

**HOUSE JOURNAL  
SUPPLEMENT**

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**July 14, 2000**

**Friday**

**No. 10**

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**SECTIONAL ANALYSIS  
FOR  
CSHB 435(JUD)  
2000 REVISOR'S BILL**

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**July 14, 2000**

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

**MEMORANDUM**

April 11, 2000

**SUBJECT:** CSHB 435(JUD) (2000 Revisor's Bill)

**TO:** Senator Tim Kelly, Chair  
Senate Rules Committee

**FROM:** Pamela Finley  
Revisor of Statutes

The following is a sectional analysis of CSHB 435(JUD), the 2000 revisor's bill. The bill is prepared under AS 01.05.036, which provides, in part, that the revisor of statutes

...shall prepare for submission to the legislature legislation for the correction or removal of the deficiencies, conflicts, or obsolete provisions, or to other wise improve the form or substance of...the statute law of this state.

To assist the reader in understanding the bill, I have summarized the contents by listing sections that have similar purposes or effects.

**Sections that delete, repeal, or update obsolete provisions:**

Sections 1- 3, 5, 6, 9, 11, 13, 16, 19, 23, 24, 26, 27 - 67, 70, 72, 73, 74, 79 - 82, 86, 88, 91, 94, 96, 97, 99, 102, and 105 delete, repeal, or update, provisions that have become obsolete either through other legislative action or the passage of time.

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**Sections that correct errors or oversights:** Sections 4, 8, 10, 12, 14, 20 - 22, 71, 76, 78, 83, 84, 87, 92, 93, 98, 100, 101 and 103 correct errors or oversights.

**Sections that improve the form or substance of the law:** Sections 7, 15, 17, 18, 25, 68, 69, 75, 77, 85, 90, 95 and 104 propose amendments to improve the form or substance of the statute law of Alaska.

### SECTIONAL ANALYSIS

Sections 1 - 3 amend AS 02.15.040 and 02.15.170 and AS 02.20.040(b) by substituting "Federal Aviation Administration" for "Federal Aviation Agency". The name was changed in 1966.

Section 4 amends AS 02.35.120, which sets out penalties for violation of AS 02.35. Because AS 02.35.130 sets out a specific penalty for violations of AS 02.35.090 and 02.35.110, those sections should be excepted from the more general provisions of AS 02.35.120. Section 4 accomplishes this by adding "other than AS 02.35.090 and 02.35.110" after "this chapter".

Sections 5 and 6 amend AS 03.20.020(a) and 03.20.050, relating to fairs, to change the references to "house election district" to "house district". When the constitutional amendments proposed by 1998 Legislative Resolve 74 were adopted by the voters in 1998, the term "house district" was substituted for "election district" in the constitution. These bill sections make conforming changes in statute.

Section 7 amends AS 06.05.230 to allow a bank to acquire, hold, or convey real or personal property in connection with a negatively amortizing loan described in AS 45.45.010(f). In ch. 51, SLA 1998, AS 45.45.010(f) was amended to allow banks and certain other institutions that make loans to accept a percentage of ownership or profits above the lending institution's interest rate in connection with negatively amortizing loans that meet certain requirements. However, AS 06.05.230 allows a bank to acquire, hold, or convey real or personal property only for certain purposes, and negatively amortizing loans are not among those purposes. Therefore, according to the

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Division of Banking, Securities, and Corporations, banks cannot participate in negatively amortizing loans despite the fact that in ch. 51, SLA 1998, the Legislature attempted to authorize them to do so. This bill section allows banks to acquire, hold, and convey property to the extent necessary in connection with negatively amortizing loans that are described in AS 45.45.010(f).

Section 8 amends AS 06.20.250(e) by substituting "first payment extensions" for "first payment loan extensions". The phrase "first payment loan extensions" makes no sense and it is clear that the subsection is referring to extensions for first payments, not extensions for loans.

Section 9 amends AS 08.06.030(a) to reflect changes in the name of the accrediting commission and the certifying organization for acupuncturists.

Section 10 amends AS 08.24.380 by adding a paragraph defining "commissioner" as the commissioner of community and economic development. Although the term "commissioner" is used in AS 08.24, under which the Department of Community and Economic Development is to regulate collection agencies, the term is not defined. This bill section rectifies that oversight.

Section 11 amends AS 08.32.187(a) by substituting "Department of Veterans Affairs" for "Veterans' Administration".

Section 12 amends AS 08.36.247(b) by deleting "dental examiners" before "board". AS 08.36.370 defines "board" to mean the "Board of Dental Examiners", so "dental examiners" is unnecessary and technically inaccurate.

Section 13 amends AS 08.36.350(a) by substituting "Department of Veterans Affairs" for "Veterans' Administration".

Section 14 amends AS 08.38.100 by adding a definition of "department". Chapter 67, SLA 1999 added AS 08.38, under which the Department of Community and Economic Development is to regulate the professions of dietitian and nutritionist. Through an

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oversight, a definition of "department" was omitted. This bill section corrects that omission.

Section 15 amends AS 08.42.070---the reciprocity provision for embalmers and funeral directors---by adding paragraphing in order to make it easier to read.

Section 16 amends AS 08.42.100 by removing a dated reference.

Section 17 deletes "referred to in this chapter as 'department'" from AS 08.52.010, and section 18 adds the definition of "department" as a new section AS 08.52.100. This conforms AS 08.52 (concerning explosives handlers) to the normal style of the Alaska Statutes.

Section 19 amends AS 09.25.121, concerning public records, by substituting "Department of Veterans Affairs" for "Veterans' Administration". The federal Veterans' Administration has been redesignated as the Department of Veterans Affairs.

Section 20 amends AS 10.06.480(a)(1) by substituting "AS 10.06.305 - 10.06.390" for "AS 10.06.405 - 10.06.438". This corrects an error in ch. 166, SLA 1988, which was derived from HB 246 and SB 199 of the 14th Legislature, SB 246 of the 13th Legislature, and SB 873 of the 12th Legislature, which is where the error arose. The original draft was taken from a model act, which had different section numbers. AS 10.06.358, 10.06.360, 10.06.363, and 10.06.365, referenced at the beginning of AS 10.06.480(a)(1), were all in article 5 of the model act. The editor correctly renumbered those sections, but where the model act referred to "article 5" at the end of AS 10.06.480(a)(1), the editor substituted "AS 10.06.405 - 10.06.438", which is article 5 under the current numbering, but not under the model act. The correct substitution for "article 5" of the model act is "AS 10.06.305 - 10.06.390", which was article 5 of the model act, although it is article 3 under current numbering. This error was brought to our attention by an attorney in private practice who noticed that the language did not make sense.

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Section 21 amends AS 10.20.590 (relating to nonprofit corporations) by changing a reference to an "annual" report to a "biennial" report. AS 10.20.620 requires a biennial report, and AS 10.20.585(1) makes the failure to file the biennial report a basis for revoking the certificate of authority. This corrects an error in ch. 123, SLA 1980.

Section 22 amends AS 13.16.580 by substituting "AS 40.17" for "AS 34.15" and "filed under AS 45.09" for "AS 45.05" and by adding "or filing" after "recordation". The recording provisions of AS 34.15 were repealed in 1988 and replaced by AS 40.17. The reference to AS 45.05 became incorrect in 1980 when the Uniform Commercial Code provisions (which until that time were all in AS 45.05) were renumbered by the revisor as AS 45.01 - AS 45.09. The only provisions in AS 45.01 - AS 45.09 that provide for recordation (or more accurately, for filing) are those in AS 45.09 that authorize the filing of notices of security interests. Accordingly, "AS 45.09" is substituted for "AS 45.05".

Sections 23 and 24 amend AS 13.26.105(d) and 13.26.135(a), concerning guardianship, by substituting "Department of Veterans Affairs" for "Veterans' Administration" and "administrator of the federal Veterans' Administration". The federal Veterans' Administration has been redesignated as the Department of Veterans Affairs. Notice to the department, rather than the administrator, was specified because in a given situation it may be appropriate to notify a subordinate officer rather than the head of the department.

Section 25 amends AS 14.07.075 to change the name of the state Board of Education to the Board of Education and Early Development. Section 104 requires the revisor of statutes and the lieutenant governor generally to make the same change in the statutes and regulations. Last year, the name of the Department of Education was changed to the Department of Education and Early Development. The department and the Board have requested that the name of the Board (which is at the head of the department) also be changed.

Section 26 amends AS 14.40.325 by substituting "office of management and budget" for "division of budget review." There is no statutorily created division of budget review in the Office of the

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Governor, although in 1986, when AS 14.40.325 was enacted, there was an administratively created division of budget review within the office of management and budget.

Sections 27 - 29, 31 - 33, and 35 - 65 substitute "house district" for "election district" in various statutes in the Alaska Election Code. Sections 29, 30, 34 and 43 make technical changes due to the internal renumbering of paragraphs in AS 05.15.010 in section 27. Section 62 amends the definition of "senate district" for AS 15 to reflect the repeal of art. XIV of the state constitution. Section 63 adds a definition of "house district" because the 1998 amendments to the constitution substituted "house district" for "election district."

Sections 68 and 69 amend AS 16.05.340 to substitute a reference to residency under AS 16.05.415 for a reference to residency under AS 16.05.940. The change applies to members of the military service on active duty and their dependents. Chapter 38, SLA 1997 added a definition of residency for AS 16.05.330 - 16.05.430 (sport hunting and fishing licenses) and rewrote the general definition of residency in AS 16.05.940 (which applies to the rest of AS 16.05 - 16.40). Although in this particular case there is no substantive difference between the residency requirements of AS 16.05.415 and AS 16.05.940 for the military, the correct cross-reference is AS 16.05.415.

Section 70 amends AS 16.05.341, concerning hunting and sport fishing licenses for disabled veterans, by substituting "Department of Veterans Affairs" for "Veterans' Administration". The federal Veterans' Administration has been redesignated as the Department of Veterans Affairs.

Section 71 amends AS 16.05.925(a) to add certain sections as exceptions to the general catchall penalty provision for violations of the fish and game code and regulations. The added sections have their own penalties, as opposed to relying on the penalties designated for a class A misdemeanor. The added sections are AS 16.05.665 (falsifying an application), AS 16.05.783 (same day airborne hunting), and AS 16.05.905 (activities by aliens).



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Section 72 amends AS 17.20.130 to substitute a reference to the current federal law regulating viruses, serum, and toxins for the reference to the 1902 law.

Section 73 amends AS 18.50.070 by substituting "house district" for "election district". See explanation for bill section 27.

Section 74 amends AS 18.56.098(i) to substitute a reference to current federal law for a reference to repealed federal law. The text of the two federal laws (defining "qualified veteran") is identical.

Section 75 amends AS 18.66.990(3)---the definition of "domestic violence"---by adding "an offense under" before "a law or ordinance of another jurisdiction". A crime is not a law, but instead a violation of a law or an offense under a law.

Section 76 amends AS 21.09.150(b)(5) by substituting a reference to AS 21.34 for a reference to AS 21.33. This corrects an error in ch. 117, SLA 1984, which repealed the surplus lines provisions in AS 21.33 and enacted surplus lines provisions in AS 21.34.

Section 77 amends AS 21.39.060 by breaking subsection (a) into subsections (a) and (b) and making conforming technical changes. The division is necessary because currently there are two provisions denominated (a)(1), (2), and (3).

Section 78 amends AS 22.05.010(d) by adding a reference to the superior court in the definition of "final decision". The subsection refers to final decisions of both the superior court and the court of appeals. This corrects an error in ch. 12, SLA 1980.

Section 79 amends AS 23.15.280, concerning vocational rehabilitation by substituting "Department of Veterans Affairs" for "Veterans' Administration". The federal Veterans' Administration has been redesignated as the Department of Veterans Affairs.

Section 80 amends AS 26.05.295, concerning educational assistance for enlisted personnel, by substituting "Department of Veterans Affairs" for "Veterans' Administration". The federal Veterans'

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Administration has been redesignated as the Department of Veterans Affairs.

Section 81 amends AS 29.45.030, concerning the definition of "disabled veteran" for municipal tax exemptions, by substituting "Department of Veterans Affairs" for "Veterans' Administration". The federal Veterans' Administration has been redesignated as the Department of Veterans Affairs.

Section 82 amends AS 29.47.470 by substituting a current reference to federal law for an obsolete one. 49 U.S.C. App. 1513 was repealed in 1994. 49 U.S.C. 40116(e) is the successor of 49 U.S.C. App. 1513(b) and 49 U.S.C. 40117 covers the same material that 49 U.S.C. App. 1513(e) did.

Section 83 amends AS 32.05.435 to substitute "partnership" for "corporation." AS 32.05.435 applies to partnerships, not corporations.

Section 84 amends AS 37.06.010(c) by substituting "municipalities" for "municipality" in order to correct a grammatical error.

Section 85 amends AS 38.05.180(j)(6)(B) by substituting "Legislative Budget and Audit" for "LB&A" in order to conform the statute to the preferred style of the Alaska Statutes.

Section 86 amends AS 39.27.030 to give the term "election district" the same meaning it has in AS 39.27.020(b), *i.e.*, those election districts established under the December 7, 1961 proclamation of reapportionment and redistricting. Although "house district" was substituted for "election district" in other statutes, that substitution did not seem appropriate in AS 29.60.160(a), 29.60.290(b), AS 39.27.020, 39.27.030, or AS 44.31.020. These five statutes all concern cost-of-living differentials based on "election districts." For your convenience, a copy of those statutes is attached. In AS 29.60.160 and 29.60.290 and AS 39.27.020, "election district" is defined as referring to election districts established under the December 7, 1961 proclamation of reapportionment and redistricting. Since the areas referred to actually were "election districts," it seems appropriate to leave the term "election district" in these three statutes. However, in

AS 39.27.030 and AS 44.31.020, the term "election district" is not defined, even though AS 39.27.030 does refer to AS 39.27.020 and AS 44.31.020 refers to AS 39.27.030. Because AS 39.27.030 appears to be linked to AS 39.27.020 and because AS 44.31.020 is linked to AS 39.27.030, in both of these statutes "election district" is defined as an election district as defined under AS 39.27.020(b), i.e., one established under the 1961 proclamation.

Section 87 amends AS 39.25.125(b) by substituting "equal to what the official would have made" for "equal to what would have been made." This corrects an editorial error that was made in 1982 when the revisor substituted "equal to what would have made" for "equal to what he would have made" in accordance with instructions in sec. 4, ch. 58 SLA 1982 to remove references to "he" or "she" in the statutes. The 1982 substitution was not accurate because it assumes that only the official makes contributions to the retirement system, while in fact both the official and the employer make contributions. Although this change probably could have been corrected editorially (since it was an editorial error in the first place), the error occurred so long ago that it would be better to make the correction in the revisor's bill.

Section 88 amends AS 41.10.100(b)(6) by substituting "state" for "Alaska District". Under former AS 41.10.020, the Soil Conservation District of Alaska was established and consisted of the entire state. AS 41.10.020 was repealed in 1983, but the reference in AS 41.10.100(b)(6) was overlooked.

Section 89 amends AS 42.05.381(e) by removing an obsolete requirement at the end of the subsection. The regulations concerning adjustment of rates were enacted and can currently be found at 3 AAC 53.010 et seq.

Section 90 amends AS 42.05.531 by substituting "a public utility" for "public utilities" to conform to the rest of the sentence.

Section 91 amends AS 42.40.430 by deleting a reference to a federal statute that was repealed in 1994. There is no clear equivalent in

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existing federal law, but none is needed because AS 42.40.430 refers to "other law" in general.

Section 92 amends AS 43.23.065(b)(3) by substituting "education loans" for "scholarship loans" to correct an error of omission in ch. 54, SLA 1997. AS 43.23.067 used to apply to scholarship loans, but ch. 54, SLA 1997 amended it to apply to all loans covered by AS 14.43.145, so that "education loans" is a more accurate term.

Section 93 amends AS 44.28.020(c) to substitute "established" for "if such a system is established". The bill that became chapter 73, SLA 1997 originally provided for an optional automated victim notification system. In committee, the bill was changed to make the notification system mandatory, but a conforming change in AS 44.28.020(c), also enacted in ch. 73, SLA 1997, was not made.

Section 94 amends AS 44.31.020 by supplying a definition for "election district." See the discussion for bill section 86.

Section 95 amends AS 44.33.020(21) to add "or community development" in the list of programs that the Department of Community and Economic Development is to administer and for which it is to adopt regulations. In ch. 58, SLA 1999, AS 44.47.980 (which provided general authority for the Department of Community and Regional Affairs to adopt regulations) was repealed to effect the merging of the Department of Community and Regional Affairs and the Department of Commerce and Economic Development. However, there was no statute that gave the Department of Commerce and Economic Development or the Department of Community and Economic Development general regulation-making authority. This bill section gives the new department the same general authority to adopt regulations that the former Department of Community and Regional Affairs had.

Section 96 amends AS 44.62.430(b) and section 97 amends AS 46.03.313(d) by substituting "house district" for "election district". See discussion for bill section 27.

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Section 98 amends AS 46.08.040(a)(2)(E) by substituting "AS 26.23.073(g)" for "AS 46.13.080". AS 46.08.040(a)(2)(E), with its reference to AS 46.13.080, was added by ch. 128, SLA 1994. However, ch. 32, SLA 1994 repealed AS 46.13.080 and reenacted its provisions, with some slight changes, as AS 26.23.073(g).

Section 99 amends AS 46.08.150 by removing a reference to the Hazardous Substance Spill Technology Review Council, which expired June 30, 1995. See also discussion of the repealers in sec. 102.

Section 100 amends AS 47.12.400(a) by deleting the third occurrence of "that" in order to make the sentence grammatically correct. This corrects an error in ch. 59, SLA 1996.

Section 101 amends sec. 54(b), ch. 132, SLA 1998 so that AS 25.24.210(f)---which was added by sec. 16, ch. 132, SLA 1998---would be repealed (on July 1, 2001 under current law) along with many other provisions requiring social security numbers. The explanation for this involves both ch. 87, SLA 1997 and ch. 132, SLA 1998. Section 45, ch. 87, SLA 1997 added AS 25.24.210(e)(12), which required that a petition for dissolution of marriage contain the social security numbers of the spouses and children affected by the decree. Under sec. 148(c), ch. 87, SLA 1997, as amended by sec. 53, ch. 132, SLA 1998, this amendment would be repealed as of July 1, 2001. However, because dissolution petitions are public records and the legislature wanted to allow people to keep the social security numbers as private as possible, sec. 15, ch. 132, SLA 1998 deleted AS 25.24.210(e)(12), and sec 16, ch. 132, SLA 1998 added AS 25.24.210(f), which requires the social security numbers to be on the petition or on a document accompanying the petition. However, sec. 16 was not added to the 2001 repeal that covers sections addressing social security numbers. This bill section corrects that error.

Section 102 repeals AS 14.03.290(5). This paragraph defines "parent advisory group," but the term is not used in the relevant statutes.

Section 102 repeals AS 14.43.120(p). This subsection defines residency for the purposes of AS 14.43.120. However, residency is

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no longer relevant to AS 14.43.120 because subsection (j)---which set out loan forgiveness based on residency---was repealed in ch. 92, SLA 1987.

Section 102 repeals the definition of "house district" in AS 15.60.010(5). See discussion for bill section 27. Note that the definition of "election district" being repealed in sec. 102 referred to districts established by art. XIV, sec. 3---which established the original districts used to elect members to the state House of Representatives---as modified under Article VI (reapportionment).

Section 102 repeals AS 39.50.200(b)(51), 44.66.010(a)(19), and AS 46.13.100 - 46.13.900. These provisions all relate to the Hazardous Substance Spill Technology Review Council, which expired June 30, 1995.

Section 103 prevents the amendment made by sec. 28, ch. 132, SLA 1998 to AS 25.27.165(b)---which changed the deadline for a putative father to provide financial information from 20 days to 30 days---from being repealed. Section 148(c), ch. 87, SLA 1997, as amended by sec. 53, ch. 132, SLA 1998, requires sections amended by ch. 87, SLA 1997 to be returned to the language that existed before the ch. 87, SLA 1997 amendments. In addition, sec. 54, ch. 132, SLA 1998 indicates that intervening amendments are not be preserved. However, the same 30 day deadline that appears in AS 25.27.165(b) also appears in AS 25.27.165(c), as amended by sec. 29, ch. 132, SLA 1998, and this amendment is not to be undone in the future. See sec. 54(b), ch. 132, SLA 1998, which provides for a repeal of certain sections of ch. 132, SLA 1998, but does not include either sec. 28 or sec. 29 of ch. 132, SLA 1998. Therefore, this bill section is added to keep AS 25.27.165 internally consistent, and follow the policy choice of retaining the sec. 28 and 29, ch. 132, SLA 1998 amendments. (The problem which this bill section seeks to correct is a good example of why we prefer to treat delayed amendments section by section, instead of by the "global" approach used in sec. 148(c), ch. 87, SLA 1997.)

Section 104. See explanation for bill section 25.

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Section 105 requires the revisor of statutes to substitute "2\_\_" for "19\_\_" or "1\_\_\_\_" wherever they appear in forms in statute, in order to conform the statutes to the date change that occurred this year. For instance "July 19\_\_" would become "July 2\_\_\_\_".

Section 106 gives the bill an immediate effective date.