

ALASKA REAL ESTATE NEWS

August 2012

Sean Parnell, Governor
Susan Bell, Commissioner
Don Habeger, Director

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Alaska Real Estate News is published by the Alaska Real Estate Commission as an educational service to all Alaska real estate licensees. This publication is funded entirely by licensees through the Real Estate Recovery Fund.

Revisiting Real Estate Commission Issues



Recovery Fund -Are you wondering what happened to the Surety Fund and asking yourself what is the Recovery Fund? Back in January 2006 the Commission had a change to Surety Fund statute, 08.88.450 - 495, and it is now called the "Recovery Fund", along with other changes. The REC office continues to receive inquiries about the "Surety Fund" and many of the callers seemed surprised that there was a change. In August 2008, there was an article in the AREC Newsletter addressing this issue but it bears repeating. The Commission wants to keep all licensees apprised of legislative changes, no matter how old. Licensee's knowledge of the real estate statutes and regulations is paramount to providing better information to clients while maintaining professional accountability.

In 2011, the Commission increased the Recovery Fund fee due to the low balance in the Fund. At the time of the increase, the fund balance was \$157,000. However, due to the license renewal, that balance has increased to \$211,981 as of March 2012. The

Commission expects to receive new financial reports 30 days after the end of each quarter. Depending on the health of the fund and claims filed, the Commission may consider reducing this fee in the near future.

REC Financial Reports -The Commission is intent on keeping a higher level of scrutiny over the financial reports that are provided to them by the Division of Corporations Business and Professional Licensing (CBPL). They have been assured by the Director of CBPL, Don Habeger, that they will receive these financials quarterly. The Commission looks forward to this timely presentation. It is important that the financials are transparent and licensees are aware of how the Division is utilizing their fees.

If anyone has any questions or comments, the next Real Estate Commission meeting is Wednesday, September 5, 2012. Meetings are held in Anchorage at the Atwood Building, 550 W 7th Avenue, Room 1270 and begin at 9:00 a.m. The Commission encourages all licensees to stop in and comment. The public comment period begins immediately after the meeting convenes. The Commission always appreciates hearing from licensees.

-Have a safe and enjoyable Labor Day!

Upcoming Meetings

Real Estate Commission meetings are open to the public and are now held in Anchorage at the Atwood Building, 550 W 7th Avenue. Mark your calendars for the last meetings of the year!

September 5-6, 2012
December 5-6, 2012

Commission Members

Brad Cole, Chair
Associate Broker
Wasilla
3rd Judicial District



Anita Bates
Broker
Anchorage
Broker At Large



Nancy Davis
Broker
Sitka
1st Judicial District



Stacy Risner
Associate Broker
Fairbanks
4th Judicial District



Christina Swires
Associate Broker
Anchorage
Broker at Large



Marianne Burke
Anchorage
Public Member



Charlene Flyum
Homer
Public Member



DCE Requirements for 2012 - 2014

All licensees must complete 20 hours of continuing education (CE) every two years in order to renew their real estate license; 8 designated (DCE) and 12 elective (ECE) hours. Qualifying courses for the next renewal period must be completed between February 1, 2012 and January 31, 2014. Please continue to check your certificates to ensure they are valid. If you are not sure, you can verify approved courses on the REC web site, call the provider of the course or contact the Real Estate Commission office. You may also send a copy of your certificates (via fax or email) to the REC office for verification at any time. The current DCE topics are:

- ▶ **Licensing Relationships (topic 1) - 2 hours**
(with an emphasis on the AREC Pamphlet and AK Statute 08.88.600-695)
- ▶ **Property Disclosures & Inspections (topic 19) - 2 hours**
(with an emphasis on listing responsibilities, marketing properties and new construction)
- ▶ **Risk Management (topic 33) and Real Estate License Law (topic 25) - 2 hours**
(Risk Management -with an emphasis on communication; and Real Estate License Law -with an emphasis on licensed and unlicensed activities)
- ▶ **Contracts (topic 6) and Customer Client Services (topic 35) - 2 hours**
(with an emphasis on drafting contracts and closing transactions)

Post Licensing Education

Recently, there has been some confusion regarding when Post Licensing Education (PLE) needs to be completed, what documents are required to be turned into the Real Estate Commission (REC) and the deadlines that need to be met.

All post-licensing education must be completed within one-year after the initial date of a salesperson, associate broker or broker licensure, AS 08.88.091(a). Licensees are required to submit an "Affidavit of Post-Licensing Education", form number 08-4326, to the Commission, certificate of completion showing 30 hours of post-licensing education and a \$30.00 fee. These documents must be turned into the Commission office within 30 days after the end of the one year period of initial licensure. [AS 08.88.095(c)].

The deadlines for completion of post-licensing education and submitting the Affidavit of Post-Licensing Education are listed on your license and wallet card, if required to complete PLE. On each license it will show the effective date, the license expiration date, the PLE completed date (the deadline to have completed 30 hours of PLE) and the PLE expiration date (the date that a PLE affidavit, certificates of completion and a \$30.00 fee must be turned into the Commission office). These dates can be found on the top left corner of every license and above the employing broker's name and office information on the wallet card. If a licensee fails to complete the required PLE within the one year period and provide the proof of certification, their license automatically lapses. If a license goes into a lapsed status, the licensee will be required to reinstate their license in order to practice real estate. To reinstate a lapsed license due to non-compliance of PLE, the licensee will be required to complete and submit an Application to Change License Status to reinstate, certificate(s) of completion of 30 hours of PLE, and a \$280.00 fee (a \$30.00 document fee and a \$250.00 reinstatement fee). **You can not practice real estate on a lapsed license!** The PLE hours and the Affidavit of Post-Licensing Education can be found on the REC web site at: <http://www.commerce.state.ak.us/occ/prec30.htm>.

Disciplinary Actions

Colette LaRose, #3011, Broker, Anchorage

On March 9, 2011, the Commission accepted the Consent Agreement of Colette LaRose for failure to meet and verify the completion of continuing education (CE) requirements under AS 08.88.91(d) and 12 AAC 64.500 as indicated on her 2010-2012 real estate license renewal application. Ms. LaRose was assessed a civil fine of \$2,500 with \$2,000 suspended, plus an additional fine of \$100 based on \$50 for each CE credit hour lacking and a reprimand. Ms. LaRose must also comply with the terms of a mandatory audit of compliance with CE requirements for the next two renewal periods that her real estate license is subject to renewal.

Jesse Clifton, #15292, Broker, Fairbanks

On March 9, 2011, the Commission accepted the Consent Agreement of Jesse Clifton for failure to meet and verify the completion of CE requirements under AS 08.88.91(d) and 12 AAC 64.500 as indicated on his 2010-2012 real estate license renewal application. Mr. Clifton was assessed a civil fine of \$2,500 with \$2,000 suspended, plus an additional fine of \$200 based on \$50 for each CE credit hour lacking and a reprimand. Mr. Clifton must also comply with the terms of a mandatory audit of compliance with CE requirements for the next two renewal periods that his real estate license is subject to renewal.

Evelyn Harden, #16880, Broker, Wasilla

On March 9, 2011, the Commission accepted the Consent Agreement of Evelyn Harden for failure to meet and verify the completion of continuing education requirements under AS 08.88.091(d) and 12 AAC 64.500 as indicated on her 2010-2012 real estate license renewal application. Ms. Harden was assessed a civil fine of \$2,500 with \$2,000 suspended, plus an additional fine of \$1,000 based on \$50 for each CE credit hour lacking and a reprimand. Ms. Harden must also comply with the terms of a mandatory audit of compliance with CE requirements for the next two renewal periods that her real estate license is subject to renewal.

David Keating, #2080, Broker, Soldotna

On December 7, 2011, the Commission adopted the Decision and Order for Mr. Keating. Mr. Keating failed to disclose a material defect that was known to him and non-disclosure of a lawsuit on his 2008-2010 renewal application. Mr. Keating was assessed a civil fine of \$4,000 with \$1,000 suspended, and a reprimand. Also, he is required to complete 12 hours of additional education focusing on ethics for real estate professionals that includes significant instruction on the topic of disclosure requirements in real estate transactions and compliance with licensing requirements. He is subject to 2 years probation.

Arthur Clark, #13012, Broker, Anchorage

On December 7, 2011, the Commission accepted the Consent Agreement in the matter of Art Clark. Mr. Clark promoted an administrative employee as the manager and supervisor of the brokerage's property management section in which the employee did not hold a current or active real estate license during that time. Mr. Clark was assessed a fine of \$15,000 with \$5,000 suspended, a reprimand, and he will be required to complete fifteen hours of additional education in the subjects relating to trust account management and broker supervision. Also, his license was suspended for 60 days and he is subject to 5 years probation.



Sharon J. Walsh
Executive
Administrator
269-8197



Nancy Harris
Project Assistant
269-8168



Beata Smith
Licensing Examiner
269-8162

Alaska Real Estate Statistics as of August 10, 2012

New Issued

(01/2012 thru 08/2012)

| | |
|----------------------------|-----|
| Salesperson | 133 |
| Associate Broker (upgrade) | 12 |
| Broker (upgrade) | 7 |

License by Endorsement

| | |
|------------------|---|
| Salesperson | 6 |
| Associate Broker | 1 |
| Broker | 0 |

Active Licensees to Date 2134

| | |
|------------------|------|
| Salesperson | 1332 |
| Associate Broker | 369 |
| Broker | 433 |

Inactive Licensees to Date 29

| | |
|------------------|----|
| Salesperson | 25 |
| Associate Broker | 1 |
| Broker | 3 |

Active Licensees by City/Borough

| | |
|----------------|------|
| Anchorage | 1124 |
| Wasilla/Palmer | 248 |
| Fairbanks | 165 |
| Juneau | 70 |
| Kenai | 22 |

Disciplinary Actions Continued on Page 5

Did You Know?

Did you know that real estate licensees may receive continuing education hours by attending a Real Estate Commission meeting?

This is true!

Each licensee that attends a Real Estate Commission meeting for 50 minutes will earn 1.0 hour of elective continuing education (ECE) credit with a maximum of 2.0 hours during a 2 year licensing period.



Office Closures

September 3, 2012
(Labor Day)

October 18, 2012
(Alaska Day)

November 12, 2012
(Veterans' Day)

Broker Information

Temporary Absence of Broker-

A new regulation, 12 AAC 64.078, Temporary Absence of Broker of Record, went into effect on December 7, 2011. This new regulation covers the temporary absence of the main broker and allows them to designate a broker or associate broker to supervise transactions, trust accounts or licensees, including creating and signing transaction documents, during their absence. In an office where no associate broker is available, the broker "temporarily" substituting for the broker of record shall remain employed at their registered office. Historically, the form was called the "Notification of Designation of Associate Broker in Charge", however, that form has changed. The new form, "Notice of Temporary Absence of Broker of Record", must be turned into the Commission. The new form is available on the REC web site at <http://www.commerce.state.ak.us/occ/pub/rec4600.pdf>

Education - continued

Verification of Education-

In order for a licensee to receive credit for education courses, both the course and instructor have to be approved by the Commission under the same subject area. All education courses approved by the Commission can be verified through the continuing education catalog on the REC web site, <http://www.commerce.state.ak.us/occ/apps/REQuery.cfm>, or by calling the Commission office. Once the approved course is on the screen, all the instructors approved to teach that course will be shown below the course information.

PearsonVue Testing Service - New Procedure for Endorsement Candidates-

PearsonVue testing service has a new procedure in place for non-resident candidates who hold an active real estate license in another state. These are individuals who are applying for a license by endorsement and are required to take the State portion of the exam. Non-resident/endorsement candidates, are now required to complete the "Client Waiver Request Form" **before** scheduling their exam and will have received notification that the waiver has been applied. Failure to do so would require you to complete both the general and state portion of the exam. For more information go to:

<http://www.pearsonvue.com/waivers/akrel.asp>

Applications and Forms-

Many of the REC applications and forms have been updated. The Commission will no longer accept outdated forms. Please complete the most current forms before submitting them to the Commission. The most current forms can be found on the REC web site. Revision dates are located at the bottom left corner of any application or form. Also, do not forget to periodically refresh your computer. This will ensure that your documents have not been cached and that you are printing the most current form. You can download all REC forms from the web site at: www.commerce.state.ak.us/occ/prec4.htm

Disciplinary Actions - continued

Kelly Griebel, #15474, Salesperson, Soldotna

On December 7, 2011, the Commission adopted the Decision and Order for Kelly Griebel. Ms. Griebel failed to disclose a material defect that was known to her, a violation of regulation 12 AAC 64.130(14). Ms. Griebel was assessed a civil fine of \$2,000 with \$1,000 suspended. She must complete 9 hours of additional education pertaining to ethics and she is subject to 1 year probation.

Amended Regulations

Chapter 64. Real Estate Commission.

12 AAC 64.059(b)(6) is amended to read:

(6) pays the recovery [SURETY] fund fee established in 12 AAC 64.073.

12 AAC 64.059(f)(7) is amended to read:

(7) pays the recovery [SURETY] fund fee established in 12 AAC 64.073.

12 AAC 64.060(a)(3) is amended to read:

(3) the recovery [SURETY] fund fee established in 12 AAC 64.073;

12 AAC 64.064(b)(3)(C) is amended to read:

(C) recovery [SURETY] fund;

The lead-in language of 12 AAC 64.064(c)(1) is amended to read:

(1) recovery [SURETY] fund, trust account, and general accounts: seven contact hours covering

12 AAC 64.064(c)(1)(A) is amended to read:

(A) recovery [SURETY] fund issues, including case studies on representation, conversion of trust fund, fraud, and deceit;

12 AAC 64.071(b)(3) is amended to read:

(3) the recovery [SURETY] fund fee established in 12 AAC 64.073;

12 AAC 64.071(f) is amended to read:

(f) A licensee may be inactive for an entire licensing period and reactivate without paying the recovery [SURETY] fund fee established in 12 AAC 64.073 if the licensee's inactive license dates coincide exactly with the dates of a biennial licensing period.

12 AAC 64.280 is amended to read:

12 AAC 64.280. Scope. The provisions of 12 AAC 64.280 - 12 AAC 64.325 govern the procedures relating to claims for reimbursement from the real estate recovery [SURETY] fund [AND FOR HEARINGS] under AS 08.88.450 - 08.88.495.

12 AAC 64.285 is amended to read:

12 AAC 64.285. Claims. Claims for payment [REIMBURSEMENT] from the real estate recovery [SURETY] fund must

(1) be submitted on a form provided by the commission;

(2) be for a loss suffered in a real estate transaction by the claimant as a result of fraud, an intentional tort [MISREPRESENTATION], deceit, [OR] the conversion of trust funds or the conversion of community association accounts by an involved licensee;

(3) include all the information required by AS 08.88.460(a) and by the claim form itself;

(4) be accompanied by the documents required by AS 08.88.460(a)(3)(B) and (C); and

Amended Regulations - continued

(5) [(4)] be executed under penalty of unsworn falsification.

12 AAC 64.290(c) is amended to read:

(c) The commission will mail all documents in (a) [AND (b)] of this section by certified mail, return receipt requested.

12 AAC 64.305 is repealed:

12 AAC 64.305. Hearings. Repealed.

12 AAC 64.310 is repealed and readopted to read:

12 AAC 64.310. Role of involved licensee. (a) The commission will send a notice of a claim to an involved licensee under 12 AAC 64.290.

(b) The real estate broker supervising an involved licensee at the time the claim is filed, will be notified by the commission that an involved licensee is a named party in a claim filed under AS 08.88.460.

12 AAC 64.320 is repealed:

12 AAC 64.320. Motion for reconsideration. Repealed.

12 AAC 64.325 is repealed and readopted to read:

12 AAC 64.325. Findings and conclusions. (a) After consideration of a claim, the commission will make written findings and conclusions in accordance with the provisions of AS 08.88.465.

(b) The claimant may not receive payment of a claim unless the commission finds that

(1) the claimant filed a claim that complies with 12 AAC 64.285 within the time limit provided by AS 08.88.460;

(2) the court judgment, arbitration award or settlement agreement with a licensee submitted by the claimant is no longer subject to appeal and establishes that the claimant suffered a loss in the manner described in AS 08.88.460(a);

(3) the claimant used due diligence to collect the amount due under the court judgment, arbitration award, or settlement agreement and that the amount due is uncollectable using reasonable efforts.

(c) The commission will furnish a copy of its findings and conclusions to the

(1) claimant;

(2) claimant's legal representative, if applicable;

(3) each licensee named in claim;

(4) the licensee's legal representative, if applicable;

(5) real estate broker supervising an involved licensee at the time the commission makes its written findings and conclusions, if applicable.

(d) If interest is ordered to be paid on a claim of less than \$15,000, the interest will be calculated from the date of loss until the date of payment of the claim. Total payment from the fund may not exceed \$15,000 per transaction, whether principal or a combination of principal and interest.

(e) When the commission awards payment of a claim from the real estate recovery fund, the following information will be added to the license file of each licensee named in the findings and conclusions as responsible for the loss:

(1) a copy of the findings and conclusions and the order adopted by the commission; and

(2) proof of payment from the real estate recovery fund to the claimant.

(f) If, as a result of the commission's findings and conclusions, the commission suspends a licensee's license, the commission will require proof of reimbursement of the real estate recovery fund by the licensee or an agreement between the licensee and the commission on the terms and conditions for reimbursing the real estate recovery fund under AS 08.88.071(b) before reinstating the license. The proof of reimbursement or agreement for reimbursement will be added to the licensee's license file.