

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

February 15, 2011

**SUBJECT:** Sectional summary of HB 72 relating to antitrust violations  
(Work Order No. 27-LS0381\A)

**TO:** Representative Max Gruenberg  
Attn: Gretchen Staft

**FROM:**  Theresa Bannister  
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

**Section 1.** Allows a person to bring an action, if the person is injured, directly or indirectly, by the act of a director, officer, or trustee, to cause the director, officer or trustee occupying the position in violation of this section to terminate the prohibited interlocking relationship. Defines a "person" for the subsection to include, in addition to the statutory definition, the state, a political subdivision of the state, and other governmental entities, including the Alaska Railroad Corporation and the University of Alaska.

**Section 2.** Allows a person injured, directly or indirectly, by an antitrust violation (or injured by refusing to accede to a proposal for an arrangement that would be an antitrust violation) to bring a civil action for (1) damages sustained directly or indirectly, including, if successful, three times the damages, and (2) an injunction.

**Section 3.** Requires a person commencing an antitrust action to mail a copy of the complaint to the attorney general at the same time. Defines a "person" (for AS 45.50.576) to include, in addition to the statutory definition, the state, a political subdivision of the state, and other governmental entities, including the Alaska Railroad Corporation and the University of Alaska.

**Section 4.** Allows the attorney general to bring a civil action for monetary, injunctive, and other equitable relief on behalf of the state and its agencies injured directly or indirectly by an antitrust violation.

**Section 5.** Allows the attorney general to bring an antitrust action for monetary, injunctive, and other equitable relief, in the name of the state, on behalf of a person doing business or residing in the state and injured directly or indirectly by an antitrust violation.

**Section 6.** Makes conforming changes.

**Section 7.** Makes conforming changes.

**Section 8.** Makes conforming changes.

**Section 9.** In addition to the statutory definition, defines a "person," for AS 45.50.577, to include the state, a political subdivision of the state, and other governmental entities, including the Alaska Railroad Corporation and the University of Alaska.

**Section 10.** Increases the penalty for an antitrust violation under AS 45.50.562 or 45.50.564 from a misdemeanor to a class C felony. For these antitrust violations by a natural person, increases the maximum fine from \$20,000 to \$1,000,000, and changes the maximum term of imprisonment from one year to the imprisonment set under AS 12.55. For these antitrust violations by an offender who is not a natural person, increases the fine from \$50,000 to \$50,000,000.

**Section 11.** Authorizes the attorney general to bring a civil action against a person who violates AS 45.50.562 or 45.50.564 or an injunction under AS 45.50.580 for a civil penalty. Sets the civil penalty at not more than \$1,000,000 for a natural person and not more than \$50,000,000 for a person that is not a natural person.

**Section 12.** With regard to this section regarding proof of aggregate damages in a civil action, expands the provision to cover any action brought under AS 45.50.562 - 45.50.596. Makes conforming changes to cover the broader definition of "person" added to certain provisions by this bill.

**Section 13.** Provides that the court may enter an order or judgment to restore property acquired by a prohibited act and to prevent continuing or future antitrust violations. In addition to the statutory definition, defines a "person" for the subsection to include the state, a political subdivision of the state, and other governmental entities, including the Alaska Railroad Corporation and the University of Alaska.

**Section 14.** Specifies additional judicial remedies that a court may use if a business organization violates AS 45.50.562 - 45.50.570. Includes revocation, forfeiture, or suspension of a charter, franchise, certificate of authority, privilege, or license, dissolution of the business organization, and divestiture of any asset.

**Section 15.** Provides that a final order or judgment in an action under AS 45.50.562 - 45.50.596 is prima facie evidence of liability in another action under AS 45.50.562 - 45.50.596 brought by another person. Does not apply to consent judgments or decrees under AS 45.50.584. Defines a "person," for AS 45.50.586, to include the statutory definition and the state, a political subdivision of the state, and other governmental agencies, including the Alaska Railroad Corporation and the University of Alaska.

**Section 16.** Repeals AS 45.50.576(b), 45.50.577(i), and 45.50.580(a).

If I may be of further assistance, please advise.