	<u>Average of 6/30/21 &amp; 6/30/22</u> \$ 130,593

Note: Per the State Comprehensive Annual Financial Report the State "funds are reported using modified accrual accounting which measures cash and other financial assets that can be readily converted to cash".

Note: The total Liabilities is year to date  
For FY22 Liabilities projected using FY20

**Statement of Revenues, Expenditures, and Changes in Fund Balances**  
**Real Estate Recovery Fund**  
**Actual for Years Ended June 30, 2015 through December 31, 2020**  
**and**  
**Projected for Fiscal Years Ending June 30, 2021 and June 30, 2022**

	Actuals										Projected	
	For the Fiscal Year Ended 6/30/15	For the Fiscal Year Ended 6/30/16	For the Fiscal Year Ended 6/30/17	For the Fiscal Year Ended 6/30/18	For the Fiscal Year Ended 6/30/19	For the Fiscal Year Ended 6/30/20	For the Quarter Ended 9/30/20	For the Quarter Ended 12/31/20	For the Quarter Ended 3/31/21	For the Quarter Ended 6/30/21	For the Fiscal Year Ended 6/30/21	For the Fiscal Year Ended 6/30/22
<b>REVENUES</b>												
Licenses and Permits	38,425	\$ 126,910	38,370	133,550	29,465	193,865	18,395	5,740			(1) 29,465	(1) 193,865
Interest and Investment Income	2,164	2,533	3,178	4,230	9,964	6,918	732	523			(2) 9,964	(2) 6,918
<b>TOTAL REVENUES</b>	<b>40,589</b>	<b>129,443</b>	<b>41,548</b>	<b>137,780</b>	<b>39,429</b>	<b>200,783</b>	<b>19,127</b>	<b>6,263</b>	<b>-</b>	<b>-</b>	<b>39,429</b>	<b>200,783</b>
<b>EXPENDITURES</b>												
Personal Services	113,145	112,763	115,097	134,846	126,366	124,812	22,863	34,292	-	-	(3) 126,366	(3) 124,812
Travel	0	-	-	-	-	-	-	-	-	-	-	-
Commodities	0	89	-	617	-	-	-	-	-	-	-	-
Services - Non-claims	732	5,085	13	10	5,000	497	-	-	-	-	5,000	497
Services - Claims & Associated Legal costs	0	-	-	-	24,902	25,300	-	-	-	-	24,902	25,300
<b>TOTAL EXPENDITURES</b>	<b>113,877</b>	<b>117,937</b>	<b>115,110</b>	<b>135,473</b>	<b>156,268</b>	<b>150,608</b>	<b>22,863</b>	<b>34,292</b>	<b>-</b>	<b>-</b>	<b>156,268</b>	<b>150,608</b>
Excess (Deficiency) Revenues Over Expenditures	(73,288)	11,505	(73,562)	2,307	(116,839)	50,175	(3,736)	(28,029)	-	-	(116,839)	50,175
Other Financing Sources (Uses)	-	-	-	-	-	-	-	-	-	-	-	-
Net Change in Fund Balances	(73,288)	11,505	(73,562)	2,307	(116,839)	50,175	(3,736)	(28,029)	-	-	(116,839)	50,175
Fund Balances - Beginning of Year	527,552	454,264	465,770	392,207	394,514	277,675	327,850	324,115	296,086	296,086	327,850	211,011
Fund Balances - End of Year	454,264	\$ 465,770	\$ 392,207	\$ 394,514	\$ 277,675	\$ 327,850	324,115	296,086	296,086	296,086	\$ 211,011	\$ 261,186

(1) For FY22, licenses and permits revenue projected to be the same as FY20.

(2) Projecting through FY21 based on FY19 rate of earnings.

For FY21, the annual personal services costs are projected for the Executive Administrator to spend 10% and the Project Assistant to spend 100% of their time on Real Estate Recovery Fund related tasks.

**Statement of Cash Flows**  
**Real Estate Recovery Fund**  
**December 31, 2020**

	Actuals						Projected	
	For the Fiscal Year Ended 6/30/15	For the Fiscal Year Ended 6/30/16	For the Fiscal Year Ended 6/30/17	For the Fiscal Year Ended 6/30/18	For the Fiscal Year Ended 6/30/19	For the Fiscal Year Ended 6/30/20	For the Fiscal Year Ended 6/30/21	For the Fiscal Year Ended 6/30/22
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>								
Receipts for Licenses & Permits	\$ 38,425	\$ 126,910	\$ 38,370 <sup>(1)</sup>	\$ 133,550 <sup>(1)</sup>	\$ 29,465 <sup>(1)</sup>	\$ 193,865 <sup>(1)</sup>	\$ 29,465	\$ 193,865
Payments to Employees	(113,145)	(112,763)	(115,097) <sup>(2)</sup>	(134,846) <sup>(2)</sup>	(126,366) <sup>(2)</sup>	(124,812) <sup>(2)</sup>	(126,366)	(124,812)
Payments for Services/Claims	-	-	-	- <sup>(3)</sup>	(24,902) <sup>(3)</sup>	(25,300) <sup>(3)</sup>	(24,902)	(25,300)
Other Payments	(732)	(5,174)	(13)	(627)	(5,000)	(497)	(5,000)	(497)
Net Cash Provided (Used) by Operating Activities	(75,452)	8,973	(76,740)	(1,923)	(126,803)	43,257	(126,803)	43,257
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>								
Interest and Dividends on Investments	2,164	2,533	3,178 <sup>(3)</sup>	4,230 <sup>(3)</sup>	9,964 <sup>(3)</sup>	6,918 <sup>(3)</sup>	9,964	6,918
Net Cash Provided (Used) by Investing Activities	2,164	2,533	3,178	4,230	9,964	6,918	9,964	6,918
Net Increase (Decrease) in Cash	(73,288)	11,505	(73,562)	2,307	(116,839)	50,175	(116,839)	50,175
Cash and Cash Equivalents - Beginning of Year	527,552	454,264	465,770	392,207	394,514	277,675	327,850	211,011
Cash and Cash Equivalents - End of Year	\$ 454,264	\$ 465,770	\$ 392,207	\$ 394,514	\$ 277,675	\$ 327,850	\$ 211,011	\$ 261,186

(1) For FY22, licenses and permits revenue projected to be the same as FY20.

(2) Projecting through FY21 based on FY19 rate of earnings.

(3) For FY21, the annual personal services costs are projected for the Executive Administrator to spend 10% and the Project Assistant to spend 100% of their time on Real Estate Recovery Fund related tasks.

# Commission Members Comments & Questions

Adjournment

Call to Order