

Sponsor Statement

HB 257

“An Act relating to the disclosure requirements for real estate licensees, to disciplinary action against real estate licensees, to private actions against real estate licensees, and to real estate licensee agency relationships, fiduciary duties, and other duties; and providing for an effective date.”

[HB 257](#) makes several improvements to Alaska’s real estate laws.

Commercial Real Estate Transactions

HB 257 exempts commercial real estate licensees from certain disclosure requirements. The purpose of the disclosure requirements in [AS 08.88.396](#) is to provide consumer protection to those people who may not be familiar with their legal responsibilities and rely in part on real estate licensees for advice when buying and selling real estate. Commercial real estate practitioners should be exempt from these requirements because of the level of sophistication and knowledge typical of parties to commercial real estate transactions. Parties to commercial transactions do not need this protection and the disclosure requirements do not reflect the standards of practice in commercial real estate.

HB 257 also provides that in those cases where the commercial transaction is exempt from the disclosure requirements, and the real estate licensee is representing both the buyer and seller (or both lessor and lessee), the common law principles of agency do not apply. Instead, the licensee shall act with honesty, fairness and good faith when representing both parties.

AS 08.88.396

In addition to the commercial real estate licensees’ exemption, HB 257 makes several other changes to the disclosure statute. First, all references to a real estate “agent” have been replaced with real estate “licensee.” This is to conform with the rest of the real estate statutes which use the term “licensee.” Second, references to lessors and lessees have been added to the statute to reflect that the disclosure statute also applies to real estate lease transactions. Finally, subsection (g) clarifies that a failure to disclose or obtain written consent as required by the statute does not give rise to a private cause of action, but can result in a disciplinary action against the licensee. However, in cases of fraud, misrepresentation or deceit a person can bring an action against the real estate surety fund for damages.

I encourage your support of this legislation.