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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Jun Maiquis
Department of Commerce, Community & Economic Development

FROM: Scott Meriwether, Office of the Lieutenant Governor 
465.4081

DATE: February 23, 2017

RE: Filed Permanent Regulations: Department of Commerce , Community & Economic Development

Department of Commerce, Community, and Economic Development regulations re:
real estate licensee errors and omissions insurance (12 AAC 02.510 - 12 AAC 02.590)

| | |
|------------------------|-----------------|
| Attorney General File: | JU2016200780 |
| Regulation Filed: | 2/23/2017 |
| Effective Date: | 3/25/2017 |
| Print: | 221, April 2017 |

cc with enclosures: Linda Miller, Department of Law
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO
REGULATIONS OF THE DEPARTMENT OF COMMERCE,
COMMUNITY, AND ECONOMIC DEVELOPMENT

The attached five pages of regulations, dealing with real estate errors and omissions insurance requirements, are adopted and certified to be a correct copy of the regulation changes that the Department of Commerce, Community, and Economic Development adopts under the authority of AS 08.88.172 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Commerce, Community, and Economic Development paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

DATE: 02/21/2017
Juneau, Alaska


Janey Hovenden, Director
Division of Corporations, Business and
Professional Licensing

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on February 23, 2017 at 2:15p .m., I filed the attached regulations according to the provisions of AS 44.62.040 – 44.62.120.


Byron Mallott, Lieutenant Governor

Effective: March 25, 2017.

Register: 221, April 2017.



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Commerce, Community, and Economic Development

OFFICE OF THE COMMISSIONER

P.O. Box 110800
Juneau, Alaska 99811-0800
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ALASKA DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT

Delegation of Authority

In accordance with AS 44.17.010, the authority and responsibility for adopting regulations, outside of the Division of Corporations, Business and Professional Licensing (CBPL), but for the Department of Commerce, Community, and Economic Development (DCCED), under the Alaska Administrative Procedure Act, is hereby delegated to:


Micaela Fowler
Legislative Liaison
Office of the Commissioner
DCCED
P.O. Box 110800
Juneau, AK 99811-0800
907-465-2503
micaela.fowler@alaska.gov

In accordance with AS 44.17.010, the authority and responsibility for adopting regulations of the Division of Corporations, Business and Professional Licensing, under the Alaska Administrative Procedure Act, is hereby delegated to:

Janey Hovenden
Director
CBPL
DCCED
P.O. Box 110806
Juneau, AK 99811-0806
907-465-2538
janey.hovenden@alaska.gov

This Delegation of Authority will remain in effect until modified or revoked by a subsequent delegation. This Delegation supersedes and revokes all delegations preceding it.

Dated the 16th day of March, 2015

A handwritten signature in dark ink, appearing to read "CH Hladick", is written over a horizontal line.

Chris Hladick
Commissioner
Department of Commerce, Community,
and Economic Development

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12 AAC 02.510(a)(2) is amended to read:

(2) an annual aggregate limit of liability of not less than \$300,000 [\$200,000] per licensee;

12 AAC 02.510(a)(3) is amended to read:

(3) a deductible amount for each covered wrongful act of not more than \$5,000 [\$2,000] for every \$300,000 [\$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];

12 AAC 02.510(a)(4) is amended to read:

(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 200 [150] percent of the premium charged for the last year of the terminating coverage;

12 AAC 02.510(a)(6) is amended to read:

(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 or changes in the business relationship between a real estate broker and [EMPLOYING] the licensee; and

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12 AAC 02.510(c)(5) is amended to read:

(5) collect premiums, maintain records, and report to the Real Estate Commission the names of those insured and **prior** claims experience **if known**, date of claim, amount paid, nature of claim, and claims information on **a quarterly basis or** an annual [OR A BI-ANNUAL] basis or on request by the Real Estate Commission. (Eff. 12/4/2011, Register 200; am 3/25/2017, Register 221)

Authority: AS 08.88.172

12 AAC 02.520 is amended by adding new paragraphs to read:

(12) from the insolvency of an insured person;

(13) from any injury or damage that the insured had reason to expect; or

(14) from the conversion, misappropriation, commingling, or defalcation of funds or other property. (Eff. 12/4/2011, Register 200; am 3/25/2017, Register 221)

Authority: AS 08.88.172

12 AAC 02.530(1) is amended to read:

(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, **when applying to obtain or renew the license**, the insured licensee provides the [ALASKA] Real Estate Commission with
(A) an affidavit certifying that the insured licensee has the financial resources **in set-aside funds** to pay the higher deductible amount or self-insured retention; **and**

(B) a certificate of insurance from the insured licensee's insurer; and

12 AAC 02.530(2) is amended to read:

(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 **\$300,000** [\$200,000] per wrongful act and \$1,000,000 aggregate, if all licensees associated with the broker are covered. (Eff. 12/4/2011, Register 200; am 3/25/2017, Register 221)

Authority: AS 08.88.172

12 AAC 02.540 is amended to read:

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 **with named licensees covered**. (Eff. 12/4/2011, Register 200; am 3/25/2017, Register 221)

Authority: AS 08.88.172

12 AAC 02.550 is amended to read:

12 AAC 02.550. Maximum amount of premium. The maximum amount of premium to

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be charged a licensee annually under the master errors and omissions insurance policy **may not exceed \$2,500** [IS \$300]. (Eff. 12/4/2011, Register 200; am 3 /25 /2017, Register 221)

Authority: AS 08.88.172

12 AAC 02.560 is amended to read:

12 AAC 02.560. Method of adjustment. Every **three** [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** [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. (Eff. 12/4/2011, Register 200; am 3 /25 /2017, Register 221)

Authority: AS 08.88.172

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12 AAC 02.590(4) is amended to read:

(4) "errors and omissions insurance" means professional liability insurance that provides coverage to holders of active real estate brokers, associate brokers, and **salespersons licensed** [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;

(Eff. 12/4/2011, Register 200; am 3/25/2017, Register 221)

Authority: [AS 08.88.081]

AS 08.88.172