

# ***Statutes and Regulations*** **Collection Agencies**

***May 2014***



DEPARTMENT OF COMMERCE, COMMUNITY,  
AND ECONOMIC DEVELOPMENT

***DIVISION OF CORPORATIONS, BUSINESS  
AND PROFESSIONAL LICENSING***

NOTE: The official version of the statutes in this document is printed in the Alaska Statutes, copyrighted by the State of Alaska. The official version of the regulations in this document is published in the Alaska Administrative Code, copyrighted by the State of Alaska. If any discrepancies are found between this document and the official versions, the official versions will apply.

# TABLE OF CONTENTS

Section	Page
1. Collection Agency Statutes (AS 08.24).....	1
2. Centralized Licensing Statutes (AS 08.01 – AS 08.03).....	8
3. Occupational Licensing Regulations and Fees (12 AAC 02) .....	18

**CHAPTER 24.  
COLLECTION AGENCIES.**

**Section**

- 41. Duty to enforce chapter**
- 45. Duty to pass upon qualifications**
- 51. Power to seek injunctions**
- 61. Publication of applicable law**
- 90. License required**
- 100. Licensed operator required; exceptions; renewal**
- 110. Qualification for operator's license**
- 120. Application for operator's license**
- 130. Application for agency license**
- 135. Fees**
- 140. Fee, bond and other material**
- 150. Bond**
- 160. Form of bond**
- 170. Return of fees and bond**
- 190. License not assignable; death of licensee**
- 200. Expiration and renewal**
- 210. Annual statement of collection**
- 230. False declarations in statement**
- 240. Failure to file statement**
- 250. Information confidential**
- 260. Investigations**
- 270. Administrative Procedure Act**
- 280. Records and funds**
- 290. Suspension, revocation or refusal to renew or grant a license or certificate**
- 300. Court action by agency**
- 310. Additional business names**
- 320. Documents which imitate judicial process**
- 330. Duty to maintain a public office**
- 340. Statement of persons employed by agency**
- 350. Notice of withdrawal of employees**
- 360. Fines and penalties**
- 370. Nonresidents**
- 380. Definitions**

**Sec. 08.24.041. Duty to enforce chapter.** The department shall enforce all laws and regulations relating to collection agencies.

**Sec. 08.24.045. Duty to pass upon qualifications.** The commissioner or the commissioner's designee shall pass upon the qualifications of applicants for collection agency licenses and operators licenses.

**Sec. 08.24.051. Power to seek injunctions.** The department may apply to the superior court for an injunction to temporarily restrain a violation of this chapter or a regulation adopted under it, conduct investigations of alleged violations of this chapter and regulations adopted under this chapter, and perform other action necessary to accomplish the purposes of this chapter.

**Sec. 08.24.061. Publication of applicable law.** The department shall reproduce the laws relating to licensing of collection agencies and operators, the regulations adopted by the department and other pertinent matter, publish the material in pamphlet form, and make the pamphlets available to the public without expense.

**Sec. 08.24.090. License required.** (a) A person other than a collection agency licensed and authorized under this chapter may not for compensation

- (1) conduct a collection agency business in this state;
- (2) collect claims for others in this state;
- (3) solicit the right to collect or receive payment of a claim for another;
- (4) advertise or solicit either in print, by letter, in person or otherwise, the right to collect or receive payment of a claim for another;
- (5) seek to make collection or obtain payment of a claim on behalf of another.

(b) This chapter does not apply to the following when engaged in the regular course of their respective businesses:

- (1) attorneys at law;
  - (2) persons regularly employed on a regular wage or salary in the capacity of credit men or a similar capacity, except as an independent contractor;
  - (3) banks, including trust departments of banks, fiduciaries and financing and lending institutions;
  - (4) common carriers,
  - (5) title insurers and abstract companies while doing an escrow business;
  - (6) licensed real estate brokers;
  - (7) employees of licensees under this chapter;
  - (8) substation payment offices employed by or serving as independent contractors for public utilities.
- (c) A violation of this section is a misdemeanor punishable by imprisonment in a jail for not to exceed one year, or by a fine of not more than \$1,000, or by both.

**Sec. 08.24.100. Licensed operator required; exceptions; renewal.** (a) Notwithstanding any other provision of this chapter, a licensee may not engage in the collection agency business unless and until the collection agency and each branch office of the agency is under the management and control of a licensed operator for each office. The department may waive this requirement for a period not to exceed 90 days upon the death or disability of an operator or for other good cause.

(b) The operator's license is renewable on or before July 1 of each second year.

**Sec. 08.24.110. Qualification for operator's license.** (a) To qualify for an operator's license, the applicant shall

- (1) be a high school graduate, or have the equivalent education of a high school graduate;
- (2) be of good moral character;
- (3) not have been convicted of violating this chapter, nor have any unsettled complaints under this chapter against the applicant;

(4) not have been convicted of a felony or a crime of larceny or embezzlement or a crime involving moral turpitude;

- (5) be 19 years of age or older at the time of application;
- (6) not be a disbarred attorney or have filed bankruptcy;
- (7) pay the biennial license fee.

(b) The commissioner may waive or modify the requirements specified in (a)(1), (3), (4) and (6) of this section for good cause shown.

**Sec. 08.24.120. Application for operator's license.** (a) An application for an operator's license shall be made on forms furnished by the department and must contain the information required in AS 08.24.110 and the following:

- (1) a complete set of fingerprints and the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check;
- (2) a 2" x 3" photograph showing a front view of head and shoulders;
- (3) if it is an original application, the application fee;
- (4) the biennial license fee.

(b) The department may make a complete investigation of applicants, including inquiry of police agencies as to the applicant's record of arrest or conviction of crime. The department shall submit the fingerprints and fees received under (a)(1) of this section to the Department of Public Safety for a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400.

**Sec. 08.24.130. Application for agency license.** (a) An application for a collection agency license, or for a renewal of a license shall be made upon forms furnished by the department and must contain the following information:

- (1) the full name and proposed business name of the applicant;
- (2) the address of the applicant's principal place of business and branch offices;
- (3) the names and addresses of the applicant and those associated with the applicant; if the applicant is a corporation or association, the application must contain the names of the officers of the corporation or association;
- (4) the names and residential addresses of the applicant's operators;
- (5) additional information that the department by regulation requires.

(b) A natural person applying for a collection agency license must be 19 years of age or older at the time of making application.

**Sec. 08.24.135. Fees.** The department shall set fees for licenses and applications under AS 08.01.065 and shall set delayed renewal penalties under AS 08.01.100.

**Sec. 08.24.140. Fee, bond, and other material.** (a) The application must be accompanied by

- (1) if it is an original application, the application fee;
- (2) the biennial license fee for a collection agency for the principal place of business and the same amount for each branch office;
- (3) a bond running to the state with a surety or sureties to the satisfaction of the department, and conditioned that the licensee shall, within 30 days after the close of each calendar or fiscal month, report and pay to the licensee's customers the net proceeds due and payable of all collections made during the calendar or fiscal month that exceed \$20.

(b) All money collected by an agency belonging to a client shall be deposited in a trust account and cleared at the end of each month. The department may audit any agency transaction.

**Sec. 08.24.150. Bond.** (a) The bond provided for in AS 08.24.140 shall be in the sum of \$5,000, executed by the applicant, as principal, and by a corporation that is licensed or authorized to transact business of fidelity and surety insurance within the state as surety. The department may at any time request verification of a bonding agent's authority by the main office of any company acting as surety.

(b) A licensee may, at any time, file with the department a new bond. A licensee may in lieu of a bond make a \$5,000 cash deposit with the department, the deposit to be held by the department under the same terms and conditions as if bond in that amount were posted.

(c) A surety may file with the department notice of the surety's withdrawal on the bond of a licensee. Upon filing a new bond, or upon the revocation of the collection agency license, or upon expiration of 60 days after the filing of notice of withdrawal as surety by the surety, the liability of the former surety for all future acts of the licensee is terminated.

(d) The department shall immediately cancel the bond given by a surety company upon being advised its license to transact business of fidelity and surety insurance has been revoked by the state.

(e) Upon the filing with the department of notice by a surety of the surety's withdrawal as the surety on the bond of a licensee, or upon the cancellation by the department of the bond of a surety company as provided in this section, the department shall immediately give notice to the licensee of the withdrawal or cancellation. The notice shall be by registered or certified mail with request for a return receipt and addressed to the licensee at the licensee's main office, as shown by the records of the department. At the expiration of 30 days from the date of mailing the notice, the license of the licensee is terminated unless the licensee has filed a new bond with a surety satisfactory to the department. All bonds given under this chapter shall be filed and held in the office of the department.

(f) The bond required by this section remains in effect until cancelled by action of the surety, the principal, or the department. An action may not be initiated upon the bond after two years from its cancellation.

**Sec. 08.24.160. Form of bond.** The bond required by AS 08.24.140 and 08.24.150 shall be in the form substantially as follows:

**BOND**

Know all Men by These Presents that we, ....., as principal, and ..... as surety, are held and firmly bound to the State of Alaska, in the penal sum of \$....., lawful money of the United States, for the payment of which we bind ourselves, our heirs, executors, administrators, successors and assigns jointly and severally. The condition of this obligation is such that whereas, the bonded principal, named above, has applied to the Department of Commerce, Community, and Economic Development of the State of Alaska for a collection agency license under the provisions of AS 08.24 and is required by the provisions of that law to furnish a bond conditioned as herein set out.

Now, therefore, if ....., within 30 days after the close of each fiscal or calendar month, reports and pays to customers the net proceeds due and payable of all collections made during that calendar or fiscal month which exceed \$20, and strictly, honestly and faithfully complies with the provisions of AS 08.24 and all amendments to it and regulations adopted under it, then this obligation is void, otherwise to remain in full force and effect.

This bond becomes effective on the ..... day of ....., 2 ..... . The surety may be relieved of future liability under it by giving 60 days' written notice to the principal and to the Department of Commerce, Community, and Economic Development of the State of Alaska.

This bond is one continuing obligation and the liability of the surety for the aggregate of all claims which may arise under it may in no event exceed the amount of the penalty set out in it.

IN WITNESS WHEREOF, we have hereunto set our hands and seals at ..... Alaska, this ..... day of ....., 2 ..... .

(SEAL). . . . .Principal  
(SEAL). . . . .Surety

**Sec. 08.24.170. Return of fees and bond.** If the department does not issue the license applied for, the license fee and bond shall be returned. The application fee may not be returned.

**Sec. 08.24.190. License not assignable; death of licensee.** (a) Except as provided in (b) of this section, a license granted under this chapter is a personal privilege and is not assignable.

(b) Upon the death of a collection agency licensee, the department has the right to transfer the license of the decedent to the executor or administrator of the decedent's estate for the period of the unexpired term of the license and the court having jurisdiction of the probate of the estate of the decedent may authorize the executor or administrator to continue the collection agency business of the decedent and upon other terms and conditions as the court may prescribe.

(c) The death of the operator of a corporate licensee shall in no way interfere with the continuation of the licensed business if another licensed operator is placed in management control of the corporate licensee.

**Sec. 08.24.200. Expiration and renewal.** (a) All licenses required by this chapter shall expire on June 30, 1970, and June 30 of each second year thereafter and shall be renewed as of July 1 following upon payment of required biennial fees.

(b) If a licensee under this chapter is delinquent for a period of 15 days in applying for the renewal of a license, the department shall suspend the license and notify the licensee by certified mail or by personal service. The notice must state that the license will be revoked if application for renewal is not made within 15 days after the date on which the notice was mailed or personally served. When a licensee has been delinquent more than 60 days in renewing a license or certificate, the department shall charge an additional penalty established under AS 08.01.100(b) before renewal of the license.

**Sec. 08.24.210. Annual statement of collection.** Each collection agency licensee shall, not later than January 31 of each calendar year, file with the department a verified annual statement for the preceding calendar year, showing the respective amounts of all customers' money collected by the licensee during the preceding calendar year, that has not previously been remitted to the customers entitled to it or properly accounted for, and showing also the amounts of money that the licensee has on deposit in a bank or in the licensee's possession for the purpose of liquidating any and all amounts due to customers. The statement must contain the name and address of the bank. The annual statement shall be made substantially in the following form:

**ANNUAL STATEMENT TO  
DEPARTMENT OF COMMERCE, COMMUNITY,  
AND ECONOMIC DEVELOPMENT**

Pursuant to AS 08.24.210 the undersigned, ....., licensed under AS 08.24 to conduct a collection agency business, hereby declares that the amount of money collected during the preceding calendar year by the undersigned, as a licensee under AS 08.24, which has not been remitted to a customer or properly accounted for is \$ .....; and that the amount on deposit with all banks for the purpose of liquidating all amounts to customers is \$ .....

The attached schedule contains a true statement of the name and address of each customer of the undersigned to whom there was due or owing at the end of the preceding calendar year on account of collections made during the preceding calendar year the aggregate sum of \$20 or more.

IN WITNESS WHEREOF, the undersigned has executed this statement on this ..... day of ....., 2 .....

(name of licensee).....  
(signature).....  
(capacity).....

**VERIFICATION**

STATE OF ALASKA        )  
                                  ss )  
THIRD DISTRICT        )

I, the undersigned, being first sworn, do on oath depose and say: That I executed the within annual statement as the licensee named in it or on behalf of the licensee named in it, as the operator, director, or officer of the licensee named in it, as indicated in it; that I have read the statement and know its contents; and that the statement is true.

Subscribed and sworn to before me this ..... day of ....., 2 .....

Notary Public in-and for Alaska

My commission expires:

**Sec. 08.24.230. False declarations in statement.** The wilful making of a false declaration in the annual statement or biennial statement of employees constitutes sufficient grounds for revocation of the license of the licensee.

**Sec. 08.24.240. Failure to file statement.** If the annual statement of collection is not filed as required under AS 08.24.210, the failure to file constitutes grounds for the immediate suspension of the collection agency license of the licensee failing to file the statement, and the department shall notify the licensee by registered or certified mail that the license of the licensee will be suspended upon the expiration of 15 days after the date on which the notice was mailed unless the licensee complies with the provisions of AS 08.24.210. However, for good cause shown and upon satisfactory proof furnished by the licensee that the failure to file the statement was due to a condition not within the control, or was due to excusable neglect, of the licensee, the department may permit the filing of the statement after the time limited and excuse the failure to file the statement within the time limited. If the statement required by AS 08.24.210 is not filed as required by this section, the department shall revoke the license.

**Sec. 08.24.250. Information confidential.** Except as otherwise provided in this chapter, information in whatever form required to be filed by the terms of AS 08.24.210 shall be confidential and may not become a public record, but it may be introduced in evidence in a suit, action, or proceeding in a court or in a proceeding involving the granting or revocation of the license of a licensee.

**Sec. 08.24.260. Investigations.** The department may, upon its own motion, and shall, upon the sworn complaint in writing of a customer of a collection agency, investigate the actions of a licensee claimed to have violated this chapter and, for that purpose, shall have free access to the offices and place of business and, if the complaint involves customer accounts, to all pertinent books, accounts, records, papers, files, safes, and vaults of the licensee or certificate holder. If the complaint involves the owing of money, or any other thing of value, by a licensee to the complainant, when the licensee raises the issue of an offset or counterclaim, the department may require the complainant to submit all records and data in the complainant's possession pertaining to the offset or counterclaim.

**Sec. 08.24.270. Administrative Procedure Act.** The department shall comply with the Administrative Procedure Act (AS 44.62) both as to adoption of regulations and adjudication.

**Sec. 08.24.280. Records and funds.** (a) A collection agency shall keep a record of all sums collected by it, and of all disbursements made by it, and shall maintain and keep all the records and all customers' funds in a trust account with a recognized financial institution in this state. Collection agencies shall maintain accounting records of collections for and payments to customers for a period of six years from the date of the last entry. Collection agencies shall keep other records for a period of two years from the date of the last entry.

(b) Every collection agency shall maintain a permanent numerical receipt record that indicates as to each payment made by a debtor the following information:

- (1) the name of the debtor making payment;
- (2) the amount paid;
- (3) the name of the creditor to whom funds are being applied;
- (4) the date and form of payment;
- (5) the balance remaining due on account.

(c) An agency using a computer system giving read-out debtor payment information is not required to maintain a numerical receipt record; however, if requested, a receipt shall be furnished to debtor.

(d) The receipt shall be made immediately upon the receipt of funds by the collection agency in payment of a debt; the original copy to be made immediately available to the debtor who has made payment, upon request; and a copy to be made immediately available to the creditor for whom payment was received, upon request; and a copy to be maintained in the permanent receipt record.

(e) A collection agency shall maintain daily cash ledger sheets showing all funds received from debtors and all funds received as fees for services, such as credit reports and the like.

(f) A collection agency or employee of a collection agency may not intentionally make a false entry in the collection agency record or intentionally mutilate, destroy or otherwise dispose of a record within the time limits provided in this section. The records shall at all reasonable times be open for inspection by the department.

(g) A collection agency shall maintain a separate trust account exclusively for customers' funds and shall keep the funds in the trust account until disbursed to the customer.

**Sec. 08.24.290. Suspension, revocation, or refusal to renew or grant a license or certificate.** The department may suspend, revoke or refuse to renew or grant a license issued or applied for under this chapter if the licensee or applicant or a partner, associate, or major stockholder of a collection agency has since the date of the application been disbarred from the practice of law or been convicted of fraud, embezzlement, obtaining money under false pretenses, a crime involving moral turpitude, extortion, conspiracy to defraud, violation of a provision of this chapter or violation of a regulation adopted under authority of this chapter.

**Sec. 08.24.300. Court action by agency.** A collection agency is not entitled to maintain a suit or action involving the collection of money on behalf of its customers in a court of this state without alleging and proving that it is licensed and has procured a bond, as provided in this chapter. A copy of the collection agency license, certified by the department to be a true and correct copy is prima facie evidence of the licensing and bonding of the collection agency for the term expressed in the copy of the license.

**Sec. 08.24.310. Additional business names.** A collection agency using a business name other than the one appearing on the application for its license shall secure a separate license and bond as provided in this chapter for each business name used.

**Sec. 08.24.320. Documents which imitate judicial process.** Forms of demand or notice or other documents drawn to resemble court process may not be used by collection agencies in the collection of bills, accounts, or other indebtedness.

**Sec. 08.24.330. Duty to maintain a public office.** Each collection agency shall maintain its principal office and any branch office at a street address that is stated in its original application for license or another address that the agency may designate to the department; the office shall be maintained in such a manner as to be open for contact by the public or debtors during normal working hours.

**Sec. 08.24.340. Statement of persons employed by agency.** (a) Within 15 days after licensure under this chapter, a collection agency shall submit to the department a list of all persons employed by the agency. Thereafter, upon hiring a new employee, the collection agency shall, within 15 days after the hiring, submit to the department the name of the newly hired employee and the further information required by (b) of this section.

(b) There shall be submitted with the name of the employee employed by the collection agency the following information:

- (1) the employee's residence address;
- (2) the employee's length of residence in the state;
- (3) a statement of the new employee's previous employment in the last year;
- (4) further information which the department may require.

(c) The statement shall be verified by the employee before a notary public or other person authorized to administer oaths.

(d) The owner or licensed operator of the collection agency shall also state upon the form submitted the date upon which the new employee was hired and that the new employee is an employee of the collection agency at the time the form is executed.

**Sec. 08.24.350. Notice of withdrawal of employees.** When an employee withdraws from employment or the employee's employment with a collection agency is terminated for any reason, the agency shall, within 15 days of withdrawal or termination of employment, notify the department in writing of the employee's withdrawal from employment.

**Sec. 08.24.360. Fines and penalties.** A collection agency or an operator who fails on written demand to render a true and complete account to the person from whom an indebtedness was taken for collection or who fails to turn over to that person the proceeds of the collection within 30 days after written demand, or who fails to comply with any of the provisions of this chapter is punishable by a fine of not more than \$500, or by imprisonment for not more than three months, or by both.

**Sec. 08.24.370. Nonresidents.** A nonresident may apply for and receive a collection agency license or an operator license or both on the same basis as a resident. The application fee and the biennial license fee for a nonresident operator or nonresident agency license are double the same fees established by regulations under AS 08.01.065 for a resident operator or agency.



**Sec. 08.24.380. Definitions.** In this chapter

(1) "collection agency" means a person licensed and authorized to engage in the collection agency business;

(2) "collection agency business" means the business of engaging directly or indirectly and having as a primary or secondary object, business or pursuit the solicitation of claims for collection or repossession of collateral security or the collection of claims owed or due or asserted to be owed or due to another or the repossession of collateral security;

(A) a house, agency, firm, person, corporation or voluntary association using a name other than its own in collecting its own claims with the intention of conveying, or which tends to convey, the impression that a third party has been employed, is conducting a collection agency business within the meaning of this chapter;

(B) a person who sells, attempts to sell, gives away or attempts to give away to another person, other than a licensee under this chapter a system of collection letters, demand forms or other printed matter where the name of a person other than a creditor appears in a manner to indicate that a request or demand is being made by another person, other than the creditor, for the payment of a sum due, or asserted to be due, or who solicits or accepts accounts for collection on a contingent or percentage basis or by a fee or outright purchase for collection purposes, is considered to be in the collection agency business within the meaning of this chapter;

(3) "commissioner" means the commissioner of commerce, community, and economic development;

(4) "department" means the Department of Commerce, Community, and Economic Development;

(5) "operator" means a person having managerial control of a collection agency.

**CHAPTER 01.  
CENTRALIZED LICENSING.**

**Section**

- 10. Applicability of chapter**
- 20. Board organization**
- 25. Public members**
- 30. Quorum**
- 35. Appointments and terms**
- 40. Transportation and per diem**
- 50. Administrative duties of department**
- 60. Application for license**
- 62. Courtesy licenses**
- 63. Military courtesy licenses**
- 64. Military education, training, and service credit; temporary license**
- 65. Establishment of fees**
- 70. Administrative duties of boards**
- 75. Disciplinary powers of boards**
- 77. Conviction as grounds for disciplinary action**
- 80. Department regulations**
- 87. Investigative and enforcement powers of department**
- 89. Copies of records for child support purposes**
- 90. Applicability of the Administrative Procedure Act**
- 100. License renewal, lapse, and reinstatement**
- 102. Citation for unlicensed practice or activity**
- 103. Procedure and form of citation**
- 104. Failure to obey citation**
- 105. Penalty for improper payment**
- 110. Definitions**

**Sec. 08.01.010. Applicability of chapter.** This chapter applies to the

- (1) Board of Public Accountancy (AS 08.04.010);
- (2) regulation of acupuncturists under AS 08.06;
- (3) State Board of Registration for Architects, Engineers, and Land Surveyors (AS 08.48.011);
- (4) Athletic Commission (AS 05.05 and AS 05.10);
- (5) regulation of audiologists and speech-language pathologists under AS 08.11;
- (6) Board of Barbers and Hairdressers (AS 08.13.010);
- (7) Big Game Commercial Services Board (AS 08.54.591);
- (8) regulation of business licenses under AS 43.70;
- (9) Board of Chiropractic Examiners (AS 08.20.010);
- (10) regulation of collection agencies under AS 08.24;
- (11) regulation of concert promoters under AS 08.92;
- (12) regulation of construction contractors and home inspectors under AS 08.18;
- (13) Board of Dental Examiners (AS 08.36.010);
- (14) Board of Certified Direct-Entry Midwives (AS 08.65.010);
- (15) regulation of dietitians and nutritionists under AS 08.38;
- (16) regulation of dispensing opticians under AS 08.71;
- (17) regulation of electrical and mechanical administrators under AS 08.40;
- (18) regulation of agencies that perform euthanasia services under AS 08.02.050;
- (19) regulation of professional geologists under AS 08.02.011;
- (20) regulation of hearing aid dealers under AS 08.55;
- (21) Board of Marine Pilots (AS 08.62.010);
- (22) Board of Marital and Family Therapy (AS 08.63.010);
- (23) State Medical Board (AS 08.64.010);
- (24) regulation of morticians under AS 08.42;
- (25) regulation of the practice of naturopathy under AS 08.45;
- (26) Board of Nursing (AS 08.68.010);
- (27) regulation of nursing home administrators under AS 08.70;
- (28) Board of Examiners in Optometry (AS 08.72.010);
- (29) Board of Pharmacy (AS 08.80.010);
- (30) State Physical Therapy and Occupational Therapy Board (AS 08.84.010);
- (31) Board of Professional Counselors (AS 08.29.010);
- (32) Board of Psychologist and Psychological Associate Examiners (AS 08.86.010);

- (33) Real Estate Commission (AS 08.88.011);
- (34) Board of Certified Real Estate Appraisers (AS 08.87.010);
- (35) Board of Social Work Examiners (AS 08.95.010);
- (36) Board of Veterinary Examiners (AS 08.98.010);
- (37) regulation of private professional guardians and private professional conservators (AS 08.26);
- (38) regulation of pawnbrokers (AS 08.76.100 – 08.76.590).

**Sec. 08.01.020. Board organization.** Board members are appointed by the governor and serve at the pleasure of the governor. Unless otherwise provided, the governor may designate the chair of a board, and all other officers shall be elected by the board members. Unless otherwise provided, officers of a board are the chair and the secretary. A board may provide by regulation that three or more unexcused absences from meetings are cause for removal.

**Sec. 08.01.025. Public members.** A public member of a board may not

- (1) be engaged in the occupation that the board regulates;
- (2) be associated by legal contract with a member of the occupation that the board regulates except as a consumer of the services provided by a practitioner of the occupation; or
- (3) have a direct financial interest in the occupation that the board regulates.

**Sec. 08.01.030. Quorum.** A majority of the membership of a board constitutes a quorum unless otherwise provided.

**Sec. 08.01.035. Appointments and terms.** Members of boards subject to this chapter are appointed for staggered terms of four years. Except as provided in AS 39.05.080(4), a member of a board serves until a successor is appointed. Except as provided in AS 39.05.080(4), an appointment to fill a vacancy on a board is for the remainder of the unexpired term. A member who has served all or part of two successive terms on a board may not be reappointed to that board unless four years have elapsed since the person has last served on the board.

**Sec. 08.01.040. Transportation and per diem.** A board member is entitled to transportation expenses and per diem as set out in AS 39.20.180.

**Sec. 08.01.050. Administrative duties of department.** (a) The department shall perform the following administrative and budgetary services when appropriate:

- (1) collect and record fees;
- (2) maintain records and files;
- (3) issue and receive application forms;
- (4) notify applicants of acceptance or rejection as determined by the board or, for occupations or activities listed in AS 08.01.010 that are regulated directly by the department, as determined by the department under applicable law;
- (5) designate dates examinations are to be held and notify applicants;
- (6) publish notice of examinations and proceedings;
- (7) arrange space for holding examinations and proceedings;
- (8) notify applicants of results of examinations;
- (9) issue licenses or temporary licenses as authorized by the board or, for occupations or activities listed in AS 08.01.010 that are regulated directly by the department, as authorized by the department under applicable law;
- (10) issue duplicate licenses upon submission of a written request by the licensee attesting to loss of or the failure to receive the original and payment by the licensee of a fee established by regulation adopted by the department;
- (11) notify licensees of renewal dates at least 30 days before the expiration date of their licenses;
- (12) compile and maintain a current register of licensees;
- (13) answer routine inquiries;
- (14) maintain files relating to individual licensees;
- (15) arrange for printing and advertising;
- (16) purchase supplies;
- (17) employ additional help when needed;
- (18) perform other services that may be requested by the board;
- (19) provide inspection, enforcement, and investigative services to the boards and for the occupations listed in AS 08.01.010 regarding all licenses issued by or through the department;
- (20) retain and safeguard the official seal of a board and prepare, sign, and affix a board seal, as appropriate, for licenses approved by a board;
- (21) issue business licenses under AS 43.70.

(b) The form and content of a license, authorized by a board listed in AS 08.01.010, including any document evidencing renewal of a license, shall be determined by the department after consultation with and consideration of the views of the board concerned.

(c) *[Repealed, Sec. 49 ch 94 SLA 1987.]*

(d) At the request of one of the following boards, the department may contract with public agencies and private professional organizations to provide assistance and treatment to persons licensed by the board who abuse alcohol, other drugs, or other substances:

- (1) Board of Social Work Examiners;
- (2) Board of Dental Examiners;
- (3) Board of Marital and Family Therapy;
- (4) State Medical Board;
- (5) Board of Nursing;
- (6) Board of Examiners in Optometry;
- (7) Board of Pharmacy;
- (8) State Physical Therapy and Occupational Therapy Board;
- (9) Board of Professional Counselors;
- (10) Board of Psychologist and Psychological Associate Examiners; and
- (11) Board of Veterinary Examiners.

**Sec. 08.01.060. Application for license.** (a) All applications for examination or licensing to engage in the business or profession covered by this chapter shall be made in writing to the department.

(b) If the applicant is a natural person, the application must require that the applicant submit the applicant's social security number to the department. Notwithstanding any other provision of this title, a license to engage in a profession may not be issued by the department to a natural person unless the social security number has been provided to the department.

**Sec. 08.01.062. Courtesy licenses.** (a) A board established under this title and the Department of Commerce, Community, and Economic Development, with respect to an occupation that it regulates under this title, may by regulation establish criteria for issuing a temporary courtesy license to nonresidents who enter the state so that, on a temporary basis, they may practice the occupation regulated by the board or the department.

(b) The regulations adopted under (a) of this section may include limitations relating to the

- (1) duration of the license's validity;
- (2) scope of practice allowed under the license; and
- (3) other matters considered important by the board or the department.

**Sec. 08.01.063. Military courtesy licenses.** (a) Except as provided in (d) of this section, and notwithstanding another provision of law, the department or appropriate board may issue a temporary courtesy license to the spouse of an active duty member of the armed forces of the United States if the spouse applies to the department or appropriate board in the manner prescribed by the department or appropriate board. An application must include evidence satisfactory to the department or appropriate board that the applicant

(1) is married to and living with a member of the armed forces of the United States who is on active duty and assigned to a duty station in this state under official active duty military orders;

(2) holds a current license or certificate in another state, district, or territory of the United States with requirements that the department or appropriate board determines are equivalent to those established under this title for that occupation;

(3) if required by the department or appropriate board for obtaining a license in the applicant's profession, has been fingerprinted and has provided the fees required by the Department of Public Safety under AS 12.62.160 for criminal justice information and a national criminal history record check; the fingerprints and fees shall be forwarded to the Department of Public Safety to obtain a report of criminal justice information under AS 12.62 and a national criminal history record check under AS 12.62.400;

(4) has not committed an act in any jurisdiction that would have constituted grounds for the refusal, suspension, or revocation of a license or certificate to practice that occupation under this title at the time the act was committed;

(5) has not been disciplined by a licensing or credentialing entity in another jurisdiction and is not the subject of an unresolved complaint, review procedure, or disciplinary proceeding conducted by a licensing or credentialing entity in another jurisdiction; and

(6) pays any fees required under this title.

(b) The department or appropriate board shall expedite the procedure for issuance of a license under (a) of this section.

(c) A temporary courtesy license issued under this section is valid for 180 days and may be extended at the discretion of the department or appropriate board for one additional 180-day period, on application of the holder of the temporary courtesy license.

(d) This section does not apply to the practice of law or the regulation of attorneys under AS 08.08.

**Sec. 08.01.064. Military education, training, and service credit; temporary license.** (a) Notwithstanding another provision of law, the department or applicable board shall accept military education, training, and service for

some or all of the qualifications otherwise required of an applicant for a license or certificate issued under this chapter if

(1) the department or applicable board determines that the military education, training, and service is substantially equivalent to some or all of the qualifications otherwise required of an applicant for a license or certificate issued under this chapter; and

(2) the applicant provides satisfactory evidence of successful completion of the education, training, or service as a member of the armed forces of the United States, the United States Reserves, the National Guard of any state, the Military Reserves of any state, or the Naval Militia of any state.

(b) If the department issues temporary licenses or certificates as authorized by the department or applicable board under AS 08.01.050(a)(9), the department or applicable board shall issue a temporary license or certificate to a person who

(1) applies to the department or applicable board in a manner prescribed by the department or board;

(2) meets the requirements in AS 08.01.063(a)(3) - (6); and

(3) while in the armed forces of the United States or any state, as described in (a) of this section,

(A) held a current license or certificate in another state, district, or territory of the United States, practiced in the area of the license or certificate, and maintained the license or certificate in active status before and at the time of application for a license or certificate under this subsection; or

(B) was awarded a degree, diploma, or certificate by a branch of the armed forces of the United States or any state, as described in (a) of this section, that met standards for an equivalent license or a certificate of technical training.

(c) The department or applicable board shall expedite the procedure for issuance of a license or certificate under (b) of this section for an applicant who is on active duty.

(d) A license or certificate issued under (b) of this section is valid for 180 days and may be extended at the discretion of the department or applicable board for one additional 180-day period if the holder of the license or certificate applies for an extension on a form approved by the department or applicable board.

(e) The department or applicable board may adopt regulations necessary to implement this section.

**Sec. 08.01.065. Establishment of fees.** (a) Except for business licenses, the department shall adopt regulations that establish the amount and manner of payment of application fees, examination fees, license fees, registration fees, permit fees, investigation fees, and all other fees as appropriate for the occupations covered by this chapter.

(b) *[Repealed, Sec. 4 ch 34 SLA 1992.]*

(c) Except as provided in (f) - (i) of this section, the department shall establish fee levels under (a) of this section so that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation. The department shall annually review each fee level to determine whether the regulatory costs of each occupation are approximately equal to fee collections related to that occupation. If the review indicates that an occupation's fee collections and regulatory costs are not approximately equal, the department shall calculate fee adjustments and adopt regulations under (a) of this section to implement the adjustments. In January of each year, the department shall report on all fee levels and revisions for the previous year under this subsection to the office of management and budget. If a board regulates an occupation covered by this chapter, the department shall consider the board's recommendations concerning the occupation's fee levels and regulatory costs before revising fee schedules to comply with this subsection. In this subsection, "regulatory costs" means costs of the department that are attributable to regulation of an occupation plus

(1) all expenses of the board that regulates the occupation if the board regulates only one occupation;

(2) the expenses of a board that are attributable to the occupation if the board regulates more than one occupation.

(d) The license fee for a business license is set by AS 43.70.030(a). The department shall adopt regulations that establish the manner of payment of the license fee.

(e) *[Repealed, Sec. 28 ch 90 SLA 1991.]*

(f) Notwithstanding (c) of this section, the department shall establish fee levels under (a) of this section so that the total amount of fees collected by the State Board of Registration for Architects, Engineers, and Land Surveyors approximately equals the total regulatory costs of the department and the board for all occupations regulated by the board. The department shall set the fee levels for the issuance and renewal of a certificate of registration issued under AS 08.48.211 so that the fee levels are the same for all occupations regulated by the board.

(g) Notwithstanding (c) of this section, the department shall establish fee levels under (a) of this section so that the total amount of fees collected by the department for all occupations regulated under AS 08.11 approximately equals the total regulatory costs of the department for all occupations regulated by the department under AS 08.11. The department shall set the fee levels for the issuance and renewal of licenses issued under AS 08.11 so that the fee levels are the same for all occupations regulated by the department under AS 08.11.

(h) Notwithstanding (c) of this section, the department shall establish fee levels under (a) of this section so that the total amount of fees collected by the Board of Barbers and Hairdressers approximately equals the total regulatory costs of the department, the board, and the Department of Environmental Conservation for all occupations regulated by the board. For purposes of this subsection, the regulatory costs of the Department of Environmental Conservation for the occupations regulated by the board include the cost of inspections under AS 08.13.210(b), the

cost of developing and adopting regulations under AS 44.46.020 for barbershop, hairdressing, manicuring, esthetics, body piercing, ear piercing, and tattooing and permanent cosmetic coloring establishments, and the cost to the Department of Environmental Conservation of enforcing those regulations except for the enforcement costs relating to ear piercing establishments. The department shall set the fee levels for the issuance and renewal of a practitioner's license issued under AS 08.13.100 so that the license and license renewal fees are the same for all occupations regulated by the Board of Barbers and Hairdressers.

(i) Notwithstanding (c) of this section, the department shall establish fee levels under (a) of this section so that the total amount of fees collected by the Department of Commerce, Community, and Economic Development for specialty contractors, home inspectors, and associate home inspectors approximately equals the total regulatory costs of the department for those three registration categories. The department shall set the fee levels for the issuance and renewal of a certificate of registration issued under AS 08.18 so that the fee levels are the same for all three of these registration categories and so that the fee level for a home inspector with a joint registration is not different from the fee level for a home inspector who does not have a joint registration. In this subsection, "joint registration" has the meaning given in AS 08.18.171.

**Sec. 08.01.070. Administrative duties of boards.** Each board shall perform the following duties in addition to those provided in its respective law:

- (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.

**Sec. 08.01.075. Disciplinary powers of boards.** (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.

**Sec. 08.01.077. Conviction as grounds for disciplinary action.** Notwithstanding any other provision of this title, the conviction under AS 47.24.010 of a person licensed, certified, or regulated by the department or a board under this title may be considered by the department or board as grounds for disciplinary proceedings or sanctions.

**Sec. 08.01.080. Department regulations.** The department shall adopt regulations to carry out the purposes of this chapter including but not limited to describing

- (1) how an examination is to be conducted;
- (2) what is contained in application forms;
- (3) how a person applies for an examination or license.

**Sec. 08.01.087. Investigative and enforcement powers of department.** (a) The department may, upon its own motion, conduct investigations to

(1) determine whether a person has violated a provision of this chapter or a regulation adopted under it, or a provision of AS 43.70, or a provision of this title or regulation adopted under this title dealing with an occupation or board listed in AS 08.01.010; or

(2) secure information useful in the administration of this chapter.

(b) If it appears to the commissioner that a person has engaged in or is about to engage in an act or practice in violation of a provision of this chapter or a regulation adopted under it, or a provision of AS 43.70, or a provision of this title or regulation adopted under this title dealing with an occupation or board listed in AS 08.01.010, the commissioner may, if the commissioner considers it in the public interest, and after notification of a proposed order or action by telephone, telegraph, or facsimile to all board members, if a board regulates the act or practice involved, unless a majority of the members of the board object within 10 days,

(1) issue an order directing the person to stop the act or practice; however, reasonable notice of and an opportunity for a hearing must first be given to the person, except that the commissioner may issue a temporary order before a hearing is held; a temporary order remains in effect until a final order affirming, modifying, or reversing the temporary order is issued or until 15 days after the person receives the notice and has not requested a hearing by that time; a temporary order becomes final if the person to whom the notice is addressed does not request a hearing within 15 days after receiving the notice; the office of administrative hearings (AS 44.64.010) shall conduct the hearing and shall issue a proposed decision within 10 days after the hearing; the commissioner shall issue a final order within five days after the proposed decision is issued;

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter, a regulation adopted under it, an order issued under it, or with a provision of this title or regulation adopted under this title dealing with business licenses or an occupation or board listed in AS 08.01.010;

(3) examine or have examined the books and records of a person whose business activities require a business license or licensure by a board listed in AS 08.01.010, or whose occupation is listed in AS 08.01.010; the commissioner may require the person to pay the reasonable costs of the examination; and

(4) issue subpoenas for the attendance of witnesses, and the production of books, records, and other documents.

(c) Under procedures and standards of operation established by the department by regulation, and with the agreement of the appropriate agency, the department may designate appropriate state or municipal agencies to investigate reports of abuse, neglect, or misappropriation of property by certified nurse aides.

**Sec. 08.01.089. Copies of records for child support purposes.** If a copy of a public record concerning an individual who owes or is owed child support that is prepared or maintained by the department is requested by the child support services agency created in AS 25.27.010 or a child support enforcement agency of another state, the department shall provide the requesting agency with a certified copy of the public record, including the individual's social security number. If these records are prepared or maintained by the department in an electronic data base, the records may be supplied by providing the requesting agency with a copy of the electronic record and a statement certifying its contents. A requesting agency receiving information under this section may use it only for child support purposes authorized under law.

**Sec. 08.01.090. Applicability of the Administrative Procedure Act.** The Administrative Procedure Act (AS 44.62) applies to regulations adopted and proceedings held under this chapter, except those under AS 08.01.087(b) and actions taken under AS 08.68.333(c).

**Sec. 08.01.100. License renewal, lapse, and reinstatement.** (a) Licenses shall be renewed biennially on the dates set by the department with the approval of the respective board.

(b) A license subject to renewal shall be renewed on or before the date set by the department. If the license is not renewed by the date set by the department, the license lapses. In addition to renewal fees required for reinstatement of the lapsed license, the department may impose a delayed renewal penalty, established by regulation, that shall be paid before a license that has been lapsed for more than 60 days may be renewed. The department may adopt a delayed renewal penalty only with the concurrence of the appropriate board.

(c) Except as provided in (f) of this section, when continuing education or other requirements are made a condition of license renewal, the requirements shall be satisfied before a license is renewed.

(d) Except as otherwise provided, a license may not be renewed if it has been lapsed for five years or more.

(e) Notwithstanding any other provision of this title, a renewal of a license may not be issued by the department to a natural person unless the licensee's social security number has been provided to the department.

(f) The department may establish and implement a waiver of continuing education requirements for renewal of a license regulated by the department and a board may establish and implement a waiver of continuing education

requirements for renewal of a license regulated by the board for the period in which a licensee is engaged in active duty military service in the armed forces of the United States.

(g) A member of the armed forces of the United States on active duty in a combat zone, danger pay post, or qualified hazardous duty area, who is a licensee under this title in good standing at the time of the licensee's active duty order is exempt from any fees or other requirements to maintain that license or good standing while the licensee is in that zone, at that post, or in that area. This exemption is valid for 180 days after returning to the licensee's permanent duty station, if the licensee does not engage in licensed practice for profit in the private sector. The licensee shall pay fees and meet all other requirements for the license period beginning after the exemption ends. In this subsection,

- (1) "combat zone" has the meaning given in 26 U.S.C. 112(c)(2) (Internal Revenue Code);
- (2) "danger pay post" means a post so designated by the United States Secretary of State in the Department of State Standardized Regulations for purposes of danger pay under 5 U.S.C. 5928;
- (3) "qualified hazardous duty area" means an area that, during the applicant's deployment, is treated as if it were a combat zone for purposes of a federal tax exemption under 26 U.S.C. 112 (Internal Revenue Code).

**Sec. 08.01.102. Citation for unlicensed practice or activity.** The department may issue a citation for a violation of a license requirement under this chapter, except a requirement to have a license under AS 43.70, if there is probable cause to believe a person has practiced a profession or engaged in business for which a license is required without holding the license. Each day a violation continues after a citation for the violation has been issued constitutes a separate violation. A citation issued under this section must comply with the standards adopted under AS 12.25.175 - 12.25.230.

**Sec. 08.01.103. Procedure and form of citation.** (a) A person receiving the citation issued under AS 08.01.102 is not required to sign a notice to appear in court.

(b) The time specified in the notice to appear on a citation issued under AS 08.01.102 shall be at least five working days after the issuance of the citation.

(c) The department is responsible for the issuance of books containing appropriate citations and shall maintain a record of each book issued and each citation contained in it. The department shall require and retain a receipt for every book issued to an employee of the department.

(d) On or before the 10th working day after the issuance of a citation, the department shall deposit the original or a copy of the citation with a court having jurisdiction over the alleged offense. Upon its deposit with the court, the citation may be disposed of only by trial in the court or other official action taken by the magistrate, judge, or prosecutor. The department may not dispose of a citation, copies of it, or the record of its issuance except as required under this subsection and (e) of this section.

(e) The department shall require the return of a copy of every citation issued by the department and all copies of a citation that has been spoiled or upon which an entry has been made and not issued to an alleged violator. The department shall also maintain, in connection with each citation, a record of the disposition of the charge by the court where the original or copy of the citation was deposited.

(f) A citation issued under AS 08.01.102 is considered to be a lawful complaint for the purpose of prosecution.

**Sec. 08.01.104. Failure to obey citation.** Unless the citation has been voided or otherwise dismissed by the magistrate, judge, or prosecutor, a person who without lawful justification or excuse fails to appear in court to answer a citation issued under AS 08.01.102, regardless of the disposition of the charge for which the citation was issued, is guilty of a class B misdemeanor.

**Sec. 08.01.105. Penalty for improper payment.** An applicant shall pay a penalty of \$10 each time a negotiable instrument is presented to the department in payment of an amount due and payment is subsequently refused by the named payor.

**Sec. 08.01.110. Definitions.** In this chapter,

- (1) "board" includes the boards and commissions listed in AS 08.01.010;
- (2) "commissioner" means the commissioner of commerce, community, and economic development;
- (3) "department" means the Department of Commerce, Community, and Economic Development;
- (4) "license" means a business license or a license, certificate, permit, or registration or similar evidence of authority issued for an occupation by the department or by one of the boards listed in AS 08.01.010;
- (5) "licensee" means a person who holds a license;
- (6) "occupation" means a trade or profession listed in AS 08.01.010.



**CHAPTER 02.**  
**MISCELLANEOUS PROVISIONS.**

**Section**

- 10. Professional designation requirements**
- 11. Professional geologist**
- 20. Limitation of liability**
- 40. Access to certain mental health information and records by the state**
- 50. Permits for use of drugs to euthanize domestic animals**
- 90. Definition**

**Sec. 08.02.010. Professional designation requirements.** (a) An acupuncturist licensed under AS 08.06, an audiologist or speech-language pathologist licensed under AS 08.11, a person licensed in the state as a chiropractor under AS 08.20, a professional counselor licensed under AS 08.29, a dentist under AS 08.36, a dietitian or nutritionist licensed under AS 08.38, a marital and family therapist licensed under AS 08.63, a medical practitioner or osteopath under AS 08.64, a direct-entry midwife certified under AS 08.65, a registered nurse under AS 08.68, an optometrist under AS 08.72, a licensed pharmacist under AS 08.80, a physical therapist or occupational therapist licensed under AS 08.84, a psychologist under AS 08.86, or a clinical social worker licensed under AS 08.95, shall use as professional identification appropriate letters or a title after that person's name that represents the person's specific field of practice. The letters or title shall appear on all signs, stationery, or other advertising in which the person offers or displays personal professional services to the public. In addition, a person engaged in the practice of medicine or osteopathy as defined in AS 08.64.380, or a person engaged in any manner in the healing arts who diagnoses, treats, tests, or counsels other persons in relation to human health or disease and uses the letters "M.D." or the title "doctor" or "physician" or another title that tends to show that the person is willing or qualified to diagnose, treat, test, or counsel another person, shall clarify the letters or title by adding the appropriate specialist designation, if any, such as "dermatologist", "radiologist", "audiologist", "naturopath", or the like.

(b) A person subject to (a) of this section who fails to comply with the requirements of (a) of this section shall be given notice of noncompliance by that person's appropriate licensing board or, if the person is not regulated by a board, by the department. If, after a reasonable time, with opportunity for a hearing, the person's noncompliance continues, the board or department, as appropriate, may suspend or revoke the person's license or registration, or administer other disciplinary action which in its determination is appropriate.

**Sec. 08.02.011. Professional geologist.** The commissioner of commerce, community, and economic development shall certify an applicant as a professional geologist if the applicant is certified as a professional geologist by the American Institute of Professional Geologists.

**Sec. 08.02.020. Limitation of liability.** An action may not be brought against a person for damages resulting from

- (1) the person's good faith performance of a duty, function, or activity required as a
  - (A) member of, or witness before, a licensing board or peer review committee established to review a licensing matter;
  - (B) member of a committee appointed under AS 08.64.336(c);
  - (C) contractor or agent of a contractor under AS 08.01.050(d) or AS 08.64.101(5);
- (2) a recommendation or action in accordance with the prescribed duties of a licensing board, peer review committee established to review a licensing matter, committee appointed under AS 08.64.336(c), or contractor or agent of a contractor under AS 08.01.050(d) or AS 08.64.101(5) when the person acts in the reasonable belief that the action or recommendation is warranted by facts known to the person, board, peer review committee, committee appointed under AS 08.64.336(c), or contractor or agent of the contractor under AS 08.01.050(d) or AS 08.64.101(5) after reasonable efforts to ascertain the facts upon which the action or recommendation is made; or
- (3) a report made in good faith to a public agency by the person, or participation by the person in an investigation by a public agency or a judicial or administrative proceeding relating to the report, if the report relates to the abuse of alcohol, other drugs, or other substances by a person licensed by a board listed in AS 08.01.050(d).

**Sec. 08.02.040. Access to certain mental health information and records by the state.** (a) Notwithstanding AS 08.29.200, AS 08.63.200, AS 08.86.200, AS 08.95.900, another provision of this title, or a regulation adopted under this title, a licensee or an entity employing or contracting with a licensee may disclose confidential patient mental health information, communications, and records to the Department of Health and Social Services when disclosure is authorized under AS 47.30.540, 47.30.590, 47.30.845, or AS 47.31.032. Information, communications, and records received by the Department of Health and Social Services under this section are confidential medical records of patients and are not open to public inspection and copying under AS 40.25.110 - 40.25.120.

- (b) In this section, "licensee" has the meaning given in AS 08.01.110.

**Sec. 08.02.050. Permits for use of drugs to euthanize domestic animals.** (a) A qualified agency may apply to the department and obtain a permit that authorizes the purchase, possession, and use by the agency of sodium pentobarbital, sodium pentobarbital with lidocaine, and other drugs authorized in regulations adopted by the department for the purpose of euthanizing injured, sick, or abandoned domestic animals in the lawful possession of the agency. To qualify to obtain the permit, the agency shall certify that it will

(1) comply with applicable federal laws related to the use of the drugs; and

(2) not permit an employee to administer the drugs unless the employee has successfully completed a euthanasia technician certification course approved by the National Animal Control Association, the American Humane Association, or the Humane Society of the United States.

(b) The department may revoke or suspend a permit or take another disciplinary action under AS 08.01.075 if it determines that the agency or an employee of the agency

(1) improperly used sodium pentobarbital, sodium pentobarbital with lidocaine, or another drug authorized for use under this section;

(2) failed to follow federal or state laws regarding proper storage and handling of the drugs;

(3) allowed an employee to administer the drugs before the employee successfully completed the certification course described in (a)(2) of this section; or

(4) violated this title or a regulation adopted under this title.

(c) In this section, "agency" means an animal control agency of a municipality or recognized governmental entity or an entity that has contracted with a municipality or recognized governmental entity to perform animal control or animal euthanasia services.

(d) The department may adopt regulations to implement this section.

**Sec. 08.02.090. Definition.** In this chapter, "department" means the Department of Commerce, Community, and Economic Development.

**CHAPTER 03.**  
**TERMINATION, CONTINUATION AND REESTABLISHMENT**  
**OF REGULATORY BOARDS.**

**Section**

**10. Termination dates for regulatory boards**

**20. Procedures governing termination, transition, and continuation**

**Sec. 08.03.010. Termination dates for regulatory boards.**

(a) *[Repealed, Sec. 4 ch 14 SLA 1987.]*

(b) *[Repealed, Sec. 4 ch 14 SLA 1987.]*

(c) The following boards have the termination date provided by this subsection:

- (1) Board of Public Accountancy (AS 08.04.010) – June 30, 2021;
  - (2) Board of Governors of the Alaska Bar Association (AS 08.08.040) – June 30, 2021;
  - (3) State Board of Registration for Architects, Engineers, and Land Surveyors (AS 08.48.011) – June 30, 2017;
  - (4) Board of Barbers and Hairdressers (AS 08.13.010) – June 30, 2019;
  - (5) Board of Chiropractic Examiners (AS 08.20.010) – June 30, 2014;
  - (6) Board of Professional Counselors (AS 08.29.010) – June 30, 2018;
  - (7) Board of Dental Examiners (AS 08.36.010) – June 30, 2019;
  - (8) Board of Certified Direct-Entry Midwives (AS 08.65.010) – June 30, 2015;
  - (9) Big Game Commercial Services Board (AS 08.54.591) – June 30, 2016;
  - (10) Board of Marine Pilots (AS 08.62.010) – June 30, 2019;
  - (11) Board of Marital and Family Therapy (AS 08.63.010) – June 30, 2014;
  - (12) State Medical Board (AS 08.64.010) – June 30, 2020;
  - (13) Board of Nursing (AS 08.68.010) – June 30, 2019;
  - (14) Board of Examiners in Optometry (AS 08.72.010) – June 30, 2014;
  - (15) Board of Pharmacy (AS 08.80.010) – June 30, 2018;
  - (16) State Physical Therapy and Occupational Therapy Board (AS 08.84.010) – June 30, 2014;
  - (17) Board of Psychologist and Psychological Associate Examiners (AS 08.86.010) – June 30, 2018;
  - (18) Real Estate Commission (AS 08.88.011) – June 30, 2016;
  - (19) Board of Certified Real Estate Appraisers (AS 08.87.010) – June 30, 2014;
  - (20) Board of Social Work Examiners (AS 08.95.010) – June 30, 2018;
  - (21) Board of Veterinary Examiners (AS 08.98.010) – June 30, 2017.
- (d) *[Repealed, Sec. 3 ch 74 SLA 1979.]*
- (e) *[Repealed, Sec. 3 ch 74 SLA 1979.]*

**Sec. 08.03.020. Procedures governing termination, transition, and continuation.** (a) Upon termination, each board listed in AS 08.03.010 shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs. During this period, termination does not reduce or otherwise limit the powers or authority of each board. One year after the date of termination, a board not continued shall cease all activities, and the statutory authority of the board is transferred to the department.

(b) The termination, dissolution, continuation or reestablishment of a regulatory board shall be governed by the legislative oversight procedures of AS 44.66.050.

(c) A board scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed eight years unless the board is continued or reestablished for a longer period under AS 08.03.010.

(d) The department shall carry out the functions of a board that has ceased all activities under (a) of this section. Litigation, hearings, investigations, and other proceedings pending at the time the board ceased activities continue in effect and may be continued or completed by the department. Licenses, certificates, orders, and regulations issued or adopted by the board and in effect at the time the board ceased activities remain in effect for the term issued or until revoked, amended, vacated, or repealed by the department.

**CHAPTER 02.**  
**GENERAL OCCUPATIONAL LICENSING FUNCTIONS.**

**Article**

- 1. Collection of Fees**  
(12 AAC 02.010 — 12 AAC 02.030)
- 2. Occupational Licensing Fees**  
(12 AAC 02.100 — 12 AAC 02.380)
- 3. Examination Review Procedures**  
(12 AAC 02.400)
- 4. Real Estate Errors and Omissions Insurance**  
(12 AAC 02.510 — 12 AAC 02.590)
- 5. General Provisions**  
(12 AAC 02.900 — 12 AAC 02.990)

**ARTICLE 1.**  
**COLLECTION OF FEES.**

**Section**

- 10. Licensing and renewal fees**
- 15. Refund of license fees**
- 20. Prorating renewal fees**
- 30. Prorating initial renewal fees**

**12 AAC 02.010. LICENSING AND RENEWAL FEES.** (a) The department will collect fees for licensing and for license renewal for the boards and professions listed in AS 08.01.010.

(b) The department will not issue a license or renew a license unless the applicable fees established in AS 08 or in this chapter have been collected.

(c) Except as otherwise provided in this title, an application for initial licensure or renewal of license will be considered filed as of the filing date of the document, as determined by 12 AAC 02.920.

(d) *Repealed 5/4/90.*

(e) An application fee is not refundable.

**Authority:** AS 08.01.050 AS 08.01.065 AS 08.01.100  
AS 08.01.060 AS 08.01.080

**12 AAC 02.015. REFUND OF LICENSE FEES.** (a) Except as provided in (b) of this section, after a license is initially issued or renewed, the department will not refund the initial license fee or the license renewal fee.

(b) On request, the department will issue a prorated refund of a license fee paid for a licensing period in which the individual licensee dies. The department will issue the refund to the estate of the licensee. The department will not issue a refund when the estate of the licensee remains a partner in a partnership that received a license under AS 08.

(c) To request a refund under this section, the estate of the licensee shall submit to the department

(1) a written request for a refund within 12 months of the licensee's death or before the end of the licensing period in which the licensee died, whichever time period is greater; and

(2) verification of the licensee's death; the department will accept a letter from a coroner or mortuary, a death certificate, or a copy of a newspaper article as verification.

(d) The department will calculate the amount of the prorated refund described in (b) of this section based on the number of complete months remaining in the licensing period on the date of the licensee's death.

**Authority:** AS 08.01.050 AS 08.01.065 AS 08.01.080

**12 AAC 02.020. PRORATING RENEWAL FEES.** The department will prorate the first license renewal fees following initial licensure, in accordance with 12 AAC 02.030. All renewal fees, including penalty and delinquent fees must be paid by the licensee applying for renewal of a license, except as provided in 12 AAC 02.030(a)(1) and (b)(1).

**Authority:** AS 08.01.050 AS 08.01.080 AS 08.01.100

**12 AAC 02.030. PRORATING INITIAL RENEWAL FEES.** (a) When the department issues an initial biennial license

- (1) on or within the 90 days before the date by which it must be renewed, the applicant shall pay the entire license fee but is not required to pay the prescribed renewal fee until the second renewal date;
  - (2) more than 90 days but 12 months or less before the date by which the license must be renewed, the applicant shall pay the entire license fee, and shall pay one-half of the prescribed renewal fee at the time of the first renewal date; or
  - (3) more than 12 months before the date by which the license must be renewed, the applicant shall pay the entire license fee, and shall pay the entire prescribed renewal fee at the time of the first renewal date.
- (b) When the department issues an initial annual license
    - (1) on or within the 90 days before the date by which it must be renewed, the applicant shall pay the entire license fee but is not required to pay the prescribed renewal fee until the second renewal date;
    - (2) more than 90 days but six months or less before the date by which the license must be renewed, the applicant shall pay the entire license fee, and shall pay one-half of the prescribed renewal fee at the time of the first renewal date; or
    - (3) more than six months before the date by which the license must be renewed, the applicant shall pay the entire license fee, and shall pay the entire prescribed renewal fee at the time of the first renewal date.
  - (c) *Repealed 12/28/97.*
  - (d) *Repealed 9/29/2005.*
  - (e) The department will not prorate fees for applications, examinations, reexaminations, credential review or investigation, temporary or emergency permits, locum tenens permits, certificates, or other such fees established in AS 08 or in this chapter.

**Authority:** AS 08.01.065 AS 08.01.080 AS 08.01.100

**ARTICLE 2.  
OCCUPATIONAL LICENSING FEES.**

**Section**

- 100. Fees established by department**
- 102. Fees for a temporary license issued under AS 14.43.148 or AS 25.27.244; waivers; refunds**
- 105. Administrative fees**
- 160. Collection agencies**

**12 AAC 02.100. FEES ESTABLISHED BY DEPARTMENT.** The fees established in this chapter have been adopted by the department after considering any recommendations of the applicable board or commission listed in AS 08.01.010.

**Authority:** AS 08.01.065

**12 AAC 02.102. FEES FOR A TEMPORARY LICENSE ISSUED UNDER AS 14.43.148 OR AS 25.27.244; WAIVERS; REFUNDS.** (a) When the division issues a temporary license under AS 14.43.148 or AS 25.27.244, the division will collect the annual or biennial license fee for the trade or profession for which the temporary license is issued, subject to the refund and waiver provisions set out in this section. The temporary license fee is the amount paid to the division under this section from the annual or biennial license fee that is not refunded or waived under this section.

- (b) When an individual who holds a temporary license issued under AS 14.43.148 is
  - (1) issued a notice of release by the Alaska Commission on Postsecondary Education and takes the action necessary, on or before the expiration date of the temporary license, to convert the temporary license to an annual or biennial license under AS 05.10, AS 08, or AS 46.03.375, the division will waive one-half of the annual or biennial license fee for the trade or profession for which the individual is receiving an annual or biennial license;
  - (2) not issued a notice of release by the Alaska Commission on Postsecondary Education on or before the expiration date of the temporary license, the department will
    - (A) refund one-half of the annual or biennial license fee paid under (a) of this section; and
    - (B) not refund a bond, cash deposit, negotiable instrument, or other mechanism to provide proof of financial responsibility that was deposited for claims under AS 05.10.090, AS 08, or this chapter, except as required by law.
- (c) When an individual who holds a temporary license issued under AS 25.27.244 is
  - (1) issued a release by the child support services agency and takes the action necessary, on or before the expiration date of the temporary license, to convert the temporary license to an annual or biennial license under AS 05.10, AS 08, or AS 46.03.375, the division will waive one-half of the annual or biennial license fee for the trade or profession for which the individual is receiving an annual or biennial license;
  - (2) not issued a notice of release by the child support services agency on or before the expiration date of the temporary license, the department will

(A) refund one-half of the annual or biennial license fee paid under (a) of this section; and

(B) not refund a bond, cash deposit, negotiable instrument, or other mechanism to provide proof of financial responsibility that was deposited for claims under AS 05.10.090, AS 08, or this chapter, except as required by law.

(d) In this section, "annual or biennial license fee" means the initial license fee or the license renewal fee established in

(1) AS 05.10.120 or this chapter for a licensing category included under the trades and professions listed in AS 08.01.010; and

(2) 18 AAC 78.495 for certification as an underground storage tank worker.

**Authority:** AS 08.01.050 AS 14.43.148 AS 25.27.244  
AS 08.01.065

**12 AAC 02.105. ADMINISTRATIVE FEES.** Except as otherwise provided in this chapter for a particular board or occupation, the following fees apply to all boards and professions listed in AS 08.01.010:

- (1) duplicate license fee, \$5;
- (2) fee for verification or certification of an Alaska license, registration, or examination, \$20;
- (3) name change, except for construction contractors, \$5;
- (4) photocopy fee, \$.25 per page, which may be waived by the department if the total fee is less than \$5;
- (5) facsimile fee, \$1 per page, which may be waived by the department if the total fee is less than \$5;
- (6) returned check fee, \$20;
- (7) *repealed 12/28/97;*
- (8) exam postponement fee, \$25;
- (9) wall certificate fee, \$20;
- (10) fee for proctoring an examination for another state's applicant, \$50;
- (11) fee for specialized report of licensing data that the department has agreed to provide, \$100 plus the cost of supplies;
- (12) express delivery handling fee, \$20;
- (13) fee for providing the most recently printed roster of all licensees in a licensing program, other than business licensing, with
  - (A) 2,000 or less licensees, \$5;
  - (B) more than 2,000 licensees, \$15;
  - (C) *repealed 3/25/04;*
- (14) fee for a courtesy license issued under 12 AAC 02.955, \$100;
- (15) courtesy license application fee, \$50;
- (16) examination review fee, \$50.

**Authority:** AS 08.01.062 AS 08.01.065 AS 08.01.100

**12 AAC 02.160. COLLECTION AGENCIES.** (a) The following fees are established for collection agencies:

- (1) application fee for initial license, \$50;
- (2) operator license fee for all or part of the initial biennial license period, \$125;
- (3) biennial operator license renewal fee, \$125;
- (4) agency license fee for all or part of the initial biennial license period, \$125;
- (5) biennial agency license renewal fee, \$125;
- (6) branch office license fee, for all or part of the initial biennial license period, \$125;
- (7) biennial branch office license renewal fee, \$125;
- (8) delayed renewal penalty, \$50.

(b) Under AS 08.24.370, all nonresident operator and agency fees are double the fees established in (a) of this section, except for branch office fees.

**Authority:** AS 08.01.065 AS 08.24.135 AS 08.24.370  
AS 08.01.100

**ARTICLE 3.**  
**EXAMINATION REVIEW PROCEDURES.**

**Section**

**400. Examination review**

**12 AAC 02.400. EXAMINATION REVIEW.** (a) The division will follow the examination review procedures established in this section unless the public or private organization that prepares and owns the examination has procedures for examination review that conflict with the procedures in this section. When there is a conflict, the division will follow the procedures of the public or private organization that prepares and owns the examination.

(b) An applicant who wishes to review a failed examination shall submit a written request, and the applicable examination review fee specified in this chapter, to the division within 30 days after the notice of examination results was mailed to the applicant.

(c) All examination reviews will be conducted in the presence of division staff or the division's designee at the time and location determined by the division. An examination review will not be conducted within 30 days of the next examination the applicant is scheduled to take.

(d) Only an applicant who has failed an examination may participate in the examination review and the applicant may review only his or her own examination.

(e) An applicant may use the same reference materials during an examination review that were allowed during the examination itself, but applicants may not use other materials or take notes or make copies of any kind. All materials brought to an examination review are subject to inspection by the division staff.

(f) An applicant may challenge questions on the examination by submitting the challenge in writing during the time allowed to conduct the examination review under (h) of this section. The written challenge to an examination question must include

- (1) the applicant's name;
- (2) the date of the examination;
- (3) the title of the examination;
- (4) the number of the question being challenged; and
- (5) a detailed explanation of the reason for the challenge.

(g) A challenge to an examination question will be reviewed by the division, licensing board, or the public or private organization administering the examination. If the division, licensing board, or public or private organization administering the examination sustains a challenge to an examination question, the department will give credit to the applicant for that question.

(h) To conduct the examination review, the division will allow the applicant challenging a question under (f) of this section one half of the length of time that was allowed for the taking of the examination being reviewed.

(i) Unless otherwise provided by an organization that provides or administers an examination for the division or the release is prohibited by law or contract, the division will provide an applicant who requests an examination review with the questions answered incorrectly on the failed examination and the answer that the applicant selected only. If the examination contains multiple choice questions, the applicant may be provided with all of the answer selections to each failed question without identification of the correct answers.

**Authority:** AS 08.01.050 AS 08.01.080

**ARTICLE 4.**  
**REAL ESTATE ERRORS AND OMISSIONS INSURANCE.**

**Section**

- 510. Minimum standards**
- 520. Exceptions to coverage**
- 530. Standards for equivalent coverage**
- 540. Notification required for cancellation**
- 550. Maximum amount of premium**
- 560. Method of adjustment**
- 590. Definitions**

**12 AAC 02.510. MINIMUM STANDARDS.** (a) The master errors and omissions insurance policy must provide to each individual licensee, at a minimum, the following terms of coverage:

(1) not less than \$100,000 limit of liability for each licensee per covered wrongful act or per covered claim depending on the policy form used by the insurer; claims expenses including the cost for investigation or defense must be in addition to the limit of liability; if the limit of liability is on a

(A) covered wrongful act basis, two or more claims arising out of a single wrongful act or a series of related wrongful acts may be considered one claim;

- (B) covered claim basis, two or more related wrongful acts may be considered one claim;
- (2) an annual aggregate limit of liability of not less than \$200,000 per licensee;
- (3) a deductible amount for each covered wrongful act of not more than \$2,000 for every \$200,000 annual aggregate limit of liability; an additional deductible for investigation and defense costs may be considered if necessary to meet the maximum premium amount under 12 AAC 02.550, but it is not required;
- (4) an extended reporting period of 90 days and an option to purchase an additional three years extended reporting period for a premium not to exceed 150 percent of the premium charged for the last year of the terminating coverage;
- (5) the ability of a licensee, upon payment of an additional premium, to obtain higher limits of coverage or to purchase additional coverages from the group insurer as may be available from the insurer;
- (6) the coverage provided under the master errors and omissions insurance policy must be individual and specific to the licensee and must cover the licensee regardless of changes in real estate broker employing the licensee; and
- (7) prior acts coverage must be offered to a licensee who has maintained the same or similar coverage, continually in-force until the date and the time that coverage begins under the master errors and omissions insurance policy coverage.
- (b) The master errors and omissions insurance policy must contain a provision requiring the consent of the insured to settle a claim except that the insured may not unreasonably withhold consent.
- (c) The insurer that is selected to provide the master errors and omissions insurance policy shall
  - (1) maintain an A.M. Best rating of "B+" or better and financial size category of class VI or higher;
  - (2) maintain a certificate of authority issued under AS 21.09 by the director of insurance to transact insurance business in this state and be in compliance with AS 21;
  - (3) provide the master errors and omissions insurance policy after notification by the Real Estate Commission that it is the successful bidder of a competitive bidding process under AS 36.30;
  - (4) enter into contract to provide the master errors and omissions insurance policy in conformity with AS 08.88.172, 12 AAC 02.510 – 12 AAC 02.590, and AS 21; and
  - (5) collect premiums, maintain records, and report to the Real Estate Commission the names of those insured and claims experience, date of claim, amount paid, nature of claim, and claims information on an annual or a bi-annual basis or on request by the Real Estate Commission.

**Authority:** AS 08.88.172

**12 AAC 02.520. EXCEPTIONS TO COVERAGE.** Except as provided in this section, the master errors and omissions insurance policy may not exclude coverage for claims brought against the insured licensee arising out of a wrongful act by the licensee when performing a professional service for which a real estate license is required. The policy may limit or exclude coverage for claims brought against a licensee that arise as follows:

- (1) out of claims or lawsuits made or brought by any insured person against any other insured person within the same firm or from compensation disputes between licensees;
- (2) out of loss assumed under a contract or an agreement, except for liability the insured would have had in the absence of the agreements;
- (3) from a criminal, dishonest, fraudulent, or intentional act or omission; this exclusion does not apply to an insured person who did not personally participate in committing the act or omission and who, upon having knowledge of the act or omission, reported it to the Real Estate Commission, or appropriate law enforcement authorities;
- (4) from unlawful discrimination committed by or for the insured person;
- (5) from fines or penalties imposed by a tribunal or other governmental agency;
- (6) from bodily injury, personal injury, advertising injury, or property damage;
- (7) from related business activities for which a license is not required under AS 08.88;
- (8) from the presence of or the actual, alleged, or threatened discharge, dispersal, release, or escape of hazardous materials, nuclear materials, or pollutants;
- (9) from prior wrongful acts unless specific prior wrongful acts coverage is provided;
- (10) from any violation of 15 U.S.C. 77a – 77aa (Securities Act of 1933) or 15 U.S.C. 78a – 78mm (Securities Exchange Act of 1934) or any state blue sky or securities law or similar state or federal statutes; or
- (11) other standard exclusions that are typical in a professional liability insurance policy and that have been approved by the director of insurance under AS 21.42.

**Authority:** AS 08.88.172

**12 AAC 02.530. STANDARDS FOR EQUIVALENT COVERAGE.** An insurer issuing equivalent coverage under AS 08.88.172(c)(2) shall hold a certificate of authority issued under AS 21.09. All activities contemplated under AS 08.88.172 must be covered. The insurance must meet the minimum coverage standards of 12 AAC 02.510, except that



(1) a policy with a higher deductible amount or self-insured retention will qualify as equivalent coverage for purposes of AS 08.88.172(c)(2) if the insured licensee provides the Alaska Real Estate Commission with an affidavit certifying that the insured licensee has the financial resources to pay the higher deductible amount or self-insured retention; and

(2) a broker employing other real estate licensees may comply with the requirements of 12 AAC 02.510(a)(1) and (2) by obtaining insurance with coverage of a minimum of \$200,000 per wrongful act and \$1,000,000 aggregate, if all licensees associated with the broker are covered.

**Authority:** AS 08.88.172

**12 AAC 02.540. NOTIFICATION REQUIRED FOR CANCELLATION.** If equivalent insurance coverage obtained by a licensee under AS 08.88.172(c)(2) is to lapse or not be renewed, the insurer shall notify the Real Estate Commission of the intent to lapse or not to renew a minimum of 30 days before the expiration date of the term. It is the responsibility of the employing broker or licensee, as applicable, to instruct the insurer to provide the notice required by this section to the Real Estate Commission.

**Authority:** AS 08.88.172

**12 AAC 02.550. MAXIMUM AMOUNT OF PREMIUM.** The maximum amount of premium to be charged a licensee annually under the master errors and omissions insurance policy is \$300.

**Authority:** AS 08.88.172

**12 AAC 02.560. METHOD OF ADJUSTMENT.** Every five years after the initial procurement of the master errors and omissions insurance policy, the department may adjust the amount of coverage under 12 AAC 02.510(a) and the maximum amount of the premium under 12 AAC 02.550 to reflect the change in the consumer price index for all urban consumers in the Anchorage metropolitan area using the standards set out in this section. The department will not make an adjustment if the department finds the adjustment will significantly reduce the number of insurers willing to bid on a contract to offer the master errors and omissions insurance policy. An adjustment in the limits of liability under 12 AAC 02.510(a) must be an increment of no less than \$25,000. An adjustment in the amount of the premium must be in an increment of no less than \$25. The department will give notice of the adjustments under this section by posting the amounts on its Internet Website. An adjustment under this section does not take effect until the renewal or the issuance of a new master errors and omissions insurance policy.

**Authority:** AS 08.88.172

**12 AAC 02.590. DEFINITIONS.** In this chapter, unless the context requires otherwise,

(1) "aggregate limit" means the maximum liability of an insurer regardless of the number of claims during the policy term;

(2) "director of insurance" means the person appointed under AS 21.06.010 to head the division of insurance of this state;

(3) "equivalent coverage" means errors and omissions insurance coverage obtained independently of the master errors and omissions insurance policy available from the Real Estate Commission and that complies with the requirements, terms, and conditions as set out in 12 AAC 02.510 – 12 AAC 02.590;

(4) "errors and omissions insurance" means professional liability insurance that provides coverage to holders of active real estate brokers, associate brokers, and salesperson licenses in this state for wrongful acts made during the course of real estate transactions, subject to the coverages, limitations, and exclusions of one or more specific insurance policies in place;

(5) "extended reporting period" means a designated period of time after an errors and omissions insurance policy has expired during which a claim may be made and coverage triggered as if the claim has been made during the policy period;

(6) "master errors and omissions insurance policy" means the policy obtained by the Real Estate Commission under AS 08.88.172 that meets the requirements of 12 AAC 02.510 – 12 AAC 02.590.

(7) "prior acts coverage" means the insurance policy provides coverage for claims that are made during a current policy period, but one or more acts causing the claim or injuries for which the claim is made occurred before the inception of the current policy period;

(8) "wrongful act" means a negligent act, error, or omission.

**Authority:** AS 08.88.081 AS 08.88.172

**ARTICLE 5.  
GENERAL PROVISIONS.**

**Section**

- 900. Name and address changes**
- 910. Abandoned applications**
- 920. Filing date**
- 930. Date of lapsed license**
- 935. Effective date of license**
- 940. Effective date of renewed licenses**
- 950. (Repealed)**
- 955. Courtesy license**
- 960. Audit of compliance with continuing competency requirements**
- 965. Failure to meet continuing education requirements for renewal and reinstatement of license**
- 990. Definitions**

**12 AAC 02.900. NAME AND ADDRESS CHANGES.** (a) A person licensed, registered, or certified by a board or commission listed in AS 08.01.010, or in an occupation listed in AS 08.01.010, shall maintain a current, valid, mailing address on file with the division at all times. The latest mailing address on file with the division is the address that will be used for official communications, notifications, and service of legal process.

(b) A licensee must notify the division in writing, of a change of the licensee's address.

(c) If a licensee has a change of name, the licensee shall submit to the division within 30 days of the change of name

(1) notification of the change of the licensee's name, on a form provided by the division that has been completed by the licensee and notarized;

(2) a copy of the marriage certificate, court document, or other legal document verifying the change of name; and

(3) the fee established in 12 AAC 02.105 for a name change.

(d) The division will issue a new license showing the change of name if a licensee meets the requirements in (c) of this section.

**Authority:** AS 08.01.050 AS 08.01.080 AS 08.01.087

**12 AAC 02.910. ABANDONED APPLICATIONS.** (a) Except if procedures are otherwise expressly provided in this title for a particular board or occupation, an application is considered abandoned when

(1) 12 months have elapsed since correspondence was last received from or on behalf of the applicant; or

(2) the applicant has failed to appear for two successive examinations.

(b) An abandoned application is denied without prejudice and the application fee forfeited.

(c) At the time an application is considered abandoned, the division will send notification of abandonment to the last known address of the applicant. An applicant may request a refund of all unused examination and licensing fees credited to the application by submitting a written request for refund within 30 days from the date notification of abandonment was mailed by the division. If no request for refund is received, all fees are forfeited.

**Authority:** AS 08.01.050 AS 08.01.080

**12 AAC 02.920. FILING DATE.** (a) Except as otherwise provided in this title, a document submitted to the division will be considered filed as of the postmark date of the document. If the document is submitted by a method that does not provide a postmark date, the document will be considered filed as of the date stamped on the document,

(1) except as provided in (2) of this subsection, when it is received in the division office in Juneau;

(2) for a document related to licensing for nursing under 12 AAC 44 or real estate licensing under 12 AAC 64, when it is received in the division office in Anchorage.

(b) If a filing deadline established in AS 08 or this title falls on a Saturday, Sunday, or state holiday, the deadline will be extended to the next regular state business day.

(c) For the purposes of this section, "postmark date" means the date of a document with prepaid postage and correctly addressed to the division by the United States Postal Service or other established domestic courier service.

**Authority:** AS 08.01.050 AS 08.01.080

*Editor's note: For the purposes of 12 AAC 02.920(a), the division of corporations, business and professional licensing office in the Department of Commerce, Community, and Economic Development, in Juneau is located at the State Office Building, 9th Floor, 333 Willoughby Avenue, Juneau, Alaska 99801 and the division office in Anchorage is located at the Atwood Building, 550 W. 7th Avenue, Suite 1500, Anchorage, Alaska 99501.*

**12 AAC 02.930. DATE OF LICENSE LAPSE.** For the purposes of AS 08.01.100, if a person licensed by the department or by one of the boards or commissions under AS 08.01.010 was issued a temporary license under AS 14.43.148 or AS 25.27.244 and the temporary license was not converted to an annual or biennial license under AS 05.10, or AS 08, or AS 46.03.375, the lapsed period begins from the date that the temporary license expired.

**Authority:** AS 08.01.050 AS 08.01.080 AS 08.01.100

**12 AAC 02.935. EFFECTIVE DATE OF LICENSE.** (a) When the Alaska Commission on Postsecondary Education issues a notice of release, on or before the expiration date of the temporary license issued by the division under AS 14.43.148, the division will issue the initial license or renewal under AS 08 or AS 46.03.375. The effective date of the license is the date that the license is issued under AS 08 or AS 46.03.375, except as provided in 12 AAC 02.940(b).

(b) When the child support services agency issues a release, on or before the expiration date of the temporary license issued by the division under AS 25.27.244, the division will issue the initial license or renewal under AS 08 or AS 46.03.375. The effective date of the license is the date that the license is issued under AS 08 or AS 46.03.375, except as provided in 12 AAC 02.940(b).

**Authority:** AS 08.01.050 AS 08.01.080 AS 08.01.100

**12 AAC 02.940. EFFECTIVE DATE OF RENEWED LICENSES.** (a) Except as provided in (b) of this section, the effective date of a renewed license will be the date a complete renewal application is filed with the division as determined by 12 AAC 02.920. A complete application includes

- (1) a completed renewal form;
- (2) any applicable renewal fees required by this chapter; and
- (3) documentation of fulfillment of all applicable prerequisites to license renewal, such as continuing competency, recent experience, insurance coverage, or other requirements.

(b) The division will, in its discretion, show a retroactive effective date on a licensee's renewed license if the licensee

- (1) holds a license that has been lapsed less than 60 days;
- (2) requests in writing that the division issue a renewed license showing an effective date that is earlier than the date the renewed license was issued;
- (3) documents that the licensee was in substantial compliance with the renewal requirements in (a) of this section as of the requested effective date; and
- (4) establishes to the satisfaction of the division that the licensee made a good faith effort to strictly comply with the renewal requirements.

(c) The division will not issue a renewed license with an effective date that is earlier than the postmark date of the licensee's first written attempt to renew the licensee's license. "Written attempt to renew" means an effort by the licensee to submit the proper documentation to comply with the license renewal requirements. A request for a renewal application form alone does not constitute a "written attempt to renew."

**Authority:** AS 08.01.050 AS 08.01.100

**12 AAC 02.950. APPLICATION DEADLINE FOR EXAMINATION FOR AN OPTOMETRY LICENSE.**  
*Repealed 12/16/2001.*

**12 AAC 02.955. COURTESY LICENSE.** (a) If an applicant meets the requirements of this section, the department will issue a courtesy license authorizing the holder to practice one of the following professions for the limited purpose recognized by the division:

- (1) acupuncturist under AS 08.06;
- (2) audiologist under AS 08.11;
- (3) electrical administrator or mechanical administrator under AS 08.40;
- (4) funeral director or embalmer under AS 08.42;
- (5) naturopath under AS 08.45.

(b) A courtesy license issued under (a) of this section authorizes the holder to practice the profession or occupation for which the license is issued for a limited purpose recognized by the division under (f) of this section. A courtesy license does not authorize the holder to practice the profession outside the scope of the limited purpose for which the courtesy license is issued.

(c) An applicant for a courtesy license issued under (a) of this section shall submit to the department

- (1) a completed application on a form provided by the department;
- (2) the fee established in 12 AAC 02.105 for a courtesy license;
- (3) a sworn statement, signed by the applicant before a notary, that the applicant is not a resident of this state;

(4) verification of a current license in another licensing jurisdiction to practice the profession for which a courtesy license is requested; the license in that jurisdiction must be active, in good standing, and cover the scope of practice required for the limited purpose of the courtesy license;

(5) a description of the limited purpose of the courtesy license and the applicant's intended scope of practice under the courtesy license; and

(6) a sworn statement, signed by the applicant before a notary, that the applicant has not previously been denied a license or had a license revoked in this or another state or other licensing jurisdiction for the profession that the courtesy license is sought.

(d) A courtesy license issued under (a) of this section is valid for no more than 90 consecutive days. The department will not issue more than two courtesy licenses for the profession to an individual within a consecutive eighteen-month period.

(e) The holder of a courtesy license issued under (a) of this section is obligated to uphold the standards of practice identified in AS 08 and in this title for the relevant profession and is subject to the relevant disciplinary provisions in AS 08 and this title.

(f) The department will recognize the following limited purposes for a courtesy license issued under (a) of this section:

(1) provision of professional services in an emergency situation specifically recognized by the department; the department will, in its discretion, restrict the license to cover only the professional services required to respond to the emergency situation, if the department finds that the courtesy license is only needed for this purpose;

(2) instruction or provision of professional services at a clinic or seminar focused on a subject in which the applicant for a courtesy license is a specialist.

**Authority:** AS 08.01.050 AS 08.01.080 AS 08.02.030

#### **12 AAC 02.960. AUDIT OF COMPLIANCE WITH CONTINUING COMPETENCY REQUIREMENTS.**

(a) Except as provided in (b) - (j) of this section, the department will audit compliance of licenses with continuing competency requirements in accordance with this section if

- (1) the licensee is required to meet continuing competency requirements under AS 08 or this title;
- (2) *repealed 9/29/2005*;
- (3) *repealed 9/29/2005*.

(b) A licensee subject to audit under (a) of this section and applying for license renewal shall

- (1) complete and sign a statement of compliance with continuing competency requirements; and
- (2) submit the statement to the department with the application for license renewal.

(c) Except as provided in (d) of this section, the department will select licensees for audit under (a) of this section as follows:

(1) ten percent of the total number of licensees in that profession if the total number of licensees is less than 3,000; or

(2) five percent of the total number of licensees in that profession if the total number of licensees is 3,000 or more.

(d) The department will require that a different percent of licensees be selected for audit, if the board that regulates the profession, or the department for a profession not regulated by a board or commission, finds that a different percent to be audited is necessary to protect public health and safety.

(e) A licensee selected for audit under (c) or (d) of this section will be notified by the department. Within 30 days of notification, the licensee shall submit to the department, documentation to verify completion of the continuing competency activities claimed on the statement submitted with the application for license renewal. The documentation must include a valid copy of a certificate or similar verification of satisfactory completion of the continuing competency activities claimed that provides

- (1) the name of the licensee;
- (2) the amount of continuing competency credit awarded;
- (3) a description of the continuing competency activity;
- (4) the dates of actual participation or successful completion; and
- (5) the name, mailing address and signature of the instructor, sponsor, or other verifier.

(f) A licensee subject to audit under (a) of this section is responsible for maintaining adequate and detailed records of all continuing competency activities completed and shall make the records available to the department on request. A licensee shall maintain the records until the later of

(1) four years from the date of completion of the continuing competency activity; or

(2) if the licensee was selected for audit, the date that the department notifies the licensee that the audit is completed.

(g) The department will extend the period for providing documentation of completion of continuing competency activities if the department finds that the licensee has good cause for the need for additional time to submit the documentation required in (e) of this section.

(h) The department will notify the respective board of a licensee's failure to comply with the department's request for records under (e) of this section.

(i) For professions licensed by the department, the department will consider the licensee's failure to comply with the department's request for records under (e) of this section as grounds for imposition of disciplinary sanctions to the extent allowed under AS 08 and this title.

(j) In this section, "successful completion" means the date that credit for the continuing competency activity is awarded by the instructor, sponsor, or other verifier for completion of the activity.

**Authority:** AS 08.01.050 AS 08.01.087 AS 08.01.100  
AS 08.01.080

**12 AAC 02.965. FAILURE TO MEET CONTINUING EDUCATION REQUIREMENTS FOR RENEWAL AND REINSTATEMENT OF LICENSE.** (a) Except as otherwise provided in AS 08 or this title, a license issued under AS 08 will not be renewed or reinstated if the applicant for renewal or reinstatement has not earned the required number of continuing education credits. The applicant may earn the required number of credits after the expiration date of the license. Continuing education credits earned to reinstate or renew an expired license may not be used to satisfy the continuing education requirements for a future renewal or reinstatement. Credits submitted to satisfy the continuing education requirements under this section must be approved under AS 08 and this title by the department or the applicable board.

(b) For the purposes of this section, "continuing education credits" includes continuing competency, contact hours, continuing education units (CEU's), and credit hours.

**Authority:** AS 08.01.050 AS 08.01.080 AS 08.01.100

**12 AAC 02.990. DEFINITIONS.** As used in this chapter

- (1) "department" means the Department of Commerce, Community, and Economic Development;
- (2) "division" means the division assigned occupational licensing functions in the Department of Commerce, Community, and Economic Development;
- (3) "license" means a license, certificate, permit, registration, or similar evidence of authority issued by the division or by one of the boards listed in AS 08.01.010;
- (4) "licensee" means a person who holds a license issued by the division or by one of the boards listed in AS 08.01.010.

**Authority:** AS 08.01.050 AS 08.01.080 AS 08.01.100