

Evan Anderson

From:
Sent: Monday, April 25, 2022 1:06 PM
To: Rep. Zack Fields; Rep. Zack Fields
Cc: Rep. Ivy Spohnholz; Rep. Ivy Spohnholz
Subject: Major Concerns re HB 405 and HB 406
Attachments: 32-LS1620-B.pdf; HB0406A.PDF; HB 405 and HB 406_testimony_ATEP 4.13.22.pdf

Dear Representative Zack Fields,

My name is Janet Tempel and I am one of your constituents. I am writing out of significant concern about two bills that are currently in the House Labor & Commerce Committee. These bills are HB 405 & 406. I work in the trust industry in Alaska, however the views expressed in this letter are my own. I am writing out of personal concern for the welfare of the state I call home and the industry in which I have made a career.

My concerns with these bills are lengthy but can be summed up in these key points:

- These bills do not achieve their purported intent, while simultaneously causing harm to Alaskans.
- As proposed, these bills create countless situations where trusts can be invalidated and unenforceable resulting in leaving beneficiaries harmed with no recourse for damages caused.
- These bills propose a gross violation of privacy for Alaskans and put the personally identifiable information for thousands of Alaskans at risk.
- These bills propose a potential constitutional issue, threatening the property rights of hundreds of Alaskans.
- If passed, these bills threaten to eliminate the trust industry in Alaska.
- With the close of operations of trust companies in Alaska, hundreds of millions of dollars in capital deposits held in trusts will leave Alaska banks.
- With the close of operations of trust companies in Alaska, my job will be moved out of state.
- As proposed, these bills would require the enactment of a massive bureaucracy to maintain and enforce that will have huge costs to the state and taxpayers.

It is my sincere hope that these bills do not make their way out of committee. The purpose of my letter to you is to inform you of my concerns and should these bills progress any further, to do everything in your power to stop them.

If you want any additional information, please let me know. I have attached copies of these bills and the response prepared by a nonprofit group of local Alaskan trust and estate planning professionals that provides more specific responses to these proposed bills.

Thank you for your service to our state.

Best Regards,

Janet Tempel



April 21, 2022

Sent by email only to the Members of the House Labor & Commerce Committee

Representative Zack Fields
State Capitol Room 24
Juneau, AK 99801
Representative.Zack.Fields@akleg.gov

Representative Ivy Spohnholz
State Capitol Room 406
Juneau, AK 99801
Representative.Ivy.Spohnholz@akleg.gov

Representative Ken McCarty
State Capitol Room 428
Juneau, AK 99801
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Representative James Kaufman
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Representative David Nelson
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Representative Calvin Schrage
State Capitol Room 104
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Representative.Calvin.Schrage@akleg.gov

Representative Liz Snyder
State Capitol Room 27
Juneau, AK 99801
Representative.Liz.Snyder@akleg.gov

Dear Member of the House Labor & Commerce Committee,

I am writing this letter regarding HB 405: *"An Act relating to the establishment of trusts; requiring the filing of certain trust information, and requiring compliance with a federal law,"* and HB 406: *"An Act relating to the validity of trusts involving persons sanctioned by the United States Department of the Treasury; and relating to the recording of documents conveying land to persons sanctioned by the United States Department of the Treasury."*

I am the President & CEO of Peak Trust Company in Anchorage, which has provided fiduciary services to hundreds of Alaskan families for more than 25 years. We understand the intent of these bills and are committed to working with the Legislature and others in the industry to identify the best path forward. Unfortunately, these bills will not achieve the intended result and will harm Alaskans in the process. Therefore, we must oppose HB 405 and 406.

Peak Trust Company is deeply concerned about these bills and their harmful effects on the State. There would be sizable negative and unintended consequences for Alaskans as currently drafted. First, there

are existing statutes currently in place that were created by the Alaska Legislature that make the state an undesirable place for potential bad actors. Second – and most importantly – these bills would unequivocally harm existing estate plans for Alaskans and eliminate the development of new estate plans from being created in Alaska. Third, it undercuts the tremendous benefits that the industry provides to Alaskans, namely to the economy, in addition to its role in preserving the privacy and rights of everyday citizens. Based on our understanding of the intent of HB 405 and 406, we strongly recommend strengthening our state’s existing laws rather than creating new ones that don’t achieve the intended results.

I. There are existing statutes created by the Alaska Legislature that make Alaska an undesirable place for potential bad actors.

Since 1997, Alaska has been a leader in adopting laws to improve Alaskans' estate and tax planning options. The Alaska Legislature has worked diligently for more than 25 years to build thoughtful and deliberate statutes that allow for excellent planning while protecting against abuse. Further, it has done so in consultation with the industry. This approach has not been taken with HB 405 and HB 406. Despite the industry’s attempts to be part of a workable solution, the industry has been unfairly tarnished and not included in the legislative process.

In addition, Alaska is one of only a few states that require a trust to be registered. This registration includes the name of the trust, the name and address of the trustee (regardless of whether the trustee is a corporation or individual), and the name of the person who created the trust, also referred to as a settlor or grantor. In addition, Alaska is one of the only states to require a personal Affidavit of Solvency. This Affidavit must be completed by any person creating an irrevocable trust of which they are a potential beneficiary and certifies that transfers to the trust are not fraudulent.

II. These bills would unequivocally harm existing estate plans for Alaskans and eliminate the development of new estate plans from being created in the state.

As cited in ATEP’s response to HB 405 and HB 406 dated April 13th, 2022, the passage of these bills would result in an extreme chilling effect on the use of trusts in Alaska. Many Alaskans rely on trusts to protect their families in their estate plans.

There are many examples of how Alaskans use these trusts. Commonly, a trust is created for children, which will often continue as the children become adults and then continue for further generations. Other examples include spouses creating trusts for their surviving spouses and supplemental needs trusts or special needs trusts that are necessary to protect disabled Alaskans. Additionally, charitable trusts provide benefits to nonprofit charities.

These proposed bills will directly and significantly affect regular Alaskans and discourage them from using trusts at all. This is not because Alaskans want to use trusts for nefarious purposes but because of the multitude of potential punishment risks that these bills bring to the table. The bills fly in the face of hundreds of years of established trust law, and if passed, these critical and beneficial trusts likely will become a last resort at best. Alaskans will go out of state for their estate planning needs.

III. These bills would undercut the tremendous benefits the industry provides Alaskans, including its economy and its role in preserving the privacy of everyday citizens.

Education is critical to strengthen trust in our industry and help ensure people know about the many wide-ranging contributions and economic benefits the industry has made in Alaska. We routinely inform stakeholders, including the Legislature, across the state about the benefits and advantages the industry provides Alaskans.

It has been shown that the trust and estate planning industry has made significant, wide-ranging economic benefits to the state. In 2021, the McDowell Group conducted an independent study on the economic impact of trusts in Alaska. The results were revealing: the trust industry supported about 260 jobs and roughly \$21.6 million in labor income to the Alaska economy in 2019, and it has continued to grow. It also greatly benefits financial institutions, such as Alaska community banks, which receive substantial deposits from these entities for loans to Alaskans. The strong trust industry in Alaska provides many jobs, and that industry will quickly fade if these bills become law.

Alaska has built a client-centric industry that presents a unique offering founded on trust. Chief importance to Peak Trust Company and the Alaskan trust industry is our ethics and that all our relationships are founded on integrity.

ATEP has proposed alternatives that we support. We look forward to further dialogue with the Legislature and our Alaskan stakeholders. Thank you for considering our statement on this vital topic.

Sincerely,
Peak Trust Company

A handwritten signature in blue ink that reads "Matthew Blattmachr". The signature is written in a cursive, flowing style.

Matthew Blattmachr
President & CEO

Evan Anderson

From: Jamie Delman
Sent: Wednesday, April 20, 2022 11:05 PM
To: Rep. Ivy Spohnholz; Rep. Zack Fields; Rep. James Kaufman; Rep. Calvin Schrage; Rep. Ken McCarty; Rep. David Nelson; Rep. Liz Snyder
Subject: HB 405 and HB 406

Dear Members of the House Labor & Commerce Committee,

I am writing regarding HB 405 and HB 406.

I support the intent of these bills. However, as currently drafted, the bills create uncertainty and are likely to have negative unanticipated consequences. Many Alaskan stakeholders are affected by trust legislation: i.e., Alaskans doing basic estate planning to provide for their families; Alaskans with special needs who benefit from trust arrangements to allow them to qualify for Medicaid services; Alaska Natives, as beneficiaries of settlement trusts; and Alaska charitable organizations, as trust beneficiaries.

I believe that in order to appropriately consider the interest of these stakeholders, additional study is needed. For this reason, I do not support HB 405 or HB 406 as presently written.

Sincerely,

Jamie M. Delman
Trust and Estate Attorney, Anchorage

Evan Anderson

From: David Shaftel
Sent: Wednesday, April 20, 2022 7:04 PM
To: Rep. Ivy Spohnholz; Rep. Zack Fields; Rep. James Kaufman; Rep. Calvin Schrage; Rep. Ken McCarty; Rep. David Nelson; Rep. Liz Snyder
Subject: House Bills 405 and 406

Members of the Alaska House Labor and Commerce Committee:

I am an Alaska attorney who practices in the areas of estate and trust planning and administration.

I have worked on Alaska estate and trust legislation over a number of years.

I have reviewed HB 405 and 406, and understand the goals.

However, as presently drafted I am concerned that these bills will not accomplish their goals and rather will inhibit valid estate planning by Alaska residents.

I suggest that these bills be studied further. I know that members of the estate and trust community would be willing to assist.

Respectfully,

Dave Shaftel

Evan Anderson

From: Boomershine, Laura O (DNR)
Sent: Tuesday, April 26, 2022 10:44 AM
To: Evan Anderson
Cc: Kookesh, Melissa M (CED)
Subject: HB 406 DNR Narrative

Hello Evan,

To follow-up on our conversation yesterday, DNR's concerns regarding HB 406 are listed below. I appreciate the heads up on your intention to introduce an amendment that most likely will alleviate DNR's concerns. Please let me know if you have any questions. I've also cc'd Melissa Kookesh, DCCED's leg liaison. Thank you.

Below you will find our current Recorder's Office statutes that indicate challenges associated with HB406:

1. AS 40.17.080(b) : **A conveyance need not to be recorded to a valid transaction in Alaska.** Checking names on documents against the Specially Designated Nationals and Blocked Persons List will not stop foreign adversaries from purchasing land in Alaska. See additional notes to the decision in Statute book 9 title 40-44 where additional cases are mentioned under III Unrecorded Conveyance.

AS 40.17.080(b) A conveyance of real property in the state, other than a lease for a term of less than one year, is void as against a subsequent innocent purchaser in good faith for valuable consideration of the property or a part of the property whose conveyance is first recorded. **An unrecorded conveyance is valid** as between the parties to it and as against one who has actual notice of it. In this subsection, "purchaser" includes a holder of a consensual interest in real property that secures payment or performance of an obligation.

2. AS 40.17.035: When determining whether a document may be recorded, the recorder may not consider whether the contents of the document are legally sufficient to achieve the purposes of the document.
3. Requiring the Recorder to check names on all deeds presented for recording will turn a multi-second process into a multi-minute process or hours for more complex documents and dramatically change workflow requiring the hiring of at least 15 new recorders to meet the current standard.

In calendar year 2020 the:

- Total number of documents recorded were **197,520 of those Deeds accounted for 75,650 (38%).**

- Number of names associated with those deeds were **108,986, an average of 438 names a day up to a max of 1,091.**
 - Those names would need manual checking against the list before recording with the current bill.
4. This authority is beyond the Recorder's Office wheelhouse. The Recorder's Office lacks the authority to reject documents on the basis on anything legal. The Recorder maintains the public record with minimum recording requirements. These are only focused on page layout for archiving, complete addresses/legal address requirements, original signatures, and appropriate acknowledgements for those signatures; if met a record can then be recorded. If any illegal actions are taken to complete those documents they are handled by the court, not by the Recorder.
 5. **Potential Alternative:** If the foreign adversaries record, those records could be systematically checked by DCCED Banking & Securities using technology and an office of authority could then seize the property.

Thank you,

Laura O. Boomershine

Legislative Liaison | Special Projects

Office of the Commissioner | Alaska Department of Natural Resources





CALISTA CORPORATION
www.calistacorp.com

April 21, 2022

Alaska House of Representatives Labor and Commerce Committee
The State Capitol Building, Room 124
120 4th Street
Juneau, Alaska 99801

Via email to: House.Labor.And.Commerce@akleg.gov

Re: HB 405 and 406

Dear Members of the Alaska House of Representatives Labor and Commerce Committee:

I am the General Counsel for Calista Corporation (“Calista”), an Alaska Native Regional Corporation with more than 35,000 Alaska Native shareholders.

In 2018, Calista Shareholders approved the creation of the Calista Corporation Settlement Trust (the “Calista Settlement Trust”), an Alaska Native Corporation Settlement Trust authorized by the Alaska Native Claims Settlement Act (“ANCSA”) at 43 U.S.C. §1629e. As mandated by ANCSA, the purpose of the Calista Settlement Trust is “to promote the health, education, and welfare of its beneficiaries and preserve the heritage and culture of Natives.” 43 U.S.C. § 12629e(b)(1). The beneficiaries of the Calista Settlement Trust consist of those individuals who own shares of stock in Calista, but only while they own shares of Calista. The Calista Settlement Trust serves Calista’s shareholders by providing financial benefits to its beneficiaries while helping preserve and maintain Calista’s traditional land and the culture of its Native people. Many other Alaska Native Corporations have, like Calista, established ANCSA Settlement Trusts for the benefit of their shareholders, descendants, and their Native culture. This includes CIRI, Chugach Alaska Corporation, Koniag, Inc., BBNC, Old Harbor Native Corporation, and many others.

I am writing to the Committee in opposition to HB 405A and HB 406A because, as currently drafted, HB 405A and HB 406A will have unintended and deleterious impacts on Alaska Native Corporations, their ANCSA Settlement Trusts, and their shareholders, without any corresponding benefit to the State or public.

HB 405A require all trusts registered in Alaska, including ANCSA Settlement Trusts, to file with the Department of Commerce, Community and Economic Development a list of all beneficiaries of the trust. The version of HB 405A dated April 14, 2022, that is apparently being considered, would further require trusts to file updates with the Department each time there is a change in beneficiaries or their contact information.

For Alaska Native Corporations with ANCSA Settlement Trusts, this would require them to both file a list of all shareholders with the Department upon creation of an ANCSA Settlement Trust and, under the April 14, 2022 version of HB 405A, file such a list each time a shareholder gifts their shares, a descendant inherits shares, or even when a shareholder changes their address. As an example, in Calista’s case, that would mean filing with the Department of Commerce, Community and Economic Development (“the Department”) a list of all 35,000 plus shareholders of Calista and, under the revised version of HB 405A being considered, supplementing that list each time one of those 35,000 plus shareholders changes their address or gifts theirs

shares, or when a descendant inherits shares. This will impose an administrative nightmare and unnecessary additional cost on both Alaska Native Corporations and the State.

HB 406A states that a trust “is not valid if a settlor, trustee, trustor, or beneficiary of the trust is listed on the most recent Specially Designated Nationals and Blocked Persons List published by the United States Department of the Treasury, Office of Foreign Assets Control.” While we certainly do not expect any Alaska Native Corporation shareholder to end up on the Specially Designated Nationals and Blocked Persons List, HB 406A may require Alaska Native Corporations and their ANCSA Settlement Trusts to compare their beneficiaries to that list and/or report their beneficiaries to the State or federal government, with a corresponding significant, and unnecessary administrative burden.

The Sponsor Statement for HB 405A states that its intent is to “update[] Alaska law to ensure trusts in Alaska will not be used to shield assets of Russian oligarchs or other enemies of the United States.” The Sponsor Statement for HB 406A states that its intent is to “update[] Alaska trust law to ensure trusts held or managed by enemies of the United States can no longer operate in the State of Alaska.”

There is no risk that ANCSA Settlement Trusts established by Alaska Native Corporations can be used to shield assets of Russian oligarchs held or managed by enemies of the United States. ANCSA Settlement Trusts must be approved by vote of the shareholders. ANCSA requires their Trustees to be appointed by the Board of Directors of the sponsoring Alaska Native Corporation. Their beneficiaries are the shareholders of the Alaska Native Corporation, or a defined group of shareholders, such as Elders. Including ANCSA Settlement Trusts within the scope of HB 405A and HB 406A will not advance the purposes of the bills, and will only impose a massive unnecessary paperwork burdens on Alaska Native Corporations and the State.

Therefore, in light of the unintended impacts that HB 405A and HB 406A will have on Alaska Native Corporations and ANCSA Settlement Trusts, we are opposing HB 405A and HB 406A unless ANCSA Settlement Trusts are excluded from their scope.

ANCSA Settlement Trusts are intended to promote the health, education, and welfare of its beneficiaries and preserve the heritage and culture of Natives. They provide a critical component to Alaska Native Corporations’ continued efforts to support their Shareholders, to promote the interests of Alaska Natives, and to preserve Native Culture. We urge the Committee to ensure that it does not impose unnecessary and unintended burdens on Alaska Natives in its efforts to address the misuse of trusts by Russian oligarchs or other enemies of the United States.

Please do not hesitate to contact me with any follow-questions or if further information is needed.

Warm Regards,

CALISTA CORPORATION

DocuSigned by:

Walter T. Featherly

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Walter T. Featherly
General Counsel

O'CONNOR LAW LLC

3601 C Street, Suite 260
Anchorage, Alaska 99503

P: 907.222.4922
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April 19, 2022

Sent by Email to the Members of the Alaska House Labor & Commerce Committee

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State Capital Room 24
Juneau, AK 99801
Representative.Zack.Fields@akleg.gov

Representative Ken McCarty
State Capitol Room 428
Juneau, AK 99801
Representative.Ken.McCarty@akleg.gov

Representative David Nelson
State Capitol Room 13
Juneau, AK 99801
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Representative Liz Snyder
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Representative Ivy Spohnholz
State Capitol Room 406
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Representative James Kaufman
State Capitol Room 405
Juneau, AK 99801
Representative.James.Kaufman@akleg.gov

Representative Calvin Schrage
State Capitol Room 104
Juneau, AK 99801
Representative.Calvin.Schrage@akleg.gov

Re: Letter in Opposition to HB 405 and HB 406

Dear Members of the Alaska House Labor and Commerce Committee:

I am an estate planning attorney who assists Alaskans all over the State of Alaska with the creation and administration of trusts as part of their estate plans, as well as non-Alaskans who come to our jurisdiction to create trusts as part of their estate plans. I am writing to you with more than 13 years of experience practicing trust law.

Due to the detrimental consequences of HB 405 and HB 406 on Alaskans, I oppose these two bills. While well-intentioned, these bills will completely discourage Alaskans from using trusts in Alaska. There are a myriad of unforeseen and damaging results and unanswerable questions that will arise from HB 405 and HB 406. To render a trust invalid, unenforceable, or ineffective, as proposed in these bills, will deprive Alaskan beneficiaries of property rights and cause immeasurable unforeseen tax ramifications. The ensuing litigation between beneficiaries

and trustees will be a nightmare for Alaskans. I refer to the Alaska Trust and Estate Professionals (ATEP) Response dated April 13, 2022, for specific points of concern and suggestions for possible alternatives.

The reporting requirements in HB 405 will be so burdensome and such an invasion of privacy for everyday Alaskans that they likely will forego the trust concept entirely or use another state jurisdiction. These Alaskans are not nefarious people – they are law-abiding citizens who simply want to use trusts to protect their children, grandchildren, spouses, and disabled family members, and provide for charities. Alaskans do not deserve the punishment of these two bills.

A further result of HB 405 and HB 406 will be the loss of revenue and jobs in Alaska. The Alaska trust industry supports many trust professionals, attorneys, accountants, financial advisors, and other professionals, their staffs, the businesses that depend on them, and the banks that hold the trusts' funds in Alaska. HB 405 and HB 406 will cause both Alaskans and non-Alaskans to move their trusts to other states. The trust assets deposited in Alaskan banks then will move to other states. The professional work for those trusts then will move to other states. The negative impact on Alaska's economy will be significant.

HB 405 and HB 406 may be well-intentioned; however, as drafted, these bills do nothing but punish and harm Alaskans.

Very truly yours,

O'CONNOR LAW LLC



Abigail O'Connor

Representative Zack Fields
State Capitol Room 24
Juneau, AK 99801
Representative.Zack.Fields@akleg.gov

Representative Ivy Spohnholz
State Capitol Room 406
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Representative Liz Snyder
State Capitol Room 27
Juneau, AK 99801
Representative.Liz.Snyder@akleg.gov

Dear Members of the House Labor & Commerce Committee,

I have been a practitioner helping families plan their future and legacy for thirteen years. I have also opted to make Alaska my home and relocate my businesses to Alaska. In my professional capacity as a fiduciary and investment professional I have engaged with a broad range of clients from large institutions to small families in assisting them in financial decision making, legacy planning, and caring for their families and businesses.

I value and appreciate your efforts as State Representatives and Members of the House Labor & Commerce Committee.

I am writing you to express great concern regarding the detrimental consequences of HB 405 and HB 406 on Alaskans and the business community that serves them.

Alaskans enjoy their liberty, privacy, and property protections. In my experience, the many accounting, financial, administrative, and legal professionals serving Alaskan communities are decent, ethical, hard-working people who make extraordinary contributions to their profession and to the State.

Reviewing proposed HB 405 and HB 406, I am candidly shocked at the approach to the problem. HB 405 would saddle everyday Alaskans with extraordinary and unique burdens that do not exist in any other state. The ramifications of this proposal becoming law would be wildly detrimental to Alaska financially, diminish Alaskans' privacy, and undermine the confidence that Alaskans have placed in our state by choosing to call it home not just for themselves, but for their financial affairs as well.

HB 405 would burden Alaskans without stopping financial criminals. Alaskans want to plan their affairs with local trusted advisors who understand their needs and concerns, but they can easily look to any other

state if Alaska changes its position on privacy and asset protection. The hearings on HB 405 have not identified instances of financial criminals abusing Alaska's trust laws. But it is a logical certainty that the Alaskan families I work with will struggle to satisfy HB 405's overly broad requirements and seek to move their business out of state.

Alaska's trust professionals understand that following high ethical standards is crucial to maintaining the confidence of both our clients and the general public. Our profession has earned the public's trust and will continue to do so. The overwhelming majority of those participating in our collective profession are highly sensitive to regulatory matters, vetting clients, and the general wellbeing of our business ecosystem.

Moreover, in my many observations, the people we serve are industrious and talented people who have provided great value to society and have accumulated wealth. These are not drug kingpins or oligarchs: they are business owners, doctors, pilots, attorneys, accountants, oil workers, and educators, to name just a few. These individuals deserve our respect and appreciation for their contributions to our communities and the State of Alaska. Many of the people we serve use trusts to ease the burdens of probate and to ensure that their estates benefit from diligent stewardship after they pass away. But my clients will struggle to effectively monitor things like changes in every beneficiary's address; the risk of fines and penalties for administrative foot-faults will push Alaskans to establish trusts elsewhere, or not establish trusts at all. Our state must remain a home for our values of liberty, privacy, and protection of property; not a place where the government is involved in the details of our most personal affairs.

With great devotion, discipline, and integrity, our community of professionals has developed significant expertise in matters related to the proposed policies. Our industry uniformly opposes the abuse of Alaska's trust laws and opposes benefiting foreign criminals. HB 405 would create serious burdens for law-abiding Alaskans, and it is not at all clear that HB 405, will thwart financial criminals. Such a dramatic change in policy should be based on deliberation, reason, and carefully considered evidence, not on conjecture or reaction. We are willing to participate in the process to ensure these matters are properly addressed.

Thank you for your attention and consideration; I must oppose this legislation for the above stated reasons.

Sincerely,



Ryan Buchanan

Evan Anderson

From: Abigail O'Connor
Sent: Wednesday, April 20, 2022 10:15 AM
To: Rep. Zack Fields; Evan Anderson
Cc: Rep. Ivy Spohnholz
Subject: HB 405 and 406: Further Response and Answer to Question

Representative Fields and Evan:

ATEP met yesterday evening to discuss HB 405 and HB 406.

I updated the group on our conversation from yesterday afternoon about HB 406, and we all look forward to reviewing the updated draft bill.

You asked us for ATEP's suggestions for requiring trusts to disclose Beneficial Ownership information to state and federal regulators. Because of the detrimental impact on Alaskans and the complexity of the issues, we must oppose any reporting requirement beyond AS 13.36.005 (in its current form). More time is needed to analyze the issues that were raised in our original response and understand the complexities so that Alaskans are protected. As a few examples, HB 405 threatens the interests of disabled Alaskans, Alaska Natives, charities, Alaskan business owners who simply want to pass down the family business in an efficient way, and everyday Alaskans who want to provide for their families. The Legislature needs to ensure that this legislation will not disadvantage these stakeholders. Also, the Federal Corporate Transparency Act (CTA) regulations as of now are only proposed, and HB 405 is closely tied to the CTA. Time is needed to allow the adoption of the final Federal CTA regulations and see how they play out.

For these reasons, ATEP opposes HB 405.

*Regards,
Abigail*

Abigail E. O'Connor
*Licensed in Alaska and Florida
Fellow, The American College of Trust and Estate Counsel*

O'CONNOR LAW LLC

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Anchorage, Alaska 99503

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This email is intended only for the addressee(s) and may be privileged and confidential. If you have received this email in error, please contact me at _____, and please do not read, use, or keep the email. Thank you in advance.

STEPHEN E. GREER
ATTORNEY AT LAW

ANCHORAGE, ALASKA 99524-2903

3350 Midtown Place
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steve@stephengreerlaw.com

April 20, 2022

Sent by email to the Members of the Alaska House Labor & Commerce Committee:

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State Capital Room 24
Juneau, AK 99801

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Representative Calvin Schrage
State Capital Room 104
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Representative.Calvin.Schrage@akleg.gov

Dear Members of the Alaska House Labor and Commerce Committee:

The problem with HB 405 and HB 406 are their overreach, which will have doubtful effect in resolving the perceived problem they are meant to rectify, but will affect the lives of everyday Alaskans. Let me recite a simple example.

Husband and wife come into my office and want to do their estate planning so their minor child isn't left with a mess when they die. They expect more children in the future. I tell them that a Will is effective only in and presupposes a probate proceeding, whereas a revocable trust is simply a Will substitute where the assets owned by that trust doesn't have to go through a court proceeding when they die. I cite that even the simplest probate case takes approximately a year to complete from beginning to end. Furthermore, when they die, if they want their wife's sister to take care of their assets for the benefit of their children until the children reach a certain age they will have to utilize a trust to do so. The parents, being grateful that the sister is willing to take on the role of the parent if they are deceased, want to make this as easy as possible for her so their assets can be expended for the care of their child, and not for unnecessary legal expenses, until the child reaches a suitable age when the child can manage the assets on his/her own. They also tell me that have another home in another state which they received from a deceased parent, as well as having their own home in Alaska. I explain to them that by utilizing a revocable trust, not only can they avoid the time and expense of a probate proceeding in Alaska, but if they have the out-of-state real estate owned by their trust they will avoid an ancillary probate proceeding in that state when they die. I explain that trusts as a tool for estate planning have been around longer than our country and are the primary vehicle by which modern estate planning is done.

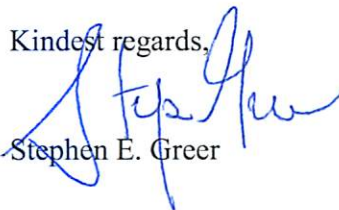
Now I must explain to them, that unfortunately, out of fear that they might be Russian oligarchs or drug dealers, that as a result of this Bill, they as the settlors must disclose to the state a large amount of information regarding their testamentary wishes and that the time and cost of complying with this law, which exists nowhere else in the country, will have to increase dramatically, otherwise the trust will not be enforceable. Furthermore, if they have another child who is a beneficiary, they must amend this trust filing and if they fail to do so there will be a \$500.00 penalty. The parents tell me they are neither drug dealers or Russian oligarchs and they

do not understand why the legislature feels they have the right to delve into their personal affairs in this manner. I tell them that our state feels they because there is a possibility that they might be Russian oligarchs or drug dealers, the state now has the right to know who their beneficiaries will be when they die.

They thank me for their time and state they will do nothing until they move to another state where their family's right of privacy will be respected and thus they intend to put off their estate planning until they move to another state, with the hope that they don't die while residing in Alaska. I tell them I understand, and will also tell them that because of the draconian overreach of this law, it has realistically restricted my ability to do effective estate planning for them or any other Alaskan and I will also have to consider moving to another state if I want to continue to do estate planning for my clients. This is just one simple example of how this Bill affects everyday Alaskans, all out of fear that the parents might be Russian oligarchs or drug dealers.

The proposed bills are much akin to a physician, in an effort to kill one cancer cell, ends up killing their patient. My practice is devoted exclusively to estate planning and my clients are individuals like you and your friends and neighbors. I have always done estate planning for these clients the last 40 years through the use of revocable trusts. Estate planning, if these bills become law, will effectively bring estate planning to an end in Alaska. As an aside, there is not one estate planning lawyer, who I know, who has thoroughly thought about the ramification of these bills, who supports them. Portraying these bills as a legislative effort of preventing Russian oligarchs and drug dealers from using trusts to hide their wealth might make headlines, but if a legislator cares about their own life situation and the lives of their constituents, they will have to question the wisdom and ramification of these bills and won't support their passage.

Kindest regards,



Stephen E. Greer



PETER B. BRAUTIGAM
MARIBETH CONWAY
JANELLA KAMAI
COLLEEN KNIX
CHRISTOPHER P. LAUER
COLE M. LINDEMANN
F. STEVEN MAHONEY
ROBERT L. MANLEY
CHARLES F. SCHUETZE

Sent by Email Only to the Members of the House Labor & Commerce Committee

April 20, 2022

Representative Zack Fields
State Capitol Room 24
Juneau, AK 99801
Representative.Zack.Fields@akleg.gov

Representative Ken McCarty
State Capitol Room 428
Juneau, AK 99801
Representative.Ken.McCarty@akleg.gov

Representative David Nelson
State Capitol Room 13
Juneau, AK 99801
Representative.David.Nelson@akleg.gov

Representative Liz Snyder
State Capitol Room 27
Juneau, AK 99801
Representative.Liz.Snyder@akleg.gov

Representative Ivy Spohnholz
State Capitol Room 406
Juneau, AK 99801
Representative.Ivy.Spohnholz@akleg.gov

Representative James Kaufman
State Capitol Room 405
Juneau, AK 99801
Representative.James.Kaufman@akleg.gov

Representative Calvin Schrage
State Capitol Room 104
Juneau, AK 99801
Representative.Calvin.Schrage@akleg.gov

Re: HB 405 and HB 406

Dear Members of the House Labor and Commerce Committee:

We do **not support** and we **strongly oppose** HB 405 and HB 406. Specifically, we do **not support** any Alaska Statute that requires a reporting requirement for Alaska trusts.

Although we generally agree with the goal of helping Ukrainians by stopping rich Russian Oligarchs and other nefarious people, given our knowledge and expertise, HB 405 and HB 406 will not promote justice for Ukraine and will not meaningfully impede money launderers or other financial criminals. Rather, these two House Bills will subject

ordinary Alaskans to limitations on trust formation and to state and federal penalties that exist in no other corner of the United States.

As estate planning attorneys with over 200 years of combined legal experience, we draft trusts for Alaskans every day who want to protect their assets, avoid probate, minimize costs and taxes consistent with federal law, and ensure that their assets pass to their loved ones. Our clients consist of Alaskan voters like yourself and include:

- Mothers and fathers who want to protect their assets for the benefit of their children and grandchildren.
- Married and unmarried couples who want to provide for their partners.
- Business owners who are providing for their key employees.
- Generous people who want to leave money to charity in an organized manner.
- Families who need trusts to support family members with special medical needs.
- People who want to access the same tax benefits enjoyed by couples in every other U.S. state, such as those created under IRC §2056(b) and IRC §2056A.
- Parents who want to provide for children from a previous relationship.
- People who want to maximize their retirement benefits through the use of specialized trusts authorized by 26 U.S.C. §409.
- People who want to ensure that their families will benefit from cabins, homesteads, and other emotionally significant property for generations to come.
- Alaskans with homes in Alaska and other states (snowbirds)

Consistent with the above, we are not aware of any of our clients ever setting up a trust for illegal or nefarious purposes, with all trusts being prepared well within applicable federal and state law. We take very seriously our role as members of a self-regulating profession.

HB 405 and HB 406 go too far and will hurt the everyday Alaskan who is trying to do basic estate planning to avoid the burdens of probate, provide for their family, and minimize costs and federal taxes.

If HB 405 and HB 406 become law, many of our clients will make the choice to no longer use a trust in their planning given the broad and overreaching impact HB 405 and HB 406. The laws will effectively eliminate the use of planning with trusts for all Alaskans.

We strongly encourage you to carefully and thoughtfully read the Alaska Trust and Estate Professionals Response dated April 13, 2022, which is available at http://www.akleg.gov/basis/Bill/Detail/32?Root=hb%20405#tab5_4.

If HB 405 and HB 406 become law, trusts will no longer be a viable estate planning tool for Alaskans. The dismantling of the trust industry will impact an estimated 450 to 650 workers in Alaska.¹ The estate and trust planning work in Alaska supports many attorneys, accountants, financial advisors, and other professionals, their staffs, and the businesses that depend on them. Given our expertise, if HB 405 and HB 406 becomes law many Alaskans will elect to move their estate planning to one of the 49 states that do not impose such draconian and misguided restrictions on the use of trusts in estate planning.

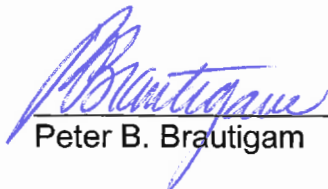
In closing, those of us who have studied law may recall J. Learned Hand's words:

" . . . a transaction, otherwise with an exception of the tax law, does not lose its immunity, because it is actuated by a desire to avoid, or, if one chose, to evade taxation. Anyone may so arrange his affairs that his taxes shall be as low as possible; he is not bound to choose that pattern which will best pay the Treasury; there is not even a patriotic duty to increase one's taxes." Helvering v. Gregory, 69 F.2d 809 (2d Cir. 1934) (Hand, J.), Aff'd 293 U.S. 465, 55 S. Ct. 266, 75 L.Ed. 596 (1935).

Should you have any questions, please call Chris Lauer of our office.

Sincerely,

Manley & Brautigam P.C.

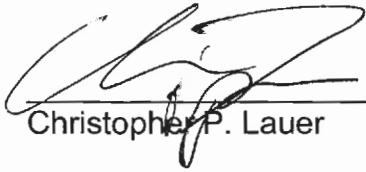


Peter B. Brautigam

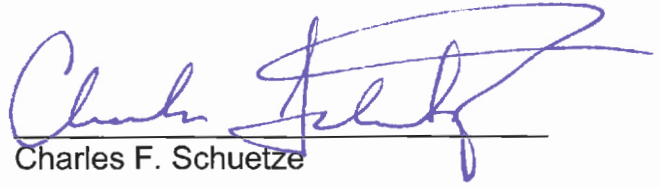


Maribeth Conway

¹ This number is based on an estimate of the approximate number of law firms that prepare trusts, their paraprofessionals and staff, and professional trustees and staff qualified under AS 06.26.



Christopher P. Lauer



Charles F. Schuetze



Colleen Knix



Janella Kamai

CAVALIERE LAW FIRM, LLC

MICHAEL J. CAVALIERE, J.D., LL.M (TAX)

P.O. Box 80288
Fairbanks, Alaska 99708

Phone (

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www.cavalierlawfirm.com

mike@cavalierlawfirm.com

April 20, 2022

Representative Zack Fields
State Capitol Room 24
Juneau, AK 99801
Representative.Zack.Fields@akleg.gov

Representative Ivy Spohnholz
State Capitol Room 406
Juneau, AK 99801
Representative.Ivy.Spohnholz@akleg.gov

Representative Ken McCarty
State Capitol Room 428
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State Capitol Room 405
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Representative David Nelson
State Capitol Room 13
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Representative Calvin Schrage
State Capitol Room 104
Juneau, AK 99801
Representative.Calvin.Schrage@akleg.gov

Representative Liz Snyder
State Capitol Room 27
Juneau, AK 99801
Representative.Liz.Snyder@akleg.gov

Dear Members of the House Labor & Commerce Committee,

I am an attorney practicing in Fairbanks, Alaska, and have been practicing in the trusts and estates area in Alaska since 2003. I moved to Alaska in 2003 as a direct result of the trust legislation the state passed in 1997 and 1998. I am writing this letter regarding HB 405: *"An Act relating to the establishment of trusts; requiring the filing of certain trust information, and requiring compliance with a federal law,"* and HB 406: *"An Act relating to the validity of trusts involving persons sanctioned by the United States Department of the Treasury; and relating to the recording of documents conveying land to persons sanctioned by the United States Department of the Treasury."*

Since 1997, Alaska has been a leader in adopting laws to improve Alaskans' estate and tax planning options. The Alaska Legislature has diligently worked with the industry for over 25 years to build thoughtful and deliberate statutes that allow for excellent planning opportunities while protecting against abuse. I understand the intent of these bills and understand the concern about Alaska being a destination for people with nefarious intentions. However, as currently drafted, I must oppose

the legislation because of the negative and unintended consequences these bills will have on Alaskans ability to use trusts in their estate planning.

These bills would harm existing estate plans for Alaskans and eliminate plans from being created in the state. Because of the reporting requirements in HB 405 Alaskans will be deterred from using trusts to provide for minor children, disabled family members, and charities. Alaskans will be punished if these bills are enacted. Since the Alaska Legislature has already enacted statues that make Alaska an unattractive place for people with nefarious intentions the benefit of these bills is greatly outweighed by the harm to tens of thousands of Alaskans who use trusts as part of their estate plans.

Understanding the intent of HB 405 and 406, I recommend strengthening our existing laws rather than creating new ones. The Alaska Trust and Estate Professionals (ATEP) group proposed alternatives that I do support. More information can be found at http://www.akleg.gov/basis/Bill/Detail/32?Root=hb%20405#tab5_4 regarding these proposed solutions.

Despite the many unfair and disparaging comments made about the Alaska trust and estate planning industry, this industry has made significant, wide-ranging economic benefits to Alaska. In 2021, the McDowell Group conducted an independent study on the economic impact of trusts in Alaska. The results were revealing: the trust industry supported about 260 jobs and roughly \$21.6 million in labor income to the Alaska economy in 2019, and it has continued to grow. It also greatly benefits financial institutions, such as Alaska community banks, which receive substantial deposits from these entities for loans to Alaskans. If these bills are enacted jobs and revenue will be lost.

I believe that if the Alaska trust industry is allowed the opportunity to meaningfully participate in this process we can further deter people from using Alaska for nefarious purposes. Until that time, I must oppose this legislation for the above stated reasons. If I can be of any assistance please feel free to contact me.

Sincerely,

CAVALIERE LAW FIRM, LLC

A handwritten signature in blue ink, appearing to read "Michael J. Cavaliere", is written over the printed name.

Michael J. Cavaliere

MJC

McNABB LAW OFFICE

MITCHI V. McNABB

ATTORNEY AT LAW

April 21, 2022

The Honorable Zack Fields
The Alaska State Legislature
State Capitol Room 24
Juneau, Alaska 99801

Via email to Representative.Zack.Fields@akleg.gov

The Honorable Ken McCarty
The Alaska State Legislature
State Capitol Room 428
Juneau, Alaska 99801

Via email to Representative.Ken.McCarty@akleg.gov

The Honorable David Nelson
The Alaska State Legislature
State Capitol Room 13
Juneau, Alaska 99801

Via email to Representative.David.Nelson@akleg.gov

The Honorable Liz Snyder
The Alaska State Legislature
State Capitol Room 27
Juneau, Alaska 99801

Via email to Representative.Liz.Snyder@akleg.gov

The Honorable Ivy Spohnholz
The Alaska State Legislature
State Capitol Room 406
Juneau, Alaska 99801

Via email to Representative.IvySpohnholz@akleg.gov

The Honorable Calvin Schrage
The Alaska State Legislature
State Capitol Room 104
Juneau, Alaska 99801

Via email to Representative.Calvin.Schrage@akleg.gov

The Honorable James Kaufman
The Alaska State Legislature
State Capitol Room 405
Juneau, Alaska 99801

Via email to Representative.James.Kaufman@akleg.gov

Re: HB 405 (Establishment of Trusts)
HB 406 (Moratorium on Trusts/Property Acquisition)

Dear Representatives and Members of the Alaska House Labor and Commerce Committee:

I am a lifelong resident of Alaska and an attorney whose law practice has focused on estate planning since 2014. I oppose HB 405 and HB 406.

As you are likely aware, the federal estate tax exemption for 2022 is \$12.06 million for individuals and \$24.12 million for a married couple. This means that an estate is not subject to federal estate tax if the value the estate is less than the exemption amount. The vast majority U.S. citizens do not have \$12 million in assets. The vast majority of Alaska residents do not have \$12 million in assets. Indeed, the vast majority of my clients have less than \$2 million in assets. As I explain to potential clients, the primary reason for having a trust, therefore, is not for tax planning purposes but, rather, to plan for physical or mental incapacitation. Other reasons to have a trust include avoiding the time, expense and loss of privacy attendant with probate, providing financial assistance to disabled children through a special needs trust, and ensuring children of blended families inherit in the event their step-parent is the second spouse to die.

In support of HB 405 and 406, FACT policy director, Ryan Garule, testified on or about April 15, 2022 before the Alaska Legislature that “House Bill 405 takes important steps to . . . make clear that Alaska will have ready access to the information necessary to ensure that its trust industry is attracting the type of investment that does not put Alaskan citizens at risk of greater national security threats or rising prices contributed to by global geopolitical conflicts.” He supports beneficial ownership reporting as to all trusts governed by Alaskan law, administered in whole or in part in Alaska or by an Alaskan trustee, or having situs in Alaska. He wants all “relevant actors” to be covered, and ongoing reporting, monitoring, and verification, including reporting of changes in beneficial ownership. He wants penalties.¹

The means Mr. Garule advocates do not justify the ends. Without exception, all of the clients for whom I have prepared a trust have been middle-class Alaskans of modest means who worked hard, saved their money, and managed to accumulate something to pass on to their children and other loved ones. That any one of them does or could pose a national security risk by creating a trust has no basis in fact and is pure fear mongering and propaganda. Moreover, they will be disinclined to be labeled a “relevant actor,” monitored by the government, and required to continuously report and verify or risk the imposition of a penalty.

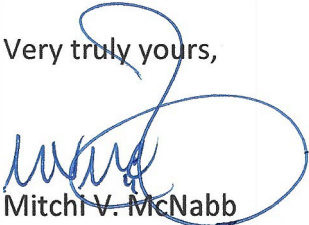
¹ [www.https://thefactcoalition.org/fact-urges-critical-transparency-measures-for-trusts-in-testimony-before-alaskas-legislature/](https://thefactcoalition.org/fact-urges-critical-transparency-measures-for-trusts-in-testimony-before-alaskas-legislature/); last visited 4-21-2022.

Hon. Members of the House Labor and Commerce Committee
Alaska State Legislature
April 21, 2022
Page 3

Assuming HB 405 and 406 will have the desired effect of catching or preventing money launderers, Russian oligarchs and other ne'er-do-wells, the bills are, as presently drafted, overly broad. The consequences of failing or refusing to narrowly tailor them to achieve the desired ends will be not only to kill the law practices of estate planners in Alaska, but dissuade individuals and married couples from passing on their financial legacies to loved ones through thoughtful, carefully planned and legal means, i.e., trusts.

I urge you not to pass HB 405 and 406.

Very truly yours,



Mitch V. McNabb
Attorney at Law

FAULKNER BANFIELD

A PROFESSIONAL CORPORATION

8420 AIRPORT BLVD., SUITE 101 • JUNEAU, ALASKA 99801-6924

CHRISTOPHER J. WALKER
Direct Phone: 907.523.6126
cwalker@faulknerbanfield.com

April 20, 2022

Sent by email only to the following:

Representative Zack Fields
State Capitol Room 24
Juneau, AK 99801
Representative.Zack.Fields@akleg.gov

Representative Ivy Spohnholz
State Capitol Room 406
Juneau, AK 99801
Representative.Ivy.Spohnholz@akleg.gov

Representative Ken McCarty
State Capitol Room 428
Juneau, AK 99801
Representative.Ken.McCarty@akleg.gov

Representative James Kaufman
State Capitol Room 405
Juneau, AK 99801
Representative.James.Kaufman@akleg.gov

Representative David Nelson
State Capitol Room 13
Juneau, AK 99801
Representative.David.Nelson@akleg.gov

Representative Calvin Schrage
State Capitol Room 104
Juneau, AK 99801
Representative.Calvin.Schrage@akleg.gov

Representative Liz Snyder
State Capitol Room 27
Juneau, AK 99801
Representative.Liz.Snyder@akleg.gov

Dear Representatives,

I am an attorney who has been practicing estate and trust law in Juneau since 2008. In that time, the largest part of my practice has been assisting Alaskans with their estate planning and administration, including using trusts to protect minor children's inheritance, maintain incapacitated individuals' eligibility for Federal benefits, transition ownership of family businesses, balance the needs of blended families, and facilitate charitable giving.

I am writing this letter regarding HB 405 and HB 406. As I understand it, these bills are motivated by concern that Alaska trusts serve as a harbor for the assets of criminals and other bad actors. I empathize and agree with these concerns, but in my legal practice I have never encountered any reason to suspect that Alaska is such a harbor.

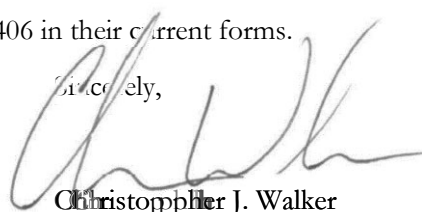
Even assuming this takes place in Alaska, I do not think these bills will make a positive impact on the problem. I think the problem these bills attempt to address is a global one that is best addressed at a national level. The Corporate Transparency Act and the proposed regulations are steps in a national solution. I do not think state-level legislation will be effective or appropriate to tackle the problem.

As currently drafted, these bills will instead have negative consequences for Alaskans. These bills will increase costs for Alaskans who need trusts to address their legitimate estate planning needs. Alaskans who value

privacy may be driven to form the trusts they need in other states. Finally, I am concerned about unknown and unintended consequences due to the speed with which these bills have progressed and the evolving nature of national regulation.

For these reasons, I oppose HB 405 and HB 406 in their current forms.

Sincerely,

A handwritten signature in black ink, appearing to read "Christopher J. Walker", written over the printed name.

Christopher J. Walker

Alaska Bar No.

FAULKNER BANFIELD

A PROFESSIONAL CORPORATION

8420 AIRPORT BLVD., SUITE 101 • JUNEAU, ALASKA 99801-6924

BethAnn Boudah Chapman
Direct Phone: 907.523.6147
bchapman@faulknerbanfield.com

April 22, 2022

Sent by email only to the following:

Representative Zack Fields
State Capital Room 24
Juneau, AK 99801
Representative.Zack.Fields@akleg.gov

Representative Ivy Spohnholz
State Capitol Room 406
Juneau, AK 99801
Representative.Ivy.Spohnholz@akleg.gov

Representative Ken McCarty
State Capitol Room 428
Juneau, AK 99801
Representative.Ken.McCarty@akleg.gov

Representative James Kaufman
State Capitol Room 405
Juneau, AK 99801
Representative.James.Kaufman@akleg.gov

Representative David Nelson
State Capitol Room 13
Juneau, AK 99801
Representative.David.Nelson@akleg.gov

Representative Calvin Schrage
State Capitol Room 104
Juneau, AK 99801
Representative.Calvin.Schrage@akleg.gov

Representative Liz Snyder
State Capitol Room 27
Juneau, AK 99801
Representative.Liz.Snyder@akleg.gov

Dear Representatives,

I am an attorney who has been practicing estate and trust law in Juneau for the past 34 years. The majority of my practice is assisting Alaskans with planning their estate to protect their families, with an emphasis on families with children with disabilities. We use trusts routinely for tax planning, to protect minor children's inheritance, maintain eligibility for Federal benefits for individuals experiencing disabilities, balance the needs of blended families, and for charitable giving.

I am writing this letter regarding HB 405 and HB 406. As I understand it, the motivation for these bills is to prevent trusts from sheltering assets of criminals and other bad actors. I agree with these concerns, but in my career, I have never encountered any reason to suspect that Alaska is such a harbor.

As currently drafted, in my opinion, these bills will have negligible impact to prevent bad actors from using Alaska based trusts to shelter assets as those bad actors will simply use trusts established in offshore jurisdictions; outside the authority of the United States courts.

These bills, however, will negatively impact Alaskan wishing to do legitimate planning for their families. Families would have trusts voided simply by failing to comply with the proposed requirements, which could have negative tax and other impacts, such as loss of needed services.

Since 1972 Alaska has required that trusts be registered with the court; which requires disclosure of the name of the Trustor and the Trustee. Over the years, Alaska estate planning attorneys, the trust industry, and the legislature have worked to together to draft legislation to provide for more flexible estate planning tools. Not only has the new legislation created a robust trust industry that employs Alaskans, but it has benefited our Alaskan clients who want to protect their family; regardless of their wealth. At no time have there been an attempt to create anonymous trusts; we register trusts with the court on a routine basis and even when we assist with moving a trust from another state to Alaska, that trust is registered with the court as required by statute.

Finally, I am concerned about unknown and unintended consequences due to the speed with which these bills have progressed, particularly because the federal government has not yet issued final regulations under the Corporate Transparency Act. The issue of money laundering and hiding money of criminals is of national concern and in my opinion, must be coordinated at the federal level. Also, the bills create onerous filing requirements that if missed will have dire consequences for families and will violate their privacy by requiring disclosure of their most private wishes on the disposition of their assets. While the bill proposes to require that the documents be confidential, we know that breaches of security occur in the state system. Alaskans cherish their privacy and proceed with caution when releasing their personal information and may decide not to follow the rule unaware of the consequences for failing to file their trust with the state.

I appreciate your offer to collaborate with the stakeholders to address our concerns and I hope that together legislation can be drafted to everyone satisfaction.

Sincerely,



BethAnn B. Chapman
Alaska Bar No.

AFFIDAVIT


STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

I, Peter B. Brautigam, being duly sworn, state following:

I am an attorney licensed to practice law in Alaska. In addition, I have an LL.M. in tax law. I have been practicing for over 38 years as a trust and estate attorney. I am current Alaska State Chair for ACTEC (www.actec.org).

In my 38 years of practice, I have counselled and worked with thousands of Alaskans plan their estates. Most all estate plans contain a trust of some type for some family-related purpose to preserve, protect, and pass resources on to the next generation. As an estate planning attorney, I have pdrafted thousands of trusts for clients.

In my 38 years of practicing law, I have **NEVER** known any client to establish a trust for nefarious or illegal purposes. Every trust that I have drafted for clients has been prepared to comply with all applicable federal and state laws.


Peter B. Brautigam

SUBSCRIBED AND SWORN to before me this 20 day of April, 2022, at Anchorage, Alaska.

Notary Public in and for Alaska
My commission expires: 4-11-2025

STEPHEN E. GREER
ATTORNEY AT LAW

P.O. BOX 242903
ANCHORAGE, ALASKA 99524-2903

3350 Midtown Place
Anchorage, AK 99503

steve@stephengreerlaw.com

April 22, 2022

Sent by email to the Members of the Alaska House Labor & Commerce Committee:

Representative Zack Fields
State Capital Room 24
Juneau, AK 99801

Representative.Zack.Fields@akleg.gov

Representative Ken McCarty
State Capital Room 428
Juneau, AK 99801

Representative.Ken.McCarty@akleg.gov

Representative David Nelson
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Representative James Kaufman
State Capital Room 405
Juneau, AK 99801

Representative.James.Kaufman@akleg.gov

Representative Calvin Schrage
State Capital Room 104
Juneau, AK 99801

Representative.Calvin.Schrage@akleg.gov

Dear Members of the Alaska House Labor and Commerce Committee:

I made an attempt today to testify at the hearing held today regarding HB 405 and 406 and was informed that public testimony was not being taken. Therefore I am submitting to you today the statement which I would have made had I been permitted to testify. I sent each of you a letter on Wednesday, April 20, 2022, indicating how the proposed legislation will affect the average Alaskan, who may be your neighbor, friend and most certainly your constituent whom you represent. I won't go into detail now what I expressed in that letter.

However I would like to say that the legislature should be encouraging estate planning not making it more difficult. When estate planning isn't done controversies are more likely to occur, our already overburdened court system become more burdened resolving controversies, and families are hurt in the process.

Trusts are the one tool Estate Planning attorneys have to work with.

Speaking for myself, my usual client is the small guy, just the average Alaskan family who more than likely has been an employee with a company or the government. Cost is a huge factor in determining whether an individual will engage in this process. Because estate planning is an ongoing process, as one's life changes, the estate planning documents which take into account these changes must also change. If every time a change occurs one must also file an amended trust document with the state that takes into account these changes, this will take time and money and quite frankly clients will more than likely will give up on the process with the result their estate planning documents will be outdated and they and their families will be hurt in the process.

The most offensive aspect of the proposed bill is the unbelievable invasion of privacy that the bills would impose on an Alaska resident. Estate planning is a very private affair. I should not have to reveal my testamentary wishes in a document filed with the state for those wishes to be enforceable. We here in Alaska, unlike the Federal Constitution, have actually enshrined the right of privacy under Article 1, Section 22 of our constitution. As stated in this section and in Alaska decisional law the right of privacy guaranteed to Alaska citizens is broader than the

penumbra right of privacy guaranteed in the federal constitution. I guarantee that the average Alaskan, your constituent, would be offended to know that they have to file and share with the government what estate planning they have done for their testamentary wishes to be enforceable and in fact be fined if they don't keep this document current.

Finally, I have real doubts that the proposed bills will even affect the intended target of the legislation, bad actors who may be Russian oligarchs and drug dealers. Assuming these bad actors were sophisticated enough to consider using a trust to hide assets these bad actors would be more likely use the Cayman or Cook Islands, which are outside the jurisdiction of U.S. law enforcement than Alaska. Quite frankly this legislation is not carefully tailored to protect the right of privacy, it hurts the average Alaskan and because of its unintended affect on your constituents, the bills require a great deal more thought before becoming the law of our state.

Sincerely,



Stephen E. Greer

CSG, Inc.

Robert B. Groseclose, of Counsel
Jo A. Kuchle
Zane D. Wilson
Craig B. Partyka
Danielle M. Gardner
A. René Broker, of Counsel
Steven S. Hansen

Attorneys at Law

714 Fourth Avenue, Suite 200 • Fairbanks, Alaska 99701-4470
www.alaskalaw.com • csg@alaskalaw.com

April 22, 2022

Sender's Email:
jkuchlealaskalaw.com

Representative.Zack.Fields@akleg.gov

Rep. Zack Fields
State Capitol Room 24
Juneau, AK 99801

RE: HB 405 and 406

Dear Rep. Fields:

As I member or the House Labor & Commerce Committee, I encourage you to vote no on HB 405 and 406. I have been an estate planning attorney all of my professional career and I am concerned that these bills will have a widely chilling effect on the trust and estate planning that many of my clients – who are Alaskans – will experience as a result of the over-reaching legislation

These bills would require Alaskans to report their beneficial ownership in any trust that they establish for the benefit of their family. I understand the desire to find and sanction foreign oligarchs and other bad actors; but in the zeal to find “bad guys,” this legislation will sweep up so many Alaskans who are just trying to provide for their family’s future.

For example, one of the most common trusts I prepare is for Alaskan who own recreational property at Harding or Birch Lakes, or other remote Alaskan locations. Most Alaskans who acquire these properties want to be able to keep them in their family and the best trust to do so is the Alaska Trust, which is the trust that seems to be most under attack. This legislation would require them to provide private family information about their trust and the property that is in it. Every time a new grandchild/beneficiary is born to the family, the family will need to report to the State what there is a new beneficiary. The reporting creates a burden to the family and a financial burden to the State.

Another common trust that I prepare is for minors or those with special needs. This legislation will require families who set up these trusts to report the beneficiaries of the trust to the State. I find it hard to understand why the State really needs to know this information.

There appears to be this mis-conception that trusts do not pay taxes and are not tax reporting; but this is not true. Once a trust is set up, it must report income either as a grantor trust or a complex trust. The federal government already has a way to “track” these trusts via the IRS.

Alaska has done much to enhance its trust laws for the benefit of Alaskans. Putting onerous reporting requirements on Alaska families is not justified or fair to them, when those in other states with favorable trust laws will still be able to proceed. I am of the

strong belief based on my 35 years of experience, that if a Russian oligarch wanted to hide money and assets, there are much better places to do so than Alaska, such as the Cayman Islands, Cook Islands, or Isle of Mann. Those offshore jurisdictions offer much more protection than Alaska, particularly since those jurisdictions do not require a tax filing. I believe any such reporting should be done at the federal level, similar to what has been done for corporations. Alaskan should not be penalized for wanting to do smart planning.

I urge you not to pass this legislation in the haste to aide Ukraine, a cause that I know we all want to support. This legislation sweeps up so many innocent Alaskans to “catch” a group of people that I do not believe exist. Alaska’s laws could be tailored to find these alleged bad actors, but this legislation takes an ax to a “problem” that may not exist and is best handled with a scalpel. Trusts are complex relationships that this legislation will harm greatly. I urge you to vote no to give those who work in the trust area time to work with you to craft a law that will serve this purpose, but not harm so many Alaskan families.

Thanks for your consideration and please vote no today.

Sincerely,
CSG, Inc.

By: Jo A. Kuchle
Jo A. Kuchle

Evan Anderson

From: Abigail O'Connor
Sent: Monday, April 25, 2022 2:20 PM
To: Rep. Zack Fields; Rep. Ivy Spohnholz; Rep. Ken McCarty; Rep. James Kaufman; Rep. David Nelson;
Rep. Calvin Schrage; Rep. Liz Snyder
Subject: HB 405 and HB 406: ATEP Updated Response

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Members of the Labor and Commerce Committee:

As you know, Alaska Trust and Estate Professionals (ATEP) has a significant interest in HB 405 and HB 406 and has expressed numerous concerns about the impact on Alaskans. We started working on amendments to these bills that should align with the intent of the bills while protecting Alaskans. We began by trying to implement the suggestions that we proposed in our 4.13.22 response; however, even seemingly innocuous language created additional questions and concerns as we thought more about the implications on Alaskans. Our own proposed alternatives (which were developed with only one week's notice) need more study to ensure protection for Alaskans.

We are asking for these bills to be held while we continue to work on alternative language, and if given the opportunity, to work with the bill sponsor to draft legislation that reflects the intent of the bills while protecting Alaskans. We strongly believe that the negative repercussions on Alaskans will be severe if this legislation is passed without enough thought and study. We remain available for discussion and would appreciate the opportunity to testify before this Committee.

Thank you.

*Regards,
Abigail*

Abigail E. O'Connor
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