

# Report Highlights

## Why DLA Performed This Audit

The audit was performed to determine if there is a continued need for the commission and if its termination date should be extended. The commission is set to sunset on June 30, 2026, and will have one year from that date to conclude its administrative operations.

## What the Legislative Auditor Recommends

1. The Division of Corporations, Business and Professional Licensing (DCBPL) director should provide training and update written procedures to ensure minutes are prepared for all commission meetings as required by law.
2. The commission chair should ensure commission regulations and forms are updated to include independent contractors.
3. DCCED's commissioner should work with policy makers to improve the recruitment and retention of investigators, and DCBPL management should consider ways to assist the commission in clearing its investigative backlog.

# A Sunset Review of the Department of Commerce, Community, and Economic Development (DCCED), Real Estate Commission (commission)

April 17, 2025

Audit Control Number 08-20146-25

## REPORT CONCLUSIONS

The commission served the public's interest by effectively conducting its meetings, actively amending regulations, and effectively licensing real estate professionals.

The audit also found areas for improvement. The commission did not consistently keep minutes for subcommittee meetings and did not update its regulations and forms to include licensees who are independent contractors. Commission related investigations were not conducted in a timely manner, and the Real Estate Recovery Fund appeared to no longer be necessary. Further, the commission did not monitor compliance with insurance coverage requirements.

In accordance with AS 08.03.010(c)(19), the commission is scheduled to terminate on June 30, 2026. We recommend that the legislature extend the commission's termination date four years to June 30, 2030, which is half of the eight year maximum allowed by statute. The reduced extension reflects the need for more routine oversight to ensure timely corrective action.

# Report Highlights (Continued)

4. The commission should consider seeking legislation to eliminate the Real Estate Recovery Fund.
5. The commission should require license renewal applicants to submit a certificate of errors and omissions insurance coverage, or seek a statutory change.

# ALASKA STATE LEGISLATURE

## LEGISLATIVE BUDGET AND AUDIT COMMITTEE

### Division of Legislative Audit



P.O. Box 113300  
Juneau, AK 99811-3300  
(907) 465-3830  
FAX (907) 465-2347  
legaudit@akleg.gov

May 6, 2025

Members of the Legislative Budget  
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Real Estate Commission and the attached report is submitted for your review.

### DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT REAL ESTATE COMMISSION SUNSET REVIEW

April 17, 2025

Audit Control Number  
08-20146-25

The audit was conducted as required by AS 44.66.050(a). Per AS 08.03.010(c)(19), the commission is scheduled to terminate on June 30, 2026. We recommend the legislature extend the commission's termination date four years to June 30, 2030.

The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Fieldwork procedures utilized in the course of developing the findings and recommendations presented in this report are discussed in the Objectives, Scope, and Methodology.

A handwritten signature in black ink, appearing to read "Kris Curtis".

Kris Curtis, CPA, CISA  
Legislative Auditor

## ABBREVIATIONS

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AAC	Alaska Administrative Code
ACN	Audit Control Number
AS	Alaska Statute
CISA	Certified Information Systems Auditor
commission	Real Estate Commission
COVID-19	Coronavirus Disease 2019
CPA	Certified Public Accountant
DCBPL	Division of Corporations, Business and Professional Licensing
DCCED	Department of Commerce, Community, and Economic Development
DLA	Division of Legislative Audit
fund	Real Estate Recovery Fund
FY	Fiscal Year
NAR	National Association of Realtors
SB	Senate Bill

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Revenues, Expenditures, and Changes in Fund Balance,  
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# ORGANIZATION AND FUNCTION

## Real Estate Commission (commission)

The commission is established under AS 08.88.011 for the purpose of licensing and regulating real estate professionals in Alaska. The commission is made up of seven members.

State law requires five of the seven commission seats be filled by licensed real estate brokers or associate brokers that have been licensed in the state for at least three years prior to appointment. One broker or associate broker must be appointed from each of the four judicial districts and one from the state at large. A total of two licensed real estate brokers or associate brokers may be appointed from the state at large if no licensed real estate broker or associate broker is eligible or available for appointment from the Second Judicial District. Exhibit 1 lists commission members as of January 31, 2025.

The commission regulates the real estate profession in the state. Specifically, per AS 08.88.071 through AS 08.88.091, the duties of the commission include:

1. establishing examination requirements and conducting examinations;
2. issuing licenses to qualified applicants;
3. holding hearings and issuing disciplinary sanctions, including license suspension or revocation, and levying civil fines;
4. prosecuting violations of AS 08.88;

### Exhibit 1

#### Real Estate Commission Members as of January 31, 2025

Cheryl Markwood, Chair  
*Broker at Large*

Chad Stigen  
*Assoc. Broker at Large*

Devon Doran  
*Broker, 3rd Judicial Dist.*

Elizabeth Schok  
*Assoc. Broker, 4th Judicial Dist.*

Traci Heaton  
*Assoc. Broker, 1st Judicial Dist.*

Jimi Cash  
*Public Member*

Susan Wilcox  
*Public Member*

Source: Office of the Governor, Boards and Commissions website.

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5. issuing temporary permits for purposes of administrating and/or concluding the business affairs of a licensee who is incapacitated, has been suspended, or has died;
  6. updating the seller's property disclosure statement;
  7. adopting regulations to implement the commission's statute; and
  8. establishing professional education requirements and providing professional education.

The commission may issue licenses to brokers, associate brokers, and salespersons. Additionally, per AS 08.88.291, the commission registers real estate main and branch offices. To help accomplish its mission, statutes authorize the commission to hire an executive administrator.

**Department of  
Commerce, Community,  
and Economic  
Development's Division  
of Corporations, Business  
and Professional Licensing  
(DCBPL)**

DCBPL staff provide administrative and investigative assistance to the commission. Administrative assistance includes budgetary services and functions such as collecting fees, maintaining files, receiving application forms, publishing notices for meetings and exams, and assisting with commission regulations.

Alaska Statute 08.01.087 gives DCBPL authority to act on its own initiative or in response to a complaint. DCBPL may:

1. Conduct an investigation to determine whether a person has violated a law.
2. Bring an action in Superior Court to enjoin the act.
3. Examine or have examined the books and records of a person whose business activities require a business license or licensure by a board or commission listed in AS 08.01.010, or whose occupation is listed in AS 08.01.010.

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4. Issue subpoenas for the attendance of witnesses and records.

Alaska Statute 08.01.065 requires the department to adopt regulations that establish the amount and manner of payment of application, examination, reporting, and license fees.

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# REPORT

## CONCLUSIONS

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In developing our conclusion regarding whether the commission's termination date should be extended, its operations were evaluated using the 11 factors set out in AS 44.66.050(c), which are included as Appendix A of this report. Under the State's "sunset" law, these factors are to be considered in assessing whether an entity has demonstrated a public policy need for continuing operations.

The audit concluded that the commission served the public's interest by effectively conducting its meetings, actively amending regulations, and effectively licensing real estate professionals.

The audit also found areas for improvement. The commission did not consistently keep minutes for subcommittee meetings and did not update its regulations and forms to include licensees who are independent contractors. Commission related investigations were not conducted in a timely manner, and the Real Estate Recovery Fund appeared to no longer be necessary. Further, the commission did not monitor compliance with insurance coverage requirements.

In accordance with AS 08.03.010(c)(19), the commission is scheduled to terminate on June 30, 2026. We recommend that the legislature extend the commission's termination date four years to June 30, 2030, which is half of the eight year maximum allowed by statute. The reduced extension reflects the need for more routine oversight to ensure timely corrective action.

Detailed report conclusions are as follows.

**The commission conducted its meetings effectively, but did not consistently keep minutes of its subcommittee meetings.**

The commission met 31 times from July 2021 through January 2025. A review of 12 commission meetings and seven subcommittee meetings found that meetings were appropriately publicly noticed, generally allowed time for public comment, and a quorum was consistently met.<sup>1</sup> The commission did not, however, consistently prepare minutes for subcommittee meetings. The audit

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<sup>1</sup> At the December 14, 2023, meeting that considered a disciplinary matter, quorum was not maintained when it was determined that two members had a conflict of interest and one member was absent. Consideration of the matter was rescheduled to the next commission meeting.

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found that six of the seven subcommittee meetings reviewed did not have meeting minutes. (See Recommendation 1)

**The commission duplicated some of the activities of a trade association.**

The audit found some duplication of efforts between the commission and a trade association, the National Association of Realtors (NAR). Membership in NAR and its regional (Alaska Realtors) and local affiliates is not a state license requirement; however, many licensees are members. NAR sets and enforces ethical standards that are, in some respects, similar to the standards set by Alaska statutes and commission regulations. For instance, both the commission and NAR impose a duty of honesty and good faith dealing. Both require disclosure of conflicts of interest, prohibit misrepresentation of property conditions, and require that client money be kept in a trust account. Both provide a process for members of the public to file a complaint and seek sanctions against a real estate professional. NAR and its affiliates also provide professional education. This education can be used to comply with the education requirements imposed by the commission.

**The commission actively amended regulations; however, it did not amend regulations and forms to include licensees who are independent contractors.**

The commission issued and amended regulations to implement statutory changes and improve the licensing process. Significant changes included regulations that:

- updated the examination process by fully transitioning to a commission-approved testing service. This change increased access to testing.
- added the option of taking virtual professional education courses. This change helped ensure licensees could continue to comply with professional education requirements during the pandemic.
- implemented legislation related to increased experience requirements. This change helped protect consumers by requiring licensed brokers to have more experience.

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- updated the property transfer disclosure statement to provide additional information on what structural components need to be replaced, the type of fireplace/woodstove, detail regarding pests and remediation action, and a responsibility disclaimer for licensees. These changes provided potential property purchasers with additional useful information prior to making an offer.
  - required supervision of licensees by both a broker and an associate broker. This change increased oversight, which helps protect buyers and sellers during the closing process.
  - implemented legislation by establishing a temporary military courtesy license to allow active-duty military members and spouses to practice as a real estate broker, associate broker, or salesperson. This change expedited the license process for military members and spouses.
  - updated the consumer disclosure form to reflect “team” relationships amongst licensees. A “team” is made up of licensees within a brokerage who work and advertise under a team name. This change promoted consumer awareness.

The commission did not, however, update its regulations and forms to include licensees who are independent contractors. During fieldwork, auditors learned that real estate brokerages typically do not employ licensees. Rather, brokerages usually enter into independent contractor relationships with licensees. An independent contractor relationship is different than an employment relationship for a variety of purposes, including tax, liability, and labor laws. The legislature amended the commission’s statute in 1998 to reflect this practice by adding AS 08.88.910, which states: “The provisions of this chapter that apply to employment relationships and employees also apply to contracting relationships and independent contractors.”

Despite the long-standing nature of this business practice, the commission’s regulations and forms continue to make extensive use of the term “employing broker” as the only kind of broker

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**Commission related investigations were not conducted in a timely manner.**

relationship.<sup>2</sup> The commission has six license application forms; each form seeks “Employing Broker Information.” The broker application forms seek particulars of employment information such as “employment begin date” and “employment end date.” The regulations and forms do not explain how an independent contractor applicant or licensee should complete the forms. (See Recommendation 2)

A total of 264 commission related cases were open or opened from July 2021 through January 2025. The audit identified that 108 of these cases were open for over 180 days during the audit period. Eight of the 108 cases were open more than 1,000 days.

Auditors reviewed 14 of the 108 cases that were open for over 180 days and determined that all 14 cases had unjustified periods of inactivity, and other delays, ranging from 160 to 726 days, with an average delay of 14 months. The audit found three primary types of delay with many cases showing multiple types of delay. First, the longest periods of inactivity related to Division of Corporations, Business and Professional Licensing (DCBPL) waiting for a commission member to accept a case for review (6 cases; 124 to 515 days). Second, once accepted for review, auditors found delays associated with commission member review (9 cases; 49 to 441 days). Third, auditors found periods of inactivity related to investigator staffing issues such as vacancies and turnover (7 cases; 55 to 326 days). (See Recommendation 3)

As shown in Exhibit 2 on the following page, open commission related cases more than doubled from July 2024 to January 2025.

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<sup>2</sup> For example, see 12 AAC 64.065; 12 AAC 64.075; 12 AAC 64.077; 12 AAC 64.080; 12 AAC 64.110; 12 AAC 64.130(17).

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**Exhibit 2**

Real Estate Commission Investigations					
<i>as of:</i>	July 1, 2021	July 1, 2022	July 1, 2023	July 1, 2024	January 31, 2025
Cases Open Less than 180 days	23	12	11	14	41
Cases Open 180–364 days	1	10	16	8	15
Cases Open 1–2 years	8	19	10	8	12
Cases Open More than 2 years	3	8	9	3	4
Total Open Cases	35	49	46	33	72

Source: DCBPL investigation casefiles.

**The commission issued licenses in compliance with statutes and regulations.**

Exhibit 3 on the following page shows that, as of January 2025, there was a total of 2,854 active licenses representing an overall increase of nine percent when compared to the prior 2017 sunset audit. The net change is the result of a 17 percent increase in salesperson licenses since 2017, offset by an eight percent decrease in broker and associate broker licenses. The commission chair explained that changes in the number of licenses are generally related to activity in the real estate market: when sales are up, the overall number of licenses issued increases, and vice versa.

### Exhibit 3

Real Estate Commission License and Registration Activity FY 22 through January 31, 2025				
Newly Issued (Exclusive of Renewals)				Total Active as of January 31, 2025
	FY 22	FY 23	FY 24	
Associate Broker	8	9	5	375
Temporary Associate Broker	0	0	2	0
Broker	8	4	6	409
Salesperson	334	245	245	2,070
Temporary Salesperson	0	0	1	0
License Totals	350	258	259	2,854
Real Estate Office Registrations				
Branch	19	9	3	48
Main	39	33	40	543
Office Registration Totals	58	42	43	591

Source: DCBPL license files.

Auditors tested a sample of 20 new and 10 renewal licenses issued during the audit period and found all were issued in compliance with statutes and regulations.

**The commission reduced its budget surplus by decreasing some license fees.**

The commission's schedule of revenues and expenditures for FY 22 through January 2025 is shown in Exhibit 4 on the following page. The commission receives its revenue from licensure and renewal fees. Renewals are conducted on a biennial basis, creating a two-year cycle in commission revenues. During the audit period, the commission was allocated \$27,355 of general funds to replace revenue lost due to the license fee freeze mandated by the governor to help mitigate the financial impact of the COVID-19 pandemic.

As of January 2025, the commission had a cumulative surplus of \$807,663.

#### Exhibit 4

<b>Real Estate Commission Schedule of Revenues and Expenditures FY 22 through January 31, 2025 (Unaudited)</b>				
	FY 22	FY 23	FY 24	July 1, 2024 – January 31, 2025
Revenues				
Licensing Fees	820,700	228,875	639,645	86,985
General Funds Received	17,842	4,654	4,859	-
Other Sources	-	2,500	-	-
Total Revenues	<u>838,542</u>	<u>236,029</u>	<u>644,504</u>	<u>86,985</u>
Direct Expenditures				
Personal Services	228,247	281,255	269,033	184,230
Travel	-	10,669	9,954	4,352
Services	42,618	101,281	112,357	16,389
Commodities	122	58	48	12
Total Direct Expenditures	<u>270,987</u>	<u>393,263</u>	<u>391,392</u>	<u>204,983</u>
Indirect Expenditures	<u>187,789</u>	<u>203,101</u>	<u>191,680</u>	<u>95,841*</u>
Total Expenditures	<u>458,776</u>	<u>596,364</u>	<u>583,072</u>	<u>300,824</u>
Annual Surplus (Deficit)	379,766	(360,335)	61,432	(213,839)
Beginning Cumulative Surplus	<u>940,639</u>	<u>1,320,405</u>	<u>960,070</u>	<u>1,021,502</u>
Ending Cumulative Surplus	<u>1,320,405</u>	<u>960,070</u>	<u>1,021,502</u>	<u>807,663</u>

Source: Department of Commerce, Community, and Economic Development management.

\* Indirect expenditures are based on prior year estimates as of December 31, 2024.

During FY 22, DCBPL staff reviewed the level of fees in relation to the commission's budget surplus. DCBPL management, in consultation with the commission, concluded that fees were too high, and adopted regulations that decreased several fees, including reducing new and renewal license fees by \$20 and transfer fees by \$105. During FY 25, DCBPL staff conducted another fee analysis and recommended that no fee changes be made for the next license renewal cycle. The commission's schedule of fees from FY 22 through January 2025 is shown in Exhibit 5.

**Exhibit 5**

Real Estate Commission License and Other Fees FY 22 through January 31, 2025		
	FY 22 Amount	FY23 through January 31, 2025 Amount
License fee	\$140	\$120
Biennial license renewal fee	140	120
Fee for office changes	120	120
Transfer of license fee	225	120
Application fee for initial license	200	200
Initial office registration fee	200	200
License inactivation or reactivation fee	150	150
Duplicate license fee	20	0
Name change fee	75	0
Post-license education certification and new license document fee	50	50
Reinstatement fee for a lapsed license	225	140
Initial course certification fee (per credit hour)	50	50
Biennial course recertification fee (per credit hour)	30	30
Instructor approval fee (per instructor)	200	200
Temporary instructor approval fee (per instructor)	250	250
Instructor approval recertification fee	100	100
Information pamphlet on landlord and tenant rights	5	5
Real Estate Recovery Fund fee	50	50

Source: DCBPL regulations.

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## **The Real Estate Recovery Fund fee is no longer necessary.**

The Real Estate Recovery Fund (fund) is established in AS 08.88.450 for the primary purpose of providing a remedy for loss suffered in a real estate transaction “as a result of fraud, an intentional tort, deceit, or the conversion of trust funds or the conversion of community association accounts...” Claims are limited to \$15,000 per transaction, up to a maximum of \$50,000 per licensee. As the payer of last resort, claims must be validated by a claimant’s final court judgment, arbitration award, or settlement agreement with a licensee. The fund may also be used for real estate educational purposes. As shown in Exhibit 6 on the following page, during the audit period no claims were paid and the fund was only used to pay DCBPL staff salaries for time spent on recovery fund related tasks.

DCBPL management advised the commission that personal services expenditures were paid from the fund based on an assumption that 10 percent of the executive administrator’s time and 100 percent of a project assistant’s time was spent on recovery fund related tasks. DCBPL does not maintain positive timekeeping to show that each of these positions worked on educational purposes, which is the only non-claim expenditure allowed by statute.

The commission’s statute requires the fund maintain a balance between \$250,000 and \$500,000. Per AS 08.88.455, the revenues for the fund are recovery fund fees paid by licensees, not to exceed \$125 per licensee. As of November 2019, the recovery fund fee was set by regulation at \$50 per licensee.

As noted in the previous sunset audit, legislation became effective in 2018 mandating that all licensees have errors and omissions insurance (SB 158). From the effective date of SB 158 through January 2025, the fund paid a total of only \$50,202 in claims, while collecting over \$640,000 in recovery fund fees. (See Recommendation 4)

**Exhibit 6**

**Real Estate Recovery Fund**  
**Schedule of Revenues, Expenditures, and Changes in Fund Balance**  
**FY 22 through January 31, 2025**  
(Unaudited)

	FY 22	FY 23	FY 24	July 1, 2024 – January 31, 2025
Revenues				
Licenses and Permits	101,260	46,705	90,520	22,320
General Funds Received	-	82,225	-	-
Interest and Inv. Income	(4,580)	12,475	21,727	10,531
Prior Year Adjustments	(150)	-	-	-
Total Revenues	96,530	141,405	112,247	32,851
Expenditures				
Personal Services	43,240	74,020	116,395	64,083
Travel	-	-	-	-
Services (Non-Claims)	2	32	29	-
Services (Claims)	-	-	-	-
Commodities	-	-	-	-
Total Expenditures	43,242	74,052	116,424	64,083
Net Change in Fund Balance	53,288	67,353	(4,177)	(31,232)
Fund Balance – Beginning of Year	264,101	317,389	384,742	380,565
Fund Balance – End of Year	317,389	384,742	380,565	349,333

Source: DCBPL management and the State accounting system.

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**The commission did not require applicants for renewal licenses submit a certificate of coverage of independently obtained errors and omissions insurance as statutorily mandated.**

Per AS 08.88.172, licensees are required to have errors and omissions insurance coverage. Licensees can opt to use either the commission's master errors and omissions insurance policy (which has been continually in force since 2017) or elect to obtain such insurance directly from an insurance company.

Per AS 08.88.172(f), applicants for new and renewal licenses who independently obtain coverage apart from the commission's master insurance policy must provide a certificate of errors and omissions insurance coverage. The audit found that the commission required new license applicants to submit a certificate of coverage; however, renewal license applicants were not required to. Instead, the commission accepted an applicant statement certifying that errors and omissions coverage exists. (See Recommendation 5)

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# FINDINGS AND RECOMMENDATIONS

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The prior 2017 sunset audit made one recommendation:

- Division of Corporations, Business and Professional Licensing’s (DCBPL) chief investigator should continue to improve oversight to ensure cases are actively investigated and completed timely.

The prior sunset audit recommendation was not resolved and is reiterated below as Recommendation 3.

This sunset audit makes four new recommendations.

## **Recommendation 1:**

**DCBPL’s director should provide training and update written procedures to ensure minutes are prepared for all commission meetings as required by law.**

Auditors reviewed seven subcommittee meetings for compliance with meeting requirements and found that six of the meetings did not have minutes.

Alaska Statute 08.01.070(1) provides: “Each board shall perform the following duties in addition to those provided in its respective law...take minutes and records of all proceedings”. Since subcommittee meetings are a “proceeding” of the Real Estate Commission (commission), meeting minutes are required. Minutes were not maintained because the executive administrator was not aware that minutes were required for subcommittee meetings.

Meeting minutes provide a record of what occurred during a proceeding, and are used by commission members, staff, licensees, and members of the public to monitor commission activity. Lack of meeting minutes erodes the ability of all stakeholders to stay informed of commission actions.

We recommend DCBPL’s director provide training and update written procedures to ensure minutes are prepared for all commission meetings as required by law.

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## **Recommendation 2:**

### **The commission chair should update commission regulations and forms to include independent contractors.**

The commission's regulations and forms all make reference to the "employing broker" but do not reference situations where the brokerage enters into independent contractor relationships with licensees.

According to commission members, the real estate industry has evolved away from employment relationships, and licensees are typically independent contractors affiliated with brokerages. While the commission's statute was updated to reflect this change in 1998, the commission did not update its regulations and forms to include independent contractors. The DCBPL director explained that the division has over 800 forms to maintain, and had overlooked this particular concern.

Per AS 08.88.910, the commission's statutes provide that "the provisions of this chapter that apply to employment relationships and employees also apply to contracting relationships and independent contractors." Occupational licensing regulations and forms that do not reflect business practices create confusion.

We recommend the commission chair update commission regulations and forms to include independent contractors.

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### **Recommendation 3:**

**Department of Commerce, Community, and Economic Development's (DCCED)**

**commissioner should work with policy makers to improve the recruitment and retention of investigators, and DCBPL management should consider ways to assist the commission in clearing its investigative backlog.**

Auditors reviewed 14 commission related cases open for over 180 days during the audit period and found that each case had periods of unjustified inactivity or other delays. The average total of delays in these cases was 14 months. In most of the cases, there were multiple causes for delay as noted below:

- In six cases, there were periods of inactivity ranging from 124 to 515 days related to waiting for a commission member to accept a case for review.
- In nine cases, the time taken by a commission member to review the case ranged from 49 to 441 days. In six of these cases, the time for review exceeded eight months, with the investigator case notes, at times, documenting lack of activity or response from the commission member.
- In seven cases, there were periods of inactivity ranging from 55 to 326 days related to investigator staffing vacancies and turnover.

Per AS 08.01.050(a)(19), DCBPL is responsible for providing investigative services to occupational boards and commissions. Investigations and complaints that sit idle for extended periods increase the risk to public welfare.

We recommend DCCED's commissioner work with policy makers to improve the recruitment and retention of investigators and DCBPL management consider ways to assist the commission in clearing its investigative backlog.

### **Recommendation 4:**

**The commission should consider seeking legislation to eliminate the Real Estate Recovery Fund.**

Auditors found that the Real Estate Recovery Fund was no longer needed for its primary statutory purpose. The commission collects a \$50 fee from licensees to maintain the fund, but no claims have been paid by the fund since FY 20. The fund was only used to pay staff salary for time spent on "recovery fund related tasks."

The fund no longer paid claims because all licensees have been required to have errors and omissions insurance since 2018, and

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access to the fund is fairly restrictive with claims being limited to \$15,000 per transaction, and a maximum of \$50,000 in claims per licensee. Additionally, the fund is the payer of last resort and claims must be supported by a final court judgment, arbitration award, or settlement agreement.

The Real Estate Recovery Fund was established by AS 08.88.450 to provide a source of financial relief for members of the public harmed “as a result of fraud, an intentional tort, deceit, or the conversion of trust funds” caused by a licensee. That purpose is now effectively served through the requirement of errors and omissions insurance per AS 08.88.172.

Continued collection of the real estate recovery fee for a fund that no longer effectively serves the purpose for which it was created increases the fiscal burden for licensees.

We recommend the commission consider seeking legislation to eliminate the Real Estate Recovery Fund.

## **Recommendation 5:**

**The commission should require license renewal applicants to submit a certificate of errors and omissions insurance coverage, or seek a statutory change.**

The commission does not require renewal license applicants who have independently obtained errors and omissions insurance to submit a certificate. Rather, licensees are only required to certify compliance.

Errors and omissions insurance for licensees is mandatory under AS 08.88.172. Per AS 08.88.172(f), licensees who independently obtain errors and omissions insurance must provide a certificate of coverage with applications for both new and renewal licenses. According to 12 AAC 64.600—.610, license applicants must provide proof of errors and omissions insurance coverage by supplying a certification of insurance showing coverage.

The commission chair stated that certificates of coverage were not required from renewal license applicants because of electronic storage limitations. The DCBPL director stated that the deficiency was the result of human error.

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Alaska consumers who contract with licensees that do not maintain errors and omissions insurance coverage risk incurring fiscal harm.

We recommend the commission require applicants for a renewal license to submit a certificate of errors and omissions insurance coverage, or seek a statutory change if determined unnecessary for effective regulation.

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# OBJECTIVES, SCOPE, AND METHODOLOGY

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In accordance with Title 24 and Title 44 of the Alaska Statutes, we have reviewed the activities of the Real Estate Commission (commission) to determine if there is a demonstrated public need for its continued existence.

As required by AS 44.66.050(a), this report shall be considered by the committee of reference during the legislative oversight process in determining whether the commission should be reestablished. Currently, under AS 08.03.010(c)(19), the commission will terminate on June 30, 2026, and will have one year from that date to conclude its administrative operations.

## Objectives

The three central, interrelated objectives of our audit are to determine:

1. If the termination date of the commission should be extended.
2. If the commission is operating in the public's interest.
3. The status of recommendations made in the prior sunset audit.

## Scope

The assessment of commission operations and performance was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relates to the determination of a demonstrated public need for the commission. We reviewed the commission's activities from July 1, 2021, through January 31, 2025. Financial information is presented, unaudited, for the same period.

## Methodology

During the course of our audit, we reviewed and evaluated the following:

- The prior sunset audit report (ACN 08-20105-17) to identify issues affecting the commission and to identify prior sunset audit recommendations.

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- Applicable statutes and regulations to identify commission functions and responsibilities, determine whether statutory or regulatory changes enhanced or impeded commission activities, and help ascertain if the commission operated in the public interest.
  - Commission meeting minutes to gain an understanding of commission proceedings and activities, the nature and extent of public input, whether a quorum was maintained, and whether commission vacancies impeded operations.
  - Commission annual reports to gain an understanding of commission activities.
  - The State's Online Public Notices System to verify commission meetings were adequately public noticed in compliance with state law.
  - Expenditures, revenues, and fee levels for the commission to determine whether fees covered the costs of operations.
  - Various Alaska news websites to identify complaints against the commission or other commission related concerns.
  - Various websites containing information for potential duplication of commission activities.
  - Commission investigation data for cases open or opened from July 1, 2021, through January 31, 2025, to assess the efficiency of the investigative process.

Internal controls over the licensing and investigative processes were assessed to determine if controls were properly designed and implemented. Additionally, to identify and evaluate commission activities, we conducted interviews with State agency staff, the commission chair, and one commission member. Specific areas of inquiry included: commission operations, statutory duties, regulations, duplication of efforts, fee levels, and complaints against the commission.

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The audit utilized the following samples:

- A judgmental sample of 14 of 31 commission and subcommittee meetings held from July 1, 2021, through January 31, 2025, was reviewed to gain an understanding of commission proceedings and activities, the nature and extent of public input, whether a quorum was maintained, whether the meetings were public noticed, and whether commission vacancies impeded operations. The sample was expanded to include five subcommittee meetings to review whether meeting minutes were kept. Test results were not projected to the population.
- A total of 264 commission related investigative cases were open or opened from July 2021 through January 2025. The audit identified that 108 of the 264 cases were open for over 180 days during the audit period. Eight of the 108 cases were open more than 1,000 days. Auditors randomly selected a sample of 11 cases from the 264 cases open for over 180 days, and judgmentally selected three from the 108 cases open over 1,000 days, for a total sample size of 14 cases. Cases were reviewed to evaluate the efficiency of the investigative process. Test results were not projected to the population.
- From FY 22 through January 2025, the commission issued 967 new licenses. As of January 2025, there was a total of 2,854 active licenses. Auditors randomly selected a sample of 20 new licenses and 10 renewal applications for testing compliance with statutes and regulations. The sample size was based on low control risk, low inherent risk, and low/moderate audit risk. Test results were not projected to the population.

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## APPENDIX SUMMARY

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Appendix A provides the sunset criteria used in developing the conclusions regarding whether the Real Estate Commission termination date should be extended.

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## APPENDIX A

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### **Analysis of Public Need Criteria AS 44.66.050(c)**

A determination as to whether a board or commission has demonstrated a public need for its continued existence must take into consideration the following factors:

1. the extent to which the board or commission has operated in the public interest;
2. the extent to which the operation of the board or commission has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters;
3. the extent to which the board or commission has recommended statutory changes that are generally of benefit to the public interest;
4. the extent to which the board or commission has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided;
5. the extent to which the board or commission has encouraged public participation in the making of its regulations and decisions;
6. the efficiency with which public inquiries or complaints regarding the activities of the board or commission filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved;
7. the extent to which a board or commission that regulates entry into an occupation or profession has presented qualified applicants to serve the public;

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## APPENDIX A

### (Continued)

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8. the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board or commission in its own activities and in the area of activity or interest;
9. the extent to which statutory, regulatory, budgetary, or other changes are necessary to enable the board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection;
10. the extent to which the board or commission has effectively attained its objectives and purposes and the efficiency with which the board or commission has operated; and
11. the extent to which the board or commission duplicates the activities of another governmental agency or the private sector.

# Agency Response from the Department of Commerce, Community, and Economic Development



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

## Department of Commerce, Community, and Economic Development

OFFICE OF THE COMMISSIONER  
Julie Sande, Commissioner

P.O. Box 110800  
Juneau, Alaska 99811-0800  
Main: 907.465.2500  
Fax: 907.465.5442

July 24, 2025

Kris Curtis  
Legislative Auditor  
Division of Legislative Audit  
P.O. Box 113300  
Juneau, AK 99811

RECEIVED

JUL 25 2025

LEGISLATIVE AUDIT

Dear Ms. Curtis:

Thank you for the June 30, 2025, Confidential Preliminary Report, Department of Commerce, Community, and Economic Development (DCCED), Real Estate Commission (commission) Sunset Review. I concur with six of the eight conclusions; those I do not concur with are addressed below. I concur with all five recommendations. Please see the following comments regarding the recommendations:

**Conclusion: The commission duplicated some of the activities of a trade association.**

The department takes issue with the conclusion that, "The commission duplicated some of the activities of a trade association." We might phrase it that the association duplicates many of the activities of the commission. Many professions have trade or professional associations that licensees opt to join. That those organizations have ethical standards for their members or offer them continuing education is not surprising. However, as the management letter noted, joining the National Association of Realtors (NAR) is not compulsory. Indeed, NAR is not the only national association for real estate professionals. Other associations include the National Association of Real Estate Brokers (NAREB) and the National Real Estate Association (NREA). Given that licensing is mandatory and membership in NAR or one of the other trade associations is optional, saying the legally required entity duplicates an optional, private entity seems misleading about the commission's role.

**Conclusion: The commission reduced its budget surplus by decreasing some license fees.**

The conclusion above can be found on page 10. The setting of fees is under the division's authority per AS 08.01.065, not the commission. The statement is confusing since the division, in consultation with the commission, decreased some license fees. The authority for fee setting is reference appropriately in the text of this session on page 12 which states, "DCBPL management, in consultation with the commission, concluded that fees were too high, and adopted regulations that decreased several fees..."

**Recommendation #1: DCBPL’s director should provide training and update written procedures to ensure minutes are prepared for all commission meetings as required by law.**

The division has received varied legal guidance over time regarding the requirements for meeting minutes for various sub-units of the commission such as subcommittees, workgroups, and task forces. The most recent guidance is in alignment with this recommendation and the division will provide training to all board liaison staff on sub-unit requirements related to meeting minutes.

**Recommendation #2: The commission chair should update commission regulations and forms to include independent contractors.**

While the Division of Corporations, Business and Professional Licensing works with the commission and provides advice and guidance, the commission is not under the purview of the department. The commission will determine how it wishes to proceed regarding an update to regulations related to independent contractors.

Should the commission update its regulations on this topic, the division will work with the commission to ensure forms are updated with language reflecting that individuals may be employees or independent contractors as is current industry practice. Forms will be updated once regulations are updated, if the commission opts to do so.

**Recommendation #3: Department of Commerce, Community, and Economic Development’s (DCCED) commissioner should work with policy makers to improve the recruitment and retention of investigators, and DCBPL management should consider ways to assist the commission in clearing its investigative backlog.**

The department concurs that recruitment and retention challenges exist throughout state government and will continue to engage with the Office of the Governor, Department of Administration, the Legislature, and other stakeholders as appropriate to identify holistic solutions.

The division works diligently to keep the investigations team staffed. With one of the largest investigations units in the state (26 PCNs), we try to emphasize the opportunities that size affords staff in an effort to improve retention. We are currently working to reclass the supervisory staff in investigations to create a clearer career ladder within the unit which we believe will improve staff retention.

Additionally, we offer staff a great deal of training. All investigators attend the National Certified Investigator and Inspector Training offered by the Council on Licensure, Enforcement and Regulation (CLEAR). Additionally, they are all trained in interviewing techniques, and all receive training on how to conduct investigations on their specific programs if available, (e.g., chiropractors, physicians, nurses, social workers, etc.). We feel that investing in staff through training ensures staff are confident in their ability to carry out their duties, improving job satisfaction and increasing retention. When we have turnover, we submit the vacant positions for posting within days of learning of them to minimize periods of short staffing.

The division is working with the commission on strategies to address the backlog in investigation cases.

**Recommendation #4: The commission should consider seeking legislation to eliminate the Real Estate Recovery Fund.**

While the Division of Corporations, Business and Professional Licensing works with the commission and provides advice and guidance, the commission is not under the purview of the department. The commission will determine how it wishes to proceed regarding the Real Estate Recovery Fund.

**Recommendation #5: The commission should require license renewal applicants to submit a certificate of errors and omissions insurance coverage or seek a statutory change.**

The division agrees that as currently written AS 08.88.172(f) requires a certificate of errors and omissions insurance coverage for renewal, and did identify this after the 2024 renewal but prior to the start of this sunset audit, so the division already has plans in place to require the insurance certificate with future renewals, starting with the next renewal in 2026.

Again, thank you for the opportunity for the department to provide input on this matter. If you have any questions, please feel free to contact me.

Sincerely,

DocuSigned by:  
  
58AE8EAA5D47472...  
Julie Sande  
Commissioner

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# Agency Response from the Real Estate Commission

Cheryl Markwood  
Markwood Realty, LLC  
565 University Avenue Suite 3  
Fairbanks, AK 99709  
(907) 347-4720  
cheryl@fbksrealty.com

State of Alaska  
Division of Legislative Audit  
PO Box 113300  
Juneau, AK 99811-3300

RECEIVED

JUL 11 2025

RE: Alaska Real Estate Commission  
Sunset Audit Response

LEGISLATIVE AUDIT

The Real Estate Commission appreciates the opportunity to respond to the most recent sunset audit. We are grateful for the four-year extension granted; however, we recognize this is less than the full eight years allowed by statute due to the five recommendations included in the report.

We take these recommendations seriously and will be working toward solutions. The following report outlines our responses to each item and our commitment to include them in the commissions Strategic Plan. Our goal is to ensure timely action, regulatory clarity, and continued public trust in the Commission's role of licensing and overseeing real estate professionals across Alaska.

## **Recommendation 1: Board Meeting Minutes**

**Resolution:** Ensure procedures are in place to prepare and retain meeting minutes.

This issue was not previously on the Commission's radar, and we appreciate it being brought to our attention. The responsibility for preparing and maintaining meeting minutes falls under the Division of Corporations, Business, and Professional Licensing (DCBPL).

Going forward, the Commission will work closely with DCBPL staff to ensure that meeting minutes are prepared and finalized as required. We will also make this part of our ongoing meeting follow-up to confirm that records are kept up to date and accessible.

RE: Alaska Real Estate Commission  
Sunset Audit Response

Page 1 of 3

### **Recommendation 2: Independent Contractor Language**

**Topic:** Update forms and regulations to reflect independent contractor relationships.

This is a timely and reasonable recommendation. While it hasn't been flagged as a major concern in the past, we agree that our forms and regulatory references should be updated to reflect the fact that many licensees operate as independent contractors, not just employees of a broker.

The Commission will begin reviewing and revising all relevant forms and regulatory language to clarify that both independent contractors and employees are recognized licensee models. This is a straightforward update that will make our forms more accurate and relevant to how the industry functions today.

### **Recommendation 3: Investigative Backlog**

**Resolution:** Improve case review timelines and reduce the backlog of investigations.

This has been an ongoing challenge for the Commission, and while some of the issues — such as investigator turnover and past commission vacancies and turnover — are outside of our direct control, we are fully committed to doing our part to improve.

The current Commission is making a strong effort to turn around case reviews within 30 days of receipt. We're also working to improve communication with investigative staff and stay better informed on the status of open cases. Clearing the backlog will take a coordinated effort, and we are ready to support it however we can.

### **Recommendation 4: Real Estate Recovery Fund**

**Resolution:** Work toward legislation to eliminate the inactive Recovery Fund.

We agree with this recommendation. The Real Estate Recovery Fund is no longer used and no longer serves a meaningful purpose. Eliminating the fund would reduce unnecessary financial obligations on licensees and simplify our regulatory framework.

We will work with DCBPL and the legislature to begin the process of phasing out the fund through formal statute change. This is a smart and practical update that reflects the way the industry operates today.

RE: Alaska Real Estate Commission  
Sunset Audit Response

Page 2 of 3

#### **Recommendation 5: E&O Insurance Verification**

**Resolution:** Require proof of errors and omissions (E&O) insurance at license renewal.

We agree that this should be part of the standard license renewal process, particularly for licensees who carry private E&O insurance rather than using the Commission's group policy.

Requiring proof of insurance helps ensure that all licensees remain compliant and that the public is protected. The Commission will work with DCBPL to implement this requirement during renewals and make it a standard part of future compliance checks.

#### **Conclusion**

Each of the recommendations identified in the sunset audit will be added to the Commission's Strategic Plan so that we can track progress and remain accountable. We're committed to addressing these issues in the next few years and improving the systems we rely on to protect consumers and support Alaska's real estate professionals.

We sincerely appreciate the work done by the Legislative Budget and Audit Committee and the staff at DCBPL. Their efforts help the Commission stay focused on our mission: to license, regulate, and support Alaska's real estate industry through education, enforcement, and service to the public.

Sincerely,



Cheryl Markwood  
Chair, Real Estate Commission

RE: Alaska Real Estate Commission  
Sunset Audit Response

Page 3 of 3

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# Legislative Auditor's Additional Comments

## ALASKA STATE LEGISLATURE

### LEGISLATIVE BUDGET AND AUDIT COMMITTEE

#### Division of Legislative Audit



P.O. Box 113300  
Juneau, AK 99811-3300  
(907) 465-3830  
FAX (907) 465-2347  
legaudit@akleg.gov

July 29, 2025

Members of the Legislative Budget  
and Audit Committee:

I have reviewed management's response to this audit. Nothing contained in the response caused me to revise or reconsider the report conclusions and recommendations except for the Department of Commerce, Community, and Economic Development commissioner's disagreement with the fee reduction conclusion. The audit report states "The commission reduced its budget surplus by decreasing some license fees." The commissioner disagrees with this conclusion on the basis that the authority for changing fees is assigned, by statute, to the department rather than the commission. I agree with the commissioner. The report heading should have stated that "The commission's budget surplus was reduced by decreasing some license fees."

Sincerely,

A handwritten signature in blue ink, appearing to read "Kris Curtis".

Kris Curtis, CPA, CISA  
Legislative Auditor

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