

Sean Parnell, Governor  
Susan Bell, Commissioner  
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## Commission Location

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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.

## Re-Cap of March REC Meeting



The Governor reappointed three Real Estate Commission members for another term: Brad Cole will remain on the Commission until March 2015 along with our two public members, Marianne Burke from Anchorage and Charlene Flyum from Homer. The Governor also retained Dave Somers from Fairbanks until he appoints a new member to fill the Broker at Large seat.

The Commission's testing provider, Pearson -Vue is upgrading their system. This will provide for better online access to real estate candidates. They are adding 4 new test centers in the state: Seward,

Palmer, Nome and Dillingham.

The Commission met with Jo Ellen Hanrahan, Director of Administrative Services for the Department of Commerce. Ms. Hanrahan has recently been tasked with the oversight of the Recovery Fund. Ms. Hanrahan presented the Recovery Fund Balance report to the Commission which showed a balance of \$170,000 as of December 31, 2010. The Commission took action on March 18 and proposed fee increases for new applicants, course providers and instructors to bring the Recovery Fund balance back in compliance with AS 08.88.455, which calls for the minimum average balance of \$250,000 during the two-year licensing cycle.

Our next Commission meeting is set for June 8 & 9, 2011. If you have any questions or have items that you would like to address with the Commission, you may do so during the public comment period. The deadline for having items placed on the agenda is May 20, 2011. Items received after that will go on the September agenda. See you at the June meeting!

## DCE Requirements for 2010 - 2012

All licensees must complete 20 hours of continuing education (CE) every two years in order to renew their real estate license; 8 hours of designated (DCE) and 12 hours of elective (ECE). Qualifying courses for the upcoming renewal period must have been completed between February 1, 2010 and January 31, 2012. Please check your certificates to ensure they are valid. If you are not sure if your courses are approved, you can verify approved courses (and instructors) on the REC web site, call the provider of the course or call the Real Estate Commission office. You can also send a copy of your certificates (via fax or by email) to the REC office for verification. The current DCE topics are:

- ▶ Licensing Relationships (topic 1) - 2 hours
- ▶ Prohibited Conduct (topic 18) and Real Estate License Law (topic 25) - 2 hours
- ▶ Property Disclosures & Inspections (topic 19) - 2 hours
- ▶ Ethical Decision Making (topic 30) and Risk Management (topic 33) - 2 hours

## Disciplinary Actions

### Robert H. Ziegler, Real Estate Broker, Alliance Realty Ketchikan, Alaska.

On 2/23/11, Mr. Ziegler entered into a Consent Agreement with the Division. The Division imposed license sanctions regarding allegations of trust account violations which involved the misappropriation of trust funds. The sanctions imposed included a four month license suspension, a \$100,000 fine with \$80,000 suspended, additional education, formal reprimand, a requirement to replace the trust funds, a requirement to downgrade from broker to salesperson license status, and five years license probation.

### Henry Bartos, Real Estate Broker, Gold Standard RE, Fairbanks, Alaska

On April 16, 2011, the Alaska Superior Court issued a Memorandum Decision and Order in response to real estate broker Henry Bartos' appeal of Real Estate Commission case number 3000-04-012. In June 2009, Mr. Bartos was found in violation of multiple statutes and regulations governing real estate licensees, primarily related to Mr. Bartos' ownership of competing brokerages and the intermingling of licensees between those brokerages.

Mr. Bartos appealed the Commission's 2009 decision and imposition of disciplinary sanctions to the Superior Court. In the 4/16/11 appeal decision, the Superior Court has affirmed all but one of the violations originally found by the Real Estate Commission. The violation that was reversed deals with the issue of employment and the temporary substitution of one broker for another when one broker is either unavailable or out of town. In reversing this violation, the Superior Court found that one broker temporarily substituting for another does not constitute employment and is sanctioned as permissible conduct by the Commission.

The issue of whether or not temporary broker substitution rises to the threshold of employment has been a primary topic of discussion in various forums throughout the Alaska real estate community over the past year. The Superior Court decision firmly validates the Commission's longstanding policy allowing for temporary broker substitution; i.e., one broker overseeing real estate transactions for another when one broker is either unavailable or out of town

In his decision, Superior Court Judge Blankenship cites the language in 12 AAC 64.077, which requires that brokers must only notify the Commission of the temporary substitution if the broker will additionally be responsible for authorizing license applications during the broker of record's absence. Judge Blankenship found that 12 AAC 64.077 "indirectly approves temporary, informal substitutions for absent brokers, and the Commission chooses not to impose barriers on such relationships until a particular threshold is met"

"This regulation implies approval of substitutions for the purpose of 'supervis[ing] transactions and licensees'; but, where the higher threshold of 'sign[ing] for the broker of record on a license application' is reached, the broker must first 'notif[y] the commission office in advance of [the] absence.' The fact that the broker and licensee statutes and regulations do not expressly approve or disapprove temporary broker substitutions and rather impose requirements only where a threshold is met, as in 12 AAC 64.077, gives credence to the conclusion that the legislature expects temporary substitutions to occur and does not label them "employment."

For a copy of the entire Superior Court decision, please contact the Real Estate Commission at 907-269-8162 or [Margo.Mandel@alaska.gov](mailto:Margo.Mandel@alaska.gov).



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### Alaska Real Estate Statistics

12-29-10 thru 4-19-11

#### New Issues

Salesperson	48
Associate Broker (upgrade)	7
Broker (upgrade)	2

#### License by Endorsement

Salesperson	1
Associate Broker	0
Broker	2

#### Active Licensees to Date 2215

Salesperson	1366
Associate Broker	383
Broker	466

#### Inactive Licensees to Date 81

Salesperson	63
Associate Broker	15
Broker	3

#### Active Licensees by City/Borough

Anchorage	1164
Wasilla/Palmer	258
Fairbanks	177
Juneau	58
Kenai	26

## Commission Members

Brad Cole, Chair  
Associate Broker  
Wasilla  
3rd Judicial District



David Somers  
Vice Chair  
Broker  
Fairbanks  
Broker At Large



Nancy Davis  
Broker  
Sitka  
1st Judicial District



Gene DuVal  
Associate Broker  
Fairbanks  
4th Judicial District



Christina Swires  
Associate Broker  
Anchorage  
Broker at Large



Marianne Burke  
Anchorage  
Public Member



Charlene Flyum  
Homer  
Public Member



## Education Advisories

### Verification of Continuing Education

Before you prepay or register for any education course, be sure to verify that it is in fact an approved course with the Alaska Real Estate Commission. All courses can be verified either with the REC office or through the Continuing Education Catalog which is located on the REC web site.

If a course has been approved by the Commission in the past, it does not necessarily mean that it is approved for the current licensing period. However, it is ultimately the licensee's responsibility to check any and all courses they will be taking to verify their current approval by the Real Estate Commission.

If you have taken a course or had an instructor that was not approved, you will **NOT** receive CE credit for that course.

All courses currently approved by the AREC can be found in the Continuing Education Catalog on the REC web site at:

[www.commerce.state.ak.us/occ/prec.htm](http://www.commerce.state.ak.us/occ/prec.htm)

### Education Certificates

Instructors who teach another sponsor's course must include their name on the certificate per 12 AAC 64.410(8)(F & G):

A certificate of completion that is given to each student who attends and participates in the course and completes the evaluation, the certificate is required to show:

- name of student;
- city where course was held;
- course title and course approval number;
- date the course was delivered;
- number of contact hours awarded;
- **signature of the course instructor or sponsor;** and
- **name of the course instructor.**

### Outside Education

A licensee who has taken a course offered outside of Alaska, given by a nationally recognized real estate education provider, during a licensing period that has not otherwise been certified under 12 AAC 410 and 12 AAC 64.420, may apply to the Commission for continuing education credit for the licensee's attendance at that course. To be considered for approval by the Commission, the licensee must submit to the department:

- 1) a completed "Licensee Request for CE Credit" form;
- 2) all materials provided as part of the class, including:
  - (A) materials promoting or describing the class
  - (B) evidence that the real estate education provider is nationally recognized; and
  - (C) proof of attendance including time of instruction

## Upcoming Meetings

Mark your calendars for the next Real Estate Commission meeting:

June 8 - 9, 2011  
September 7 - 8, 2011  
December 7 - 8, 2011

All meetings will now be held in Anchorage at the Atwood Building  
550 W 7th Ave., Ste 1270



### ***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

May 30, 2011  
(Memorial Day)

July 4, 2011  
(Independence Day)

## Licensing

### **Applications and Forms**

The REC application to become a licensee and the change of license status form has been updated. Please be sure to complete the most current forms when submitting them to the Commission office. The current date on the form is located in the bottom left corner and will have a revised date of 2/2011. You can download all REC forms from our web site at: [www.commerce.state.ak.us/occ/prec.htm](http://www.commerce.state.ak.us/occ/prec.htm).

When you provide the Commission office with the most current form(s) you do not run the risk of delays in the process of your application or other requested changes. If you have completed forms that require you to answer the professional fitness questions 1-6, include any legal documents with the application. A letter of explanation is also required indicating to the Commission the nature of the action, the date it occurred and the resolution of the issue.

## Proposed Regulations

At the March 2011 Real Estate Commission meeting in Anchorage or by mail ballot, the Commission adopted the following regulations. The Real Estate Commission will notify licensees via List Serv once these proposed regulations are available for public comment. The public comment period lasts for 30 days after which the Commission will review suggested changes from the public.

- 12 AAC 64.059(b)(6) & (f)(7) - Review of License Applications
- 12 AAC 64.060(a)(3) - Applications for Licensure
- 12 AAC 64.064(b)(3)(C), (c)(1) & (c)(1)(A) - Education Requirements after Initial License
- 12 AAC 64.071(b)(3) & (f) - License Renewal
- 12 AAC 64.068(b) - Legal Entities
- 12 AAC 64.073 - Fee
- 12 AAC 64.078 - Temporary Absence of Broker of Record
- 12 AAC 64.111 - Closing an Office
- 12 AAC 64.125(e) - Supervision
- 12 AAC 64.130(8) - Grounds for Revocation or Suspension
- 12 AAC 64.280 - 325 - Recovery Fund
- 12 AAC 64.980(a) - Documents Submitted by Facsimile (Repealed)
- 12 AAC 64.990(b) & (f) - Definitions

The draft regulations will be available for viewing and public comment on the AREC web site at [www.commerce.state.ak.us/occ/prec.htm](http://www.commerce.state.ak.us/occ/prec.htm). Click on the "Proposed Regulations" link, located under the Commission Information tab, to download a copy of the proposed changes. For information about public comment, click on the "Public Notices" link, also located under the Commission Information tab of the AREC web site.

If you wish to be added to the "Interested Parties List" in order to receive official notification of proposed regulation changes, you must contact the Regulations Specialist, Remigio Maiquis Jr. at (907) 465-2537, or by e-mail at: [jun\\_maiquis@commerce.state.ak.us](mailto:jun_maiquis@commerce.state.ak.us).