

HOUSE FINANCE COMMITTEE  
March 26, 2002  
2:39 PM

TAPE HFC 02 - 66, Side A  
TAPE HFC 02 - 66, Side B

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 2:39 PM.

MEMBERS PRESENT

Representative Eldon Mulder, Co-Chair  
Representative Bill Williams, Co-Chair  
Representative Con Bunde, Vice-Chair  
Representative Eric Croft  
Representative John Davies  
Representative John Harris  
Representative Bill Hudson  
Representative Ken Lancaster  
Representative Carl Moses  
Representative Jim Whitaker

MEMBERS ABSENT

Representative Richard Foster

ALSO PRESENT

Representative Norm Rokeberg; Catherine Reardon, Director, Division of Occupational Licensing, Department of Community and Economic Development; Bill Church, Staff, Representative Ogan; Rebecca Nance Gamez, Special Deputy, Department of Community and Economic Development.

PRESENT VIA TELECONFERENCE

Franco Venuti, ICBO Inspector, Homer; Dave Owens, Owens Inspections, Matsu;

SUMMARY

HB 27        An Act relating to the licensure and registration of individuals who perform home inspections; relating to home inspection requirements for residential loans purchased or approved by the Alaska Housing Finance Corporation; relating to civil actions by and against home inspectors; and providing for an effective date.

HB 27 was heard and HELD in Committee for further consideration.

HB 128 An Act relating to employment of certain minors in agriculture.

CSHB 128 (L&C) was REPORTED out of Committee with a "do pass" recommendation and with previously published fiscal note: LWF #1.

HOUSE BILL NO. 27

An Act relating to the licensure and registration of individuals who perform home inspections; relating to home inspection requirements for residential loans purchased or approved by the Alaska Housing Finance Corporation; relating to civil actions by and against home inspectors; and providing for an effective date.

REPRESENTATIVE NORM ROKEBERG, SPONSOR, provided members with proposed committee substitute 22-LS0136\G, 2/13/02 (copy on file).

Representative Harris MOVED to ADOPT committee substitute 22-LS0136\G, 2/13/02. There being NO OBJECTION, it was so ordered.

Representative Rokeberg observed that the conduct and activity of home inspections are an integral part of many real estate transactions in the state of Alaska, but anyone can call himself or herself a home inspector. He maintained that consumers should have recourse against home inspectors, but observed that they are not regulated. He stressed that home inspectors are perceived differently within the state. He explained that initial discussions regarding the regulation of home inspectors included requests to establish a separate home inspector's board. The cost to create a board for 150 inspectors around the state was estimated between \$1,500 and \$1,700 dollars [per inspector]. The legislation incorporates home inspectors under specialty contractor licensure in the Division of Occupational Licensing. This would lower the price to \$250 dollars per biannual license. The real estate practitioners wanted to shift some of the liability away from them. He concluded that a shift in responsibility would not be fair. The intent is to protect the public. The statute of repose and the statute of limitation were shortened: one year for an existing home or two years for a new home. Passing around the inspection report has been prohibited. A tight circle has been drawn around those that have access to the report. A home inspector would give the inspection to the client. Anyone else would have to have approval, including a lender. Reports would have a limited life. A person could not bring a cause against an inspector on an old report that they did not pay for. The legislation would not allow inspectors to limit liability through contractual language. He concluded

that the consumer and inspectors would be protected; and other persons associated with inspections would know the ground rules. The legislation has the support of the Alaska and local boards of realtors, Alaska Home Builders Association and the City of Anchorage.

Representative Lancaster referred to a letter by Mike Taruiainen (copy on file.) He clarified that there would be an engineer's exclusion.

Representative Rokeberg referred to section 31 on page 16; and page 15, line 8 and 17. He explained that a licensed engineer would be exempted from having to be a registered home inspector. An engineer that is doing home inspections under the normal course of his duties could not advertise for home inspections unless he is licensed under the legislation. He acknowledged that cost of services to consumers and regulations could be increased. He disagreed that the cost to the state would be increased.

Representative Hudson asked if lending institutions support the legislation. Representative Lancaster noted that the leading banks in the state support the legislation. He questioned if commercial inspections would be covered. Representative Rokeberg explained that the legislation would only cover residential inspections.

Representative Whitaker asked the criteria for a qualified home inspector. Representative Rokeberg noted that existing inspectors would be grandfathered in with their existing experience. An examination would be required after the legislation takes effect.

Representative Hudson observed that licensees generally pay their costs. Representative Rokeberg agreed and noted that statutes require that occupational licensees pay 100 percent of their costs. He explained that there might be some increased costs while the first regulations are drafted. There would be a pay back to adjust costs.

Co-Chair Williams referred to page 5, lines 25 and 26: scope on intended inspections. Representative Rokeberg noted that the section is modified by subsection (a), which refers to home inspections. He further explained that two types of home inspectors would be regulated [those that inspect existing homes and those that inspect new homes]. Most home inspectors of existing homes received they examination under the National Association of Home Inspectors. Most inspectors of new homes are licensed under the International Conference of Building Officials (ICBO), as required for homes financed by the Alaska Housing Finance Corporation (AHFC). In addition the legislation would include a joint licensee provision and an associate home inspector: those persons new to the industry.

Representative Lancaster noted that areas without code would also be covered. Representative Rokeberg observed that Alaska Housing Finance Corporation (AHFC) requires inspections.

CATHERINE REARDON, DIRECTOR, DIVISION OF OCCUPATIONAL LICENSING, DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT provided information on the legislation. The Division has worked with the sponsor to address technical concerns. She discussed the fiscal costs of the legislation. She noted that the legislation removes the board, which would reduce the cost. The fiscal note would be reduced to \$64.5 thousand dollars the first year and \$58.5 thousand dollars throughout subsequent years. Home inspectors would be a type of specialty contractor. Fee setting would be shared amongst all contractors.

In response to a question by Representative Hudson, Ms. Reardon clarified that there are no standards other than those for a business licenses. In response to a question by Representative Lancaster, Ms. Reardon acknowledged that additional regulation would accompany the legislation.

Representative Rokeberg asked the amount of the current contractor-licensing fee. Ms. Reardon responded that the current licensing fee is \$250 dollars for two years. Adding home inspectors would increase the fee to \$300 - \$375 for a two-year license: a \$25 dollar a year increase.

Representative Whitaker understood that an examination would be required. Ms. Reardon explained that after the legislation is adopted a standardized test would be given (through the private sector).

Representative Harris asked if the licenses would support the cost of the program. Ms. Reardon affirmed and clarified that the funding source would be receipt-supported services, as required by law. The general fund obligations would not be increased.

Representative Rokeberg questioned the cost in the first two years. Ms. Reardon referred to the fiscal note. She observed that there would be no funding for travel, since the board would be eliminated. Fees would be collected and expended for a half-time licensing examiner and a half-time investigator.

JOHN BITNEY, LEGISLATIVE LIAISON, ALASKA HOUSING FINANCE CORPORATION, DEPARTMENT OF REVENUE provided information regarding the legislation. In 1992, during the merger of rural programs with AHFC, there was concern with construction standards. Legislation was passed, which required home inspections on homes that were constructed

after June 30, 1992, to ensure that they comply with standards of the International Conference of Building Officials (ICBO) before the home could be purchased through AHFC. Alaska Housing Finance Corporation required that someone certified by ICBO signed off on newly constructed homes before AHFC would purchase the mortgage. The system is still working but it is a separate system. The legislation proposes that the state license home inspectors. He observed that AHFC's position is that if the state is going to set up the system, that the state license inspectors to perform the AHFC inspections and the ICBO system be replaced so that there aren't separate systems. In addition, AHFC asks that the inspectors be licensed to a construction standard that is the equivalent of an ICBO inspector, to retain standard quality. Sections 33 and 34 of the bill apply to the transfer of inspections to state licensed inspectors. The International Conference of Building Officials program would be repealed.

Representative Hudson wanted to ensure that the legislation would provide greater availability of inspectors at a lower cost to the consumer and that safety would be protected with liability. He asked how many of the current inspectors would be disenfranchised.

Mr. Bitney did not know how many ICBO inspectors were in the state prior to the AHFC requirement. He did not think that the legislation would reduce the amount of ICBO quality inspectors.

Representative Hudson asked if inspectors have to carry liability insurance to be used by AHFC. Mr. Bitney noted that they are currently protected under the gross negligence standard, which would be repealed under the legislation.

Representative Rokeberg explained that current home inspectors are subject to common law and police law. They endeavor to insulate themselves by contract, which limits liability to the amount of the contract. The courts have rejected that shield. Under current law, ICBO inspectors have full impunity because of the difficulty of showing that a faulty report resulted in gross negligence. The standard would be lowered. The statute of limitation has been reduced to two years for new construction and one year for existing structures. There is also an assurity bond of \$5 thousand dollars.

In response to a question by Vice-Chair Bunde, Representative Rokeberg stressed that the intent is not to provide a target for consumers that make a bad decision. He noted that the inspection does not certify that the foundation or roof are sound. The inspection is only a visual inspection to alert a potential homeowner of the need to repair.

Ms. Reardon noted that the cost of the ICBO home inspector exam is \$170 dollars and the Alaska State Housing Authority (ASHA) exam is \$195 dollars. The exams are offered in Anchorage and may be available in Fairbanks.

Ms. Reardon discussed the fiscal note. She observed that there would be \$6 thousand dollars for one time cost for office supplies and computer equipment. Most of the cost would be for personnel services. There is one part-time examiner position. There would also be a half time investigator position to address complaints. She explained that the new fiscal note would not require \$6.3 thousand dollars for travel.

Representative Whitaker noted that fees would pay the cost. The cost would be \$300 to \$350 dollars for a 2-year license. The bill treats home inspectors in the category of specialty contractors. Ms. Reardon pointed out that the majority of licenses under the division do not require liability insurance or bonding.

Representative Rokeberg asked how many employees are currently assigned to the contractor program. Ms. Reardon noted that the contractor program covers 500 licenses. There are two and a half licensing examiners working with the program.

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Ms. Reardon noted that there is a portion of an investigator position associated with the program. She explained that there is not as much investigator activity because the construction licensing law does not allow revocation or fines for incompetent work. The only follow up is to refer complainants to the bond. Under the legislation, there would be an ability to investigate and discipline licensees. The Department of Labor and Workforce Development receives a \$200 hundred thousand dollar RSA from the division each year for unlicensed inspector investigations.

Representative Rokeberg pointed out that for an addition of one 20<sup>th</sup> of the licensees that the request would increase the inspector staff by one-sixth. He questioned the cost assumptions.

Ms. Reardon explained that a new program costs more than adding additional persons to an existing program. The regulations and applications forms already exist for an existing program. She pointed out that it is difficult to hire a quarter time worker. She pointed out that the program is already using more resources than it used to.

Representative Rokeberg pointed out that there are 150 inspectors, which would only result in an application every other day. Ms. Reardon anticipated that the 150 applications would be received immediately. She pointed out that if the fiscal note is not approved, but that the staff is still required, the program will still get the actual costs and the fee would remain the same. What is spent on them would be reflected in the fee.

FRANCO VENUTI, ICBO INSPECTOR, HOMER, testified via teleconference in opposition to the legislation. He expressed concern with the proposed committee substitute. He maintained that inspectors do not support the legislation. He observed that the impetus for the bill has come from outside of the industry. He had not heard anyone testifying in support of the legislation from the Builder's Association. He noted that it would cost up to \$2 thousand dollars a year to receive a license. He asked why the legislation is limited to home inspectors for the Alaska Housing Finance Corporation properties. He reiterated that the legislation is not supported by the industry and expressed concern regarding the added cost to the consumer and added bureaucracy.

DAVE OWENS, ICBO INSPECTOR, OWENS INSPECTIONS, MATSU, testified via teleconference. He expressed support for cost cutting revisions, which would transfer the function from the Department of Labor to the Department of Community and Economic Development. He expressed concern with the repeal of AS 18.56.300 contained on page 21, line 31. He pointed out that AHFC inspectors are code inspectors. He stressed the need to separate code inspectors from home inspectors. He expressed concern that there is no code for residential inspections in the state of Alaska. He emphasized that the contractors do not build the buildings and don't always see everything.

Representative Rokeberg stated that he had met with a variety of home inspectors and tried to keep them informed regarding changes to the legislation. He acknowledged that some home inspectors have problems with the legislation. He noted that the standard in statute is gross negligence. He felt that the fiscal note was too high. He expressed concern that the existing specialty contractors would balk at the increase in fees caused by the addition of the home inspectors.

Representative Lancaster spoke in support of the legislation.

In response to a question by Representative Whitaker, Representative Rokeberg explained that the legislation would only add regulation to the existing structure. He observed

that inspections are required for new homes financed by AHFC.

Mr. Bitney noted that the AHFC mortgages account for 45 percent of the market. The legislation only applies to new construction. He did not know the number of new homes being financed.

Representative Whitaker stressed that another layer was being added. He questioned the cost of the consumer in relationship to the value. Representative Rokeberg explained that the current inspection fee is typically \$350 dollars. The biannual license fee is \$350 dollars; the bonding fee is \$500 dollar; and there is a liability fee. He estimated that inspectors would do between 50 and 350 inspections a year. The licensure would increase the cost of the inspection by \$10 to \$20 dollars.

Representative Mulder observed that the only way to have a home built without ICBO [inspections] is to have it self financed.

Representative John Davies clarified that the legislation does not require inspections.

Representative Rokeberg noted that the Board was removed and the licensure was added to the home specialty.

HB 27 was heard and HELD in Committee for further consideration.

#### HOUSE BILL NO. 128

An Act relating to employment of certain minors in agriculture.

BILL CHURCH, STAFF, REPRESENTATIVE OGAN, testified in support of the legislation on behalf of the sponsor. In late 2000, Representative Ogan was made aware that Alaskan farmers were having problems with the permitting process when hiring minors for seasonal employment. Alaskan farmers need to be able to hire workers at a moments notice when the crop is at its peak and the weather is cooperating. Minors make up the bulk of a ready pool of summer workers to help the farmers. Problems have occurred in the past when the Department of Labor and Workforce Development have not been able to provide timely approval of the work permit request.

House Bill 128 streamlines the approval process between the department and employers wanting to hire minors. Under this bill an employer may secure pre-approval from the department to hire a minor, who is at least 14 years of age, to perform a specific set of job duties in advance of an actual job offer to a minor. Mr. Church maintained that the

legislation benefits any employer - from farming, fishing to fast food restaurants.

The protection of minors remains paramount with this proposal. Once an employer hires a minor to perform the pre-approved job:

- The department work permit request form, must be signed by a parent or legal guardian of the minor, and filed with the commissioner within seven calendar days after the minor begins working,
- The work permit is valid only for the job and listed duties specified on the pre-approved consent,
- The work permit is valid for the calendar year in which it is executed, in the case of a written consent executed in December, the permit is valid for that calendar year, the next calendar year, or both, depending on the terms of the written consent, and
- A minor cannot begin any changed or new job duties until the department approves the changes.

Mr. Church observed that the legislation does not remove the current work permit process for those employers who wish to use it.

REBECCA NANCE GAMEZ, DEPUTY COMMISSIONER, DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, stated that the department has worked with the sponsor and now supports the legislation. The fiscal note addresses the costs for legal service, public notices, hearing space rental and revising and reprinting posters.

Representative John Davies asked if the legislation would be applicable to all employers. Ms. Nance affirmed that it would be available for all employers that wish to use it.

Vice-Chair Bunde MOVED to report CSHB 128 (L&C) out of Committee with the accompanying fiscal note. He spoke in support of the legislation and felt that it would help minors to find employment. Representative John Davies agreed. There being NO OBJECTION, it was so ordered.

CSHB 128 (L&C) was REPORTED out of Committee with a "do pass" recommendation and with previously published fiscal note: LWF #1.

#### ADJOURNMENT

The meeting was adjourned at 4:02 PM