ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE
April 4, 2001
3:20 p.m.

MEMBERS PRESENT

Representative Lisa Murkowski, Chair
Representative Andrew Halcro, Vice Chair
Representative Kevin Meyer
Representative Pete Kott
Representative Norman Rokeberg
Representative Harry Crawford
Representative Joe Hayes

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 184
"An Act relating to the business of insurance, including changes to the insurance code to implement federal financial services reforms for the business of insurance and to authorize the director of insurance to review criminal backgrounds for individuals applying to engage in the business of insurance; amending Rule 402, Alaska Rules of Evidence; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 106
"An Act relating to the authorizations for state financial institutions; relating to confidential financial records of depositors and customers of certain financial institutions; relating to the Alaska Banking Code, Mutual Savings Bank Act, Alaska Small Loans Act, and Alaska Credit Union Act; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: HB 184
SHORT TITLE:INSURANCE CODE AMENDMENTS
SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
03/14/01	0588	(H)	READ THE FIRST TIME - REFERRALS
03/14/01	0588	(H)	L&C, JUD
03/14/01	0589	(H)	FN1: ZERO(CED)
03/14/01	0589	(H)	GOVERNOR'S TRANSMITTAL LETTER
04/04/01		(H)	L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

BOB LOHR, Director
Division of Insurance
Department of Community and Economic Development (DCED)
3601 C Street, Suite 1324
Anchorage, Alaska 99503
POSITION STATEMENT: Testified for the division on HB 184.

LINDA BRUNETTE, Licensing Supervisor
Division of Insurance
Department of Community and Economic Development (DCED)
P.O. Box 110805
Juneau, Alaska 99811-0805
POSITION STATEMENT: Testified on HB 184.

JOHN GEORGE, Lobbyist
National Association of Independent Insurers (NAII); and
American Family Life Assurance Company of Columbus (AFLAC);
American Council of Life Insurance (ACLI)
3328 Fritz Cove Road
Juneau, Alaska
POSITION STATEMENT: Testified on behalf of NAII, AFLAC, and the ACLI on HB 184.

SHELDON WINTERS, Lobbyist
State Farm Insurance
Lessmeier & Winters, LLC
431 North Franklin Street, Suite 400
Juneau, Alaska 99801
POSITION STATEMENT: Spoke on HB 184 on behalf of State Farm Insurance.

STEVE CONN, Executive Director
Alaska Public Interest Research Group (AkPIRG)
P.O. Box 101093
Anchorage, Alaska 99510
POSITION STATEMENT: Testified on HB 184.

ACTION NARRATIVE

TAPE 01-47, SIDE A
Number 0001

CHAIR LISA MURKOWSKI called the House Labor and Commerce Standing Committee meeting to order at 3:20 p.m. Those present at the call to order included Representatives Murkowski, Halcro, Kott, and Crawford. Representatives Meyer, Hayes, and Rokeberg arrived as the meeting was in progress.

HB 184-INSURANCE CODE AMENDMENTS

[Contains discussion of HB 106 and SB 138, the companion bill.]

Number 0056

CHAIR MURKOWSKI announced that the committee would take up HOUSE BILL NO. 184, "An Act relating to the business of insurance, including changes to the insurance code to implement federal financial services reforms for the business of insurance and to authorize the director of insurance to review criminal backgrounds for individuals applying to engage in the business of insurance; amending Rule 402, Alaska Rules of Evidence; and providing for an effective date."

Number 0129

BOB LOHR, Director, Division of Insurance, Department of Community and Economic Development (DCED), stated that HB 184 would implement the conforming provisions for the Division of Insurance to the federal Gramm-Leach-Bliley Act (GLBA), also known as the Financial Services Modernization Act of 1999.

MR. LOHR, referring to a handout from the division entitled "Department of Community and Economic Development, Alaska Division of Insurance, HB 184," explained that the mission of the division is to protect and serve the state by regulating all aspects of insurance in Alaska to protect and educate the consumer, and to enhance the insurance business environment. Both of those goals would be substantially enhanced, he remarked, by HB 184.

MR. LOHR offered some history. Just following the depression, as an attempt to recover in 1933, the Glass-Steagall Act was adopted and erected barriers among the major sectors of the

American economy; it was in effect from 1933 to 1999. The GLBA, Financial Services Modernization Act removed the barriers among banking, insurance, and the securities industries. It was predicted that there would be a "flurry" of acquisitions and mergers by insurance companies, banks, and securities firms.

MR. LOHR expressed that it hasn't happened quite as quickly as it was predicted to happen, he said, but just within the last week Alliance Insurance in Germany merged with Riesner Bank (ph) to become the fourth-largest financial conglomerate in the world. This morning's news was that American International Group, Inc. (AIG) made a bid to beat out a British company that was also bidding on American General, a $23 billion bid. Clearly, those are indicators of the kinds of mergers contemplated by GLBA that are now occurring. These changes necessitate adaptation by the regulators in all three fields to the new reality. This bill essentially conforms the insurance regulatory system at the state level to changes in the federal system.

MR. LOHR said insurance is unique, because it is regulated by states, and there is no federal counterpart to insurance, unlike banking where there is federal regulation of national banks and state regulation of state-chartered banks. In securities, there is both a federal Securities Exchange Commission (SEC) role and a National Association of Securities Dealers (NASD) role. There is nothing analogous to state regulation of insurance at the federal level. And frankly, [the division] likes it that way, he emphasized, because [the division] thinks that the appropriate place to do insurance regulation is at the state level, and it is more effectively done there.

Number 0420

MR. LOHR expressed that if [Alaska] doesn't adapt and conform to the approach contemplated in GLBA, there is a substantial risk of preemption by the federal government and establishment of a federal insurance regulator. Many of the measures in the bill are designed to enhance consumer protection, making it easier for insurance to operate in this new competitive environment where banks and securities firms are competitors selling insurance.

MR. LOHR said if "they" have to deal with the regulatory systems in 51 different jurisdictions before responding to competitive pressures from banks and securities firms, that won't work and

won't be acceptable as a business model, and state regulation will become obsolete and be preempted.

MR. LOHR explained that [the division] is trying to streamline the processes to become more efficient in this highly competitive world economic environment. [The division] is working cooperatively with other state officials, federal officials, banking officials, interested parties, insurance companies, trade associations, and consumer groups.

Number 0530

MR. LOHR said GLBA would do three basic things: establish producer-licensing or agent-licensing provisions; address privacy; and protect consumers who purchase insurance through banks, expanding coverage of the consumer protection provision to banks selling insurance.

MR. LOHR went on to further explain producer licensing. If a minimum of 29 state jurisdictions, states, or territories do not adopt either "uniformity" or "reciprocity" in licensing for nonresident agents and brokers, then Congress has commanded that the National Association of Registered Agents and Brokers (NARAB) be formed.

Number 0612

CHAIR MURKOWSKI asked how that would work. She asked for verification of her understanding that if by November 2002 only 25 states have signed on, then it will be under the auspices of what is set out in GLBA. What happens to the 25 states that signed on? And is what those states enacted preempted by GLBA?

MR. LOHR responded that he believed that to be correct. The national model would preempt it; however, the reality is that "they" would be largely conforming to what the national model had become at that point. The NARAB group would establish many of the same consistency provisions that those 25 states would have adopted in their conforming amendments.

Number 0729

MR. LOHR verified that it wouldn't affect the jurisdictions that had acted as much as those that hadn't. There is concern, however, that if it goes national, it could affect revenues to the states because currently insurance-producer licensing taxes produce far more revenue, which goes to the state general fund,

than the cost of the division as a whole for regulation insurance; [the division] [contributes] $23 to $25 million a year to the general fund, and the total budget for the division is less than $5 million. There has been talk of trying to preserve state revenue if the national system of licensing [prevails]; however, how long the preservation of revenue can be maintained without a commensurate requirement is hard to say, he remarked.

MR. LOHR commented that the National Association of Insurance Commissioners (NAIC) adopted the Producer License Model Act (PLMA) in October 2000 for states to use as a guideline for developing legislation to meet the reciprocity elements of GLBA, and to move toward uniformity. The GLBA sets out a standard of either 29 jurisdictions meeting reciprocity or 29 jurisdictions meeting uniformity; it doesn't work to have 15 of each, he explained. Reciprocity was selected as a preferable approach because it is more manageable to implement in multiple jurisdictions than it would be to get truly uniform legislation in 29-plus jurisdictions. And it is a tough thing to do in one year, he added. In Alaska there are more than 10,700 licensees, including 2,900 residents and 7,800 nonresidents. The dramatic growth has been due to a 38 percent increase in the number of nonresident licensees, while the trend for resident licensees has remained steady.

Number 0867

LINDA BRUNETTE, Licensing Supervisor, Division of Insurance, Department of Community and Economic Development (DCED), when asked if there was a difference in the fee licensing structure for residents versus nonresidents, replied affirmatively. Nonresident fees are almost double resident fees, she remarked.

MR. LOHR reiterated that total for fees from all sources to the division from the producer-licensing premium tax and from other sources is approximately $27 million. The producer-licensing provisions are based on the NAIC model, with the goal of achieving reciprocity, and [the division] would then give licenses on a reciprocal basis, moving toward more uniform elements in the law. If a person is qualified for a license within his or her home jurisdiction, then it is good enough for Alaska, he said, and vice versa.

Number 0974

MR. LOHR said [the division] issues a nonresident license, which gives a person the same authority that he or she has in the home state, and [the division] would accept the home state's continuing education requirements. [Alaska] has its own continuing education requirements for maintaining a license here, he said. [The division] would remove any retaliatory provisions and all discriminatory requirements based on place of residency or operations. Nondiscrimination is a required element of the federal law for reciprocity.

CHAIR MURKOWSKI asked if the difference in the licensing fee between a resident and a nonresident would be viewed as discriminatory.

MS. BRUNETTE said there has been discussion on the national level; the NAIC legal staff identified that this should be an issue whereby states can retain revenue currently generated, and the division is currently looking at the fee issues to determine which changes, if any, need to be made.

MR. LOHR said he believes the answer is not clear at this point. There has been talk that if states implement GLBA and reciprocity, then there will be no harm to state revenues. He said, however, that he didn't believe it was "black letter" law in federal legislation; it is more of an interpretation of what nondiscrimination means, whether or not with respect to licensing provisions. Having a standard that kicks in only if a person is a nonresident clearly is prohibited, but he pointed out that there hasn't been any case law on differential fees.

MR. LOHR, upon being asked how other states handle it, responded that he believed that many states do [have differential fees for residents and nonresidents] and treat them as Alaska does. This bill doesn't propose changing the fee structure for licensing at this point.

Number 1101

REPRESENTATIVE HAYES asked: If [Alaska] joins on with the other 29 states [in reciprocity], how is the same level of funding maintained?

MR. LOHR responded that a person would have to buy the license, because in exchange for the ease of getting the license in all jurisdictions, what is contemplated is that a person would have a single point of application for licensing. A person would send the fees and a single application confirming that the

person is in good standing in the home state, and upon a criminal background check and so forth, [the state] would issue the license. From the point of view of a national company that wants to get agents or broker licenses in multiple jurisdictions, it is worth the price of continuing to pay the fee to each state as well as paying the processing fee for the computerized treatment. It is contemplated that this can be turned around in a 24-hour period, he emphasized, and is a dramatic change in the way licensing works. [The division] is excited about the potential for this system, he added.

Number 1283

MR. LOHR explained that the licensing provisions would also provide that [Alaska] accepts the national uniform license application. The benefits of enacting producer licensing include: streamlining the licensing process and eliminating the duplicative requirements for licensure; being more efficient and cheaper; having no retaliatory fee requirements; leveling the playing field; and engaging [Alaska] in a collaborative effort to identify "rogue" agents.

MR. LOHR said the Federal Bureau of Investigation (FBI) has excellent information on the criminal background, and administrative and regulatory records of agents and brokers nationwide. Right now some conforming provisions are needed, he expressed, in order for the FBI and the United States Department of Justice to recognize Alaska as a participant in that system. [Alaska] currently gets fingerprints, but it may take six weeks or more, because of having to submit fingerprint cards, and not having our system standard with that of the FBI. There is language further on in the bill that would allow [Alaska] to easily participate within the national criminal justice system to identify people that [the division] doesn't want to issue licenses to.

Number 1316

REPRESENTATIVE ROKEBERG mentioned HB 132 that came through the committee regarding Alcoholic Beverage Control Board (ABC) fingerprinting, which allowed the department access to the national standards for fingerprinting background checks for applicants seeking liquor licenses. Because of the abuse of the Alaska Public Safety Information Network (APSIN) system, there was significant discussion about who was authorized in the department. Is there a limit to who would have access, he asked.

MR. LOHR said there is a restriction regarding permissible uses; the reason for making an inquiry is tightly limited. As to whether there is a limit on the number of people within the office that could have access to it, he said he didn't know that there would be a specific number, but it would include the investigative staff.

MR. LOHR mentioned that [the division] currently has access to APSIN and has used it for a number of years, and, to his knowledge, there have been no allegations or incidents of abuse. It has been used routinely to ensure that licenses are only issued to those who qualify, and within the last six months there was an applicant who claimed no criminal background, but who through fingerprinting turned out to have a substantial criminal background, which made this person inappropriate for a license. Unfortunately, he exclaimed, because of the mismatch between [Alaska] and the delay in processing fingerprints, [the division] had already issued the license and had to persuade the person to surrender it immediately. Had it needed to be done, papers would have been served at that point indicating a formal complaint by the division.

Number 1445

MR. LOHR commented that this concluded his presentation on producer licensing; he said there are two other portions that deal with privacy and consumer protection that he would address next.

REPRESENTATIVE ROKEBERG asked Mr. Lohr if feedback had been received from the industry about this section, and asked if there had been any problems.

MR. LOHR said the feedback from the American Council of Life Insurers (ACLI) and from the National Association of Independent Insurers (NAII) has been largely supportive. Both the property casualty and the life [insurance] side are in support of these changes; in addition, he said, the Association of Agents and Brokers is also supportive of the language. Several trade groups have suggested specific changes, and [the division] has developed possible amendments for the committee to consider, largely addressing the specific concerns that have been brought to [the division]. [The division] has near-universal support for the producer-licensing provisions of the bill, he exclaimed. He recognized both Linda Brunette, Licensing Supervisor, and

Katie Campbell, Life and Health Actuary, for their excellent work in addressing concerns with proposed language.

REPRESENTATIVE ROKEBERG recognized that this has been a difficult bill to draft and he commended the division. How long has the bill been in circulation with the industry for review, he asked.

Number 1587

MR. LOHR said it was made available in February and the bill was introduced on March 14 [2001], so it was about one month in advance of the bill's introduction. [The division] has tried to work with all interest groups, and they have taken this work draft and sent it to their national associations for comment and feedback; [the division] has received feedback from a number of those national groups. He mentioned that the division was requested by the Senate Labor and Commerce Standing Committee to give a copy to the Alaska Public Interest Research Group (AkPIRG)

REPRESENTATIVE ROKEBERG said he is concerned about people in industry having a chance to review it and provide feedback.

MR. LOHR went on to talk about the privacy section. [The division], he said, couldn't resist quoting the state constitutional provision on privacy, Article 1, Section 22, "The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section." The consumer privacy provisions of HB 184 confirm the director's authority to adopt privacy standards that are consistent with, but no less restrictive than, the NAIC model regulation. The information protected with the NAIC model includes personally identifiable financial or health information. In the case of financial information, this is information that an insurance company obtains from an applicant in getting insurance coverage and is typically a narrower range of information on finances than a bank would already have about a person. Banking information would be far more extensive, he said, such as the profile that might be available through credit card purchases, which is a far more detailed profile on an individual's preferences than would be obtainable from an insurance company dealing with financial information obtained in the process of dealing with an application for insurance.

Number 1716

MR. LOHR explained that there are two standards for financial information consistent with the GLBA: one is "opt out," which means that the insurance company must notify a person that it has financial information about him or her. If a person doesn't object to [the company's] releasing that information, then it is authorized to do so. "Opt in," he explained, is a tougher standard that means that unless a person actively consents to sharing financial or health information with other companies, then the insurance company would be prohibited from doing so.

MR. LOHR explained that "opt in" takes the active consent of the individual, while "opt out" would include all those that do not respond to a notice and opportunity to make a decision about sharing information, and both are permissible under GLBA. The division views health information obtained by an insurance [company] as being far more sensitive than financial information, because if an insurance company were able to share information on health status needed to process an insurance application with a bank that is considering whether to make a loan to that person, that information could be used to a person's detriment; therefore, it warrants a higher degree of privacy protection than financial information obtained from an insurance company.

Number 1802

REPRESENTATIVE HALCRO referred to where it states that protected financial information may be shared among affiliates without restrictions. He asked: If he buys insurance from a company that owns another company that sells financial services, can the two companies share information between themselves? Is that what [the division] would consider affiliates?

MR. LOHR responded affirmatively, but said it is for financial information only. He said he wasn't sure that regulation or statute could prohibited [companies] from sharing among affiliates; under federal regulation [companies] can already do it, and they don't need permission; this is provided under GLBA.

REPRESENTATIVE HALCRO asked if [the legislature] could restrict the sharing of information.

MR. LOHR explained that GLBA clearly provides states the ability to go beyond the protections provided by federal regulators. If there were a dispute as to whether a state or federal regulation is stronger with respect to protecting privacy, the state regulation would be upheld. The Federal Trade Commission (FTC)

is the judge in any dispute, he explained, and the congressional provisions on privacy in GLBA clearly provide state authority to go beyond what the federal government has already adopted for privacy regulations. There was widespread recognition that the privacy regulations in effect at that time were probably not adequate, and there was a question about whether GLBA's privacy provisions went far enough - hence the discussions of other privacy regulations out there.

Number 1944

KATIE CAMPBELL, Life and Health Actuary, Division of Insurance, Department of Community and Economic Development (DCED), explained that [a state] could go beyond [GLBA], so being more restrictive with consumer information wouldn't be preempted. It could be said that a company couldn't share information with affiliates without a notice and without giving the consumer an opportunity to make a choice, she explained.

Number 2460

REPRESENTATIVE HALCRO said he agreed that health information is of a higher privacy [level] than financial information; however, they are fairly similar. For example, if he buys a life insurance product, it doesn't necessarily mean that he wants to receive solicitations from other sources. If he wants that information, he would contact them. There ought to be opt-in for both financial and health information, he remarked, and the consumer shall be allowed to make the choice.

MR. LOHR explained that opt-out is probably an appropriate standard for financial insurance information. He said whether junk mail an invasion of privacy is in the eye of the beholder. Alaska's insurance market is such, he explained, that if Alaska becomes too nonstandard compared to the prevailing national approach for sharing information, given the fragility of some elements of the market, Alaska could end up with products not being offered that people want and need. Companies could decide, given the limited size of our market, that it is too much hassle having a separate privacy rule to enforce it in a state as small [in population] as Alaska. On the national level what is desired, he explained, is to train all the staff in the calling center to a standard of what privacy responsibilities are; if there are different standards for states according to the level of privacy, then compliance is a problem.

MR. LOHR pointed out that there is a strong mutual interest in trying to have a consistent, uniform approach towards standards, and Alaska has participated in the effort to develop those standards.

REPRESENTATIVE HALCRO asked for verification of his understanding that, for example, some companies enter the market to sell a product, but the company is hoping to sell other products as well from the company or through affiliates.

Number 2123

MR. LOHR said he believed that to be correct. Companies now regard the ability to market information to Outside firms as a valuable business asset. It may also be beneficial to the customer, he pointed out, to the extent that the company can target marketing toward the customers' interests. Customers ultimately make the decision under either model; it simply takes a more active affirmative response [to opt out]. He agreed that it takes more attention on the customer's part under the opt-out system; however, he said there are good reasons for supporting an opt-out approach for financial information with insurance [companies]. He added that he couldn't say the same for banking because of a lack of knowledge on the subject.

CHAIR MURKOWSKI asked how privacy is handled in the insurance world.

MR. LOHR said [the division] hasn't regulated it in the past; this would be new authority for the state.

CHAIR MURKOWSKI asked for verification that the model being discussed is the opt-out standard for financial information, with an opt-in standard for health information. She mentioned that the other bill before the committee [HB 106] deals with financial institutions and has an opt-in provision as it relates to GLBA. She asked why financial information is being treated differently regarding GLBA depending on whether it's under the auspices of the Division of Insurance or the Division of Banking, Securities and Corporations.

Number 2284

MR. LOHR explained that he and Mr. Elder, Division of Banking, Securities and Corporations, have discussed the provisions, and both agree that consistency among banking, regulation of privacy, and insurance regulation of privacy is not essential.

It may be appropriate to have a standard for insurance regulation of financial information different from that of a bank. It ties primarily to the difference in the nature and volume of information that [the division] receives, he said; insurance application information is typically limited, whereas the banking relationship involves more detail.

CHAIR MURKOWSKI asked for an example of what is considered financial information from insurance standards.

MS. CAMPBELL explained that a homeowner's policy, where a person may put down the value of the home on the application, is considered financial information. Anything that isn't health information would fall within the financial information definition, which includes things like a person's address, name, and so forth. She said the amount of life insurance a person has is another piece of financial information, which is different in nature from what a bank would obtain, with the exception of the credit report.

Number 2460

REPRESENTATIVE HALCRO asked if [a company] has to send out a notification for the consumer to opt out.

MR. LOHR replied that there are specific notice provisions required; even in the federal approach, it would be part of a regulation that [Alaska] adopts if this authority is confirmed to [the division]. [The division] would require that notification and provide a ready means by which the consumer can [opt out].

MS. CAMPBELL, upon being asked how that is handled today, replied that [the division] doesn't have anything currently in place, but if the regulation is adopted, there is an initial notice that the consumers would receive upon applying for insurance. She said there would be an explanation and separate form with the option to opt out of sharing that information; then, on an annual basis, [an institution] would be required to send those notices out stating what a person's privacy rights are.

Number 2505

REPRESENTATIVE HALCRO said consumers need the ability to interact [with the institution regarding opting out].

MR. LOHR said there are things that a company would like a customer to know, and then there are those that a company has to tell a person. The already-in-place federal regulation and [the division's] proposed regulations would address the type size and would [emphasize] making the notice meaningful to obtain informed consent. Otherwise, he remarked, there is risk that someone might not fully notify the customer of what the option is. For opt-out to work, there has to be a meaningful opportunity to make that choice.

MR. LOHR, referring to the handout regarding the health information standards, said the opt-in standard means that insurance companies may not share protected health information without explicit [permission from the consumer].

TAPE 01-47, SIDE B
Number 2489

MR. LOHR commented that unlike for financial standards, insurers are not required to provide notices describing their privacy policies, because the incentive is for the company to obtain consent from the customer if he or she wishes to share it, thus taking care of that problem.

MR. LOHR explained that standards do not apply to insurers who are in compliance with the United States Department of Health and Human Services (DHHS) regulations implementing the Health Insurance Portability and Accountability Act (HIPAA), the federal health legislation scheduled to take effect in 2002. The effort here, he emphasized, is not to create a duplicative set of health privacy regulations, but rather to tide over from current [regulation] until these regulations take effect at the federal level. Sharing health information among both affiliates and nonaffiliates is restricted.

REPRESENTATIVE ROKEBERG asked Mr. Lohr if these are the 600 pages of regulations being developed under [HIPAA] for privacy.

MR. LOHR replied that that is how they are regarded, although the bulk of it is actually the preamble, an explanation in response to the 50,000-some comments received on the proposed regulations, regarding how the choices were being made to deal with this or that. There is more preamble than actual regulations; nevertheless, there are plenty of regulations to raise concerns about whether people can do business under the proposed privacy regulations.

REPRESENTATIVE ROKEBERG, referring to Section 44 of the bill, said it allows one to adopt standards already published and adopted by the NAIC; he asked how extensive those regulations are.

Number 2327

MR. LOHR responded that [the committee] could be provided with a copy of that model regulation. Basically, he said, that is the regulation adopted through a nine-month process last year, which involved testimony from virtually every trade association, from large insurance companies, and from interest groups including "funded consumers" concerning the contents of that regulation. It represents a consensus view of what is needed, he said, and it was unanimously adopted by the NAIC in October 2000 as a model. If authorized to do so, [the division] would propose to start a regulatory process by promulgating that rule as the starting point. With that language of "no less restrictive than" [the division] would be looking at public comment and gaps in privacy that Alaskans expect and deserve. [The division] expects considerable testimony on that question. [The division] would then have the NAIC model regulation as a floor below which it could not go, but it would not restrict it from going further if the public testimony indicated that there was a need to do so.

REPRESENTATIVE ROKEBERG said his greatest concern is whether those regulations are at odds with statutes and regulations adopted in Alaska, and particularly the privacy provisions encompassed in Alaska's so-called patients' bill of rights enacted last year, which is going into effect now.

Number 2327

MR. LOHR explained that the privacy provisions in HB 211, the patients' bill of rights, represented, in his view, a high water mark for privacy protection. They are strict and don't contemplate opt-out or opt-in, and they don't allow sharing of financial information; that is an extremely high standard, he said, and is one that arguably could make it difficult to attract or retain insurance companies under those provisions. Currently, that provision applies only to health maintenance organizations (HMOs) and some health care insurers. It is the most restrictive form of privacy protection out there, and there is a question as to whether it is the appropriate standard. If that is the policy decision of this committee, then opt-in for health would not be nearly strong enough; there would need to be

a prohibition on sharing, and he pointed out that it could have serious consequences for the marketplace.

REPRESENTATIVE ROKEBERG said it was his intention to have a very high standard when [this legislation] was drafted, but he's always tried to not dissuade entry into the marketplace, especially relating to health care insurance. He said he is concerned about the provisions that did; the intention was related particularly to some of the pharmaceutical companies and others who had an interest in that clause, which the [legislature] made relatively small. It allowed [guidance] for the general day-to-day operations of all people that share that information. He said he has been working on an issue dealing with treatment of people who have substance abuse problems; [the court] needs to know if a person has a prior conviction or prior treatment relating to substance abuse to be able to administer the proper treatment.

Number 2157

MR. LOHR surmised that provisions dealing with criminal justice access would be different from those involving sharing of information with other companies, and would be covered with a subpoena and other provisions. [The division] hasn't had a problem getting necessary information for criminal justice purposes or for investigating insurance fraud in terms of running into a privacy provision that could withstand an administrative subpoena from the division; however, he said that question would be looked at.

REPRESENTATIVE ROKEBERG said if the court doesn't have to subpoena the information, then he suspects that the defendant would be required to supply it, so it would be consensual at that point.

MR. LOHR said a subpoena is needed if someone isn't cooperating, but privacy provisions wouldn't withstand efforts to obtain information. He said he could share with the committee an analysis done for the HB 211 privacy provisions, and the proposed standard for GLBA state (indisc.) legislation to show how [the division] has compared the two.

CHAIR MURKOWSKI indicated she is in favor of the suggestion.

Number 2157

MR. LOHR said the privacy standards are stronger for health information because the GLBA standard is geared toward banks and securities firms and not toward the insurance industry; there is a much larger volume of health information, and typically this information is more sensitive when compared to financial information. There is greater sharing of information among banks, securities firms, and insurers who are now allowed to affiliate. The privacy model, he exclaimed, is appropriate because it preserves the insurance industry's ability to transact insurance while also protecting consumer privacy. There is broad support out there from industry, consumer groups, and others, he explained, and there is a strong [belief] that state regulation of insurance can work effectively to protect consumers, while also allowing competition in this new environment. Those need to be balanced in order to have a successful approach.

CHAIR MURKOWSKI, going back to the financial information, said [the division] outlined that the financial information can be shared among affiliates without restrictions. She asked if sharing can be done among nonaffiliates, and whether there are restrictions.

MR. LOHR replied affirmatively.

Number 2085

REPRESENTATIVE HAYES asked how "affiliate" is defined. And he asked: If [the legislature] tries to tighten this, would this restrict the [exchange] of information within the company?

MR. LOHR responded that sharing of health information among affiliates is prohibited in regulation; however, sharing of health information for purposes of meeting the customers' needs is not restricted. There are still some gaps that need to be addressed, he said; for example, HIPAA, the DHHS regulations on health, does not prohibit using that information for marketing purposes. It needs to be addressed, because there is no restriction. Some states have experimented with going too far in restricting access; for example, in Hawaii last year there was a major crisis when workers' compensation information wasn't available to those that needed access, and there were criminal penalties in effect for using the information for proper business purposes, mainly for processing claims. This shut down the workers' compensation market until a special session of the legislature convened to address it and come up with a realistic interim standard; it is possible to go overboard, he pointed

out. It has to be a workable system where the reason the customer provides the information in the first place is able to be satisfied.

CHAIR MURKOWSKI said a definition of "financial information" is not included in the text of the bill. She reiterated that Ms. Campbell had said earlier that anything on an application that is not health-related would be considered financial [information]. She said the information besides the health information could be shared without affirmative consent for those things strictly related to the health [aspect]. For instance, just because it is related to medical [information], there are parts of that that could be shared and parts that couldn't.

Number 1999

MR. LOHR responded affirmatively. Upon being asked who decides whether or not a person's gender is classified as financial or health information, he deferred the question to Katie Campbell.

MS. CAMPBELL pointed out that there are very specific definitions in the regulations on what constitutes health information in the NAIC model regulation. She said the definition of health information says:

> ...any information or data except age or gender, whether oral or recorded in any form or medium created by or derived from a health care provider or the consumer that relates to ... past or future physical, mental, [behavioral] health, or condition of the individual, provision of health care, or payment for the provision of health care.

CHAIR MURKOWSKI asked: And since that is in the NAIC model, [the legislature] doesn't have to incorporate it here? Is it incorporated somehow by reference?

MR. LOHR replied that the proposed statutory standard is consistent with, but no less restrictive than, these regulations; the health information definition couldn't encompass less than the NAIC model regulation. Given the confirmation of [Alaska's] authority to do so, [the division] will issue this set of regulations as the starting point for a proposed regulation in Alaska, and will then take public comment on it.

Number 1843

REPRESENTATIVE HALCRO asked what some of the arguments are from companies that want to protect the ability to share financial information.

MR. LOHR deferred the question to the companies themselves; however, he said the primary reason is that if the "other guy" can do it and they can't, then they are at a competitive disadvantage. It is a little scary what is on the Internet now about any one of us, if someone is willing to pay something to obtain it, and it is all done with unregulated sources. In addition, if national securities firms and banks are able to collect information and market it, and if insurance companies can't by regulation, then that is a competitive disadvantage in this new field where mergers, acquisitions, takeovers, and intense competition are developing at a tremendous rate. [Companies] don't want to be on an unlevel playing field in terms of marketing information about a customer.

Number 1757

MR. LOHR went on to the third section, consumer protection. The consumer protection provisions, he said, deal with the financial institution's sales of insurance. This talks about banks and related entities selling insurance to customers. There are extensive consumer protection provisions for insurance companies already in place for processing claims and so forth.

MR. LOHR said Sections 104 and 305 of GLBA provide 13 safe-harbor provisions whereby, if states are operating within these safe-harbor provisions, the consumer protection provisions will be upheld and federal law will not be used to preempt them. Federal banking regulators cannot preempt insurance regulators at the state level if they are operating within one or more of the 13 safe harbors. If they get beyond those safe-harbor provisions, then federal bank regulators can preempt the state's authority. He said he understands that this expands the applicability of consumer protections beyond depository institutions as provided in GLBA to all financial institutions that may transact business in Alaska. There are four major areas of protection related to licensing that include misrepresentation, disclosure, "anti-tying," and the anti-coercion provision.

Number 1688

MR. LOHR asked: Why should these be adopted for a financial institution's sales of insurance? He answered that it is [the provisions] would provide important protections for Alaskans who may purchase insurance through a financial institution. If insurance companies are subject to following consumer protection rules, banks should be subject to them when selling insurance; it is a "functional regulation" within the GLBA scheme of regulation. It avoids possible federal preemption and enforcement of these protections in Alaska. Again, it makes a strong symbolic statement that state regulation can be effective in protecting consumers, while also allowing the insurance industry to remain competitive in a changing financial services marketplace.

Number 1631

MR. LOHR said there are two other GLBA-related provisions that are extremely important, so he went over them again. One requires that a person with a felony conviction involving dishonesty or breach of trust obtain consent from the director before transacting insurance, which is required by the federal violent crime control and protection Act, Title 18, Sections 10.33 and 10.44. The federal government basically said, "We're not going to let anyone work in the business of insurance if they've had a federal felony conviction dealing with dishonesty or breach of trust." If a person wants to be in the insurance business with one of those felonies, he or she must obtain permission from the state director of insurance before doing so.

MR. LOHR said as he understands it, federal law cannot create state authority directly, and it will take state discussion as to whether that provision should be implemented. [The division] is seeking explicit state authority to carry out that requirement of federal law, to be able to make a decision on convicted felons on a case-by-case basis after reviewing the person's record. He said [the division] would be considering the degree of rehabilitation, the sensitivity of the position that the person would be occupying, and whether there are others in that firm who are willing to monitor the person's activities. When asked what [the division] currently does, Mr. Lohr stated that [the division] does implement the federal provision; however, there is some doubt that if it were challenged on it, [the division] would have requisite state authority, so [the division] is trying to "backpedal" to cover that aspect.

MR. LOHR said it would remove barriers in current law to allow for electronic submission of fingerprints since the technology exists and the hard copy approach creates substantial delays.

Number 1550

CHAIR MURKOWSKI pointed out that the bill carries a zero fiscal note. She then asked if the division is capable of dealing with electronic [fingerprint] submissions.

MR. LOHR expressed that [the division] is not set up with the software; however, it is anticipated that because of the strong national interest, "heavy lifting" of that will be done at the national level, allowing a centralized approach toward electronic processing. At this time, he said, there are only 14 states that use fingerprints as a basis for licensing insurance applicants, and [the division] isn't sure how other [states] manage, because [fingerprints] have proven to be an important element in consumer protection in Alaska. [The division] has kept some crooks out of the business of insurance by using them. If there is a fiscal impact, he explained, he believed it would be deserved, because there needs to be a nationally consistent technological approach toward fingerprinting in order to have all of the states submitting this information electronically to a central repository.

CHAIR MURKOWSKI surmised that the cost of going through the fingerprinting process is included in the [applicant's] fees.

MR. LOHR concurred.

Number 1478

MR. LOHR referred to a handout entitled "Recommended Amendments to HB 184," which includes amendments stemming from the feedback received [from various groups]. The first amendment [under "Producer Licensing consistent with NAIC Model" in the handout] addresses changes in producer licensing by adding an additional exemption from licensure for employees of an insurer who perform administrative, managerial, or clerical functions, that are only indirectly related to the transaction of insurance. [The division] is essentially not trying to require that customer service representatives be licensed as agents when helping a customer by updating information to the customer's file and so forth.

Number 1387

MR. LOHR turned his attention to the second amendment under "Producer Licensing," which read:

> Allow payment of compensation without a license as long as no transaction of insurance takes place.

MR. LOHR said it would allow payment of compensation without a license as long as no transaction of insurance takes place. It would help ensure that Alaska meets the reciprocity requirements by giving the director the option to require surplus-line brokers to maintain a bond. Currently the surplus-lines bond is required of any licensee, and is a provision that would likely be considered discriminatory against nonresidents as an additional licensing requirement. If the division had the authority to make a decision about requiring the bond or not, it would enable [the division] to be truly reciprocal with other states.

CHAIR MURKOWSKI asked for an example.

MS. BRUNETTE explained that for people who may be licensed on an individual basis to represent an agency, there is the opportunity to share a commission with the agency even though the agency is not directly transacting business. When asked why a person would want to share the compensation, Ms. Brunette replied that it is typically [laid out] in the employment arrangement. For example, as part of an employment arrangement, the employer might say that the employee could share insurance under the employer's name, but the employee would have to share a commission with the employer for each piece of business sold.

REPRESENTATIVE ROKEBERG asked for verification that [the division] only licenses people, not agencies.

Number 1285

MS. BRUNETTE said [the division] currently license both, but if the agency has multiple people employed, it would need to obtain the agency license. If it is a one-employee situation, it is an optional provision allowing people to share commissions. Another example, she said, would be a referral business where an agent is put into a situation in which he or she can't place the business directly, but may know someone who can, and the business is referred on. The person receiving the business could share the commission for the referral.

REPRESENTATIVE HAYES asked how this differs from a broker.

MS. BRUNETTE said [Alaska] calls people "producers," but there is a distinction as to whether a person is an agent [or a broker]. An agent is a person who actually represents the insurance company and its products; a broker is a person who represents a particular client for his or her needs.

Number 1196

REPRESENTATIVE HALCRO asked if the first [recommended amendment] relates to an employee who answers the phone and is giving out information about different product lines.

MR. BRUNETTE said that section specifically addresses salaried employees.

MR. LOHR said he doesn't believe a receptionist could be in the business of assisting an insurance transaction without a license under law, so that person wouldn't be a candidate for this shared arrangement. Typically, he said, it is people "higher on the food chain" who want a "piece of the action" for what their folks are doing. It is contemplated to do this kind of thing, but wouldn't involve an unlicensed person involved in the sharing.

Number 1085

MR. LOHR said he envisioned that the receptionist would be updating existing customer information and so forth. The minute he or she tries to match insurance needs with company products, however, the person is going to be in trouble with [the division] if the person doesn't possess a license.

MR. LOHR said under the consumer protections [from the recommended amendments], the definition of financial institutions is being clarified to exclude insurers and include credit unions, which he said are two technical changes. There is one redundant privacy provision in the consumer protection section, which would already be covered by the privacy provisions elsewhere in the bill, so [the division] would purpose to eliminate it. It would make a technical correction to the amendments made to the domestic violence anti-discrimination provision to make it consistent with the legislative intent at the time that the provision was adopted. If [the division] didn't make this change, he thought it would be a substantive change in the law; [the division] is not

intending a substantive change there, he said, but would rather keep the intent of an agreement to obtain passage of domestic violence provisions in insurance. He said it has to do with where the word "only" appears in the sentence.

CHAIR MURKOWSKI referred to the definition of financial institution. She asked if it mirrors the definition of financial institution in HB 106 by adding in the credit unions and excluding insurers.

MR. LOHR replied that [the division] would have to look at the provision to be certain.

Number 0906

REPRESENTATIVE ROKEBERG asked what portions of the bill [the legislature] needs to pass this year.

MR. LOHR responded that the privacy provision would be high on the list, because July 1 is the deadline to have provisions in effect. If it is not in effect by then, there is a risk of federal preemption of some state authority with respect to insurance. The second deadline, he said, is November 2002 for [enactment] of the producer licensing provisions. This date will be three years following the congressional enactment of GLBA. If there are not 29 jurisdictions reciprocal by that date, NARAB would be formed. The sooner Alaska can get in line with where the industry is going, the better.

REPRESENTATIVE ROKEBERG asked if [the division] proposes adopting the NAIC regulations by reference and having them published under the Administrative Procedure Act (APA) before July 1.

MR. LOHR answered affirmatively for the privacy provisions. He said [the division] should have included the authority to go ahead and begin a regulatory process pending consideration of the bill as part of the recommended amendments.

Number 0824

REPRESENTATIVE ROKEBERG said [the committee] could adopt [the provisions] by reference in statute, which he said is not a wise thing to do.

CHAIR MURKOWSKI said she is trying to understand the need to rush the privacy provision. [Federal regulators] have given a short lead time on this, she emphasized.

MR. LOHR added that he didn't want to overstate the case, and he didn't believe that if [Alaska's] privacy provisions were not in effect then, [the division's] authority to enforce privacy provisions would be preempted; rather, there is a comparison done between [Alaska's] privacy regulations and those of the federal agencies. If Alaska's are found to be less protective of privacy, then some other preemptive provisions would go into effect; however, he said it would take three years before [Alaska] would be at risk for being preempted. The goal from industry, he explained, has been to know what the rules are going to be in advance and to hopefully have a consistent national system. For example, [the division] has issued an order clarifying that [Alaska] does not intend to enforce the federal privacy rules at the state level before a date certain, because [the division] wants to make it clear what privacy provisions apply.

Number 0646

CHAIR MURKOWSKI mentioned that it specifically states in the letter from the governor [dated March 9, 2001] that these need to be adopted and enforced by July 1 or [Alaska] risks losing the authority to enforce the state consumer protection standards. [The state] doesn't want to risk losing the authority to do any of this, but [the committee] needs to know if this is "drop dead" date or if it is an "it would really be nice if we were there by then" date.

MR. LOHR said he would clarify this in writing, but he believed it to be some of both. The consumer protection provisions that the [governor's] letter references are not the entire scheme of privacy, and these are not all unfair-claim-practice regulations; rather, they are a specific subset of that set out in federal law, which [the division] will provide for the [committee].

REPRESENTATIVE ROKEBERG said the committee might want to consider a statutory sunset date if open-ended authority is given to [the division] to undertake the project, for there to be a review at an appropriate time.

Number 0535

JOHN GEORGE, Lobbyist, National Association of Independent Insurers (NAII); American Family Life Assurance Company of Columbus (AFLAC); and the American Council of Life Insurance (ACLI), said the three companies have diverging opinions. "We" have been working with the division and there is a lot of agreement, but there are still some areas that "we" are working on and finalizing. The first section of the bill, the licensing section, and some of the amendments were suggestions by [NAII, AFLAC, and ACLI]. In the privacy section, however, there is great divergence, he said.

MR. GEORGE stated that there are some advantages to the consumer and to the insurance company to disclosing financial information, and there are some efficiencies, for example, passing on information that results in a 2 percent interest rate break on a credit card because a person is part of a preferred group or getting the platinum card instead of the regular card and so forth.

Number 0354

MR. GEORGE said direct deposit is another example, or if a person wanted a direct billing to his or her bank account to pay an insurance premium; those are the kinds of things that are developing now, and there is a great opportunity to develop more if [companies] can share minimal amounts of financial information. He pointed out that buying group health insurance is cheaper than buying individual [insurance], because it is easier to market. Sharing information that is protected in certain ways allows for some efficiencies and benefits.

MR. GEORGE explained that when buying an insurance company, the buyer is going to want to know what the "book of business" is. That information can't be disclosed, he explained, because only some of these people have opted in. There are a lot of different things that financial information is used for, including reinsurance with affiliates and nonaffiliates. Right now, information is being shared and one doesn't know about it, but under GLBA every financial institution is going to have to [disclose] that information, and the consumer gets to decide if he or she wants to opt out. Under GLBA the customer will get a notice saying what the information will be used for, and if there is a change to what is going to be done with it, the [company] has to notify the customer. The protection under [GLBA] is greater than what is there today.

MR. GEORGE referred to the consumer protection section of the bill. There has been much discussion between the ACLI and the division about this, he expressed, and the preference would be that it not be in [the bill]; however, the division has been working with "us" to come up with language that works, and "we" are not going to object to it. The NAIC is working on a model with standardization as its ultimate goal.

Number 0018

CHAIR MURKOWSKI pointed out that Mr. George had said that there was some divergence among his clients on the privacy issue; however, the comments that he made were pretty much in favor of the opt-out provision through GLBA.

TAPE 01-48, SIDE A

MR. GEORGE said the divergence is regarding whether this bill ought to include medical health information or not. But everyone is in line with the opt-out standard as opposed to an opt in for financial information.

REPRESENTATIVE ROKEBERG asked Mr. George if he would prefer not to have Section 44 and the other provision in the bill, to not have it be GLBA-oriented or required.

MR. GEORGE clarified that he has three clients and he [personally] doesn't have an opinion. The financial protections are absolutely needed. One client of his has said from the outset that it supports the NAIC model, which includes the health and financial information regulations; other clients would prefer to go with just the financial information. He said he presents it to the committee as factual. Life insurance companies, he explained, have a different philosophy than property casualty; for example, property casualty deals with medical or health information much differently than a life insurance or a health insurance company would deal with health information. The company adjusting workers' compensation claims would like to be able to access health insurance information from other sources so the claim can be properly adjusted to avoid fraud. For instance, in the case of a person who has filed 27 slip-and-fall claims against grocery stores, that information would be useful, although health insurers really have a different use for that information.

MR. GEORGE, upon being asked if his clients have objections to the NAIC model regulations, replied that NAII supports the NAIC

model on privacy, and his other two clients would suggest a different standard.

Number 0239

REPRESENTATIVE ROKEBERG said this is what troubles him about adopting [regulation] by reference, because it basically gives the division the authority to take up those regulations.

MR. GEORGE remarked that these are policy decisions for the legislature to make.

REPRESENTATIVE ROKEBERG said it would be helpful if Mr. George could glean out the problem areas in the regulations so the committee could address them in statute and give direction to the division.

Number 0338

MR. GEORGE responded that it is primarily in the health information [section]. [His three clients] agree that there is going to be something on financial information. There is a National Conference of Insurance Legislators (NCIL) model, which deals somewhat differently with health, he said; that is a greater standard than GLBA, but less than the NAIC model.

Number 0420

SHELDON WINTERS, Lobbyist, State Farm Insurance, said State Farm has some concerns with the bill, primarily with the privacy section, and has been in contact with the division. [State Farm] is hopeful it can be worked out, he said, and he would like to reserve the opportunity to come back before the legislature if that doesn't happen.

MR. WINTERS expounded that there are a couple of word changes that seem technical, but which have some significant meaning in the producer licensing section.

REPRESENTATIVE MEYER asked if the privacy question is too restrictive or not restrictive enough.

Number 0549

MR. WINTERS said in a "nutshell" State Farm does not support the NAIC model that is proposed in this bill. [State Farm] takes a different look at how the state ought to enact the regulations

that are required by GLBA. In Section 44, instead of setting the NAIC model as the floor, set GLBA as the floor because that is what [the state] is trying to comply with by July 1, 2001. As long as the division is given the authority from the legislature to enact regulations that are consistent with, but no less restrictive than GLBA, [the state] has accomplished "to the extent of a drop-dead deadline, that problem."

MR. WINTERS said essentially that gives all interested parties the ability to sit down in the regulatory process and express concerns and work through that. It also gives the division the opportunity to adopt the NAIC provision if it feels that it is the requirement, but it also allows flexibility. The privacy regulations are dynamic, and the NAIC is considering amendments to its model. Mr. George had stated in his testimony to the committee that there is an NCIL model, and State Farm's concern is that if through this legislative process the NAIC model sets this minimum requirement, it basically ties everybody's hands; if it turns out that it is not a working model, next year the only way to change it would be to come to the legislature again, instead of working through the division.

Number 0688

CHAIR MURKOWSKI said she appreciates the comments and encourages Mr. Winters to work with the division. She added that the committee will not be moving the bill today, because there is still a lot of work that has to be done. If the bill is still being considered by the committee, she said, and if the input [Mr. Winter] provides [to the division] isn't being considered, she encourages him to come back and testify.

Number 0719

STEVE CONN, Executive Director, Alaska Public Interest Research Group (AkPIRG), via teleconference, explained that the group is a statewide consumer group that has been in the state for over 25 years. He said he would explain why every consumer group including AkPIRG, both nationally and locally, believes that opt-in should be required in situations involving disclosure of financial or health information. Let the consumer make the choice, he emphasized, because we all know from personal experience from daily mailings that opt-out is often no choice at all.

Number 0851

MR. CONN clarified that opt-in means sharing information not only with third parties, but also within the institutional family or affiliates. He said he hopes the new situation and the new danger is understood. The Glass-Steagall Act was repealed by GLBA when the stock market was a lot higher and everyone was feeling flush. The reason the barriers were broken down from the corporate side, he expressed, was quite simple. The banks want to share the information with the insurance companies, with brokerage firms, and with the small-loan and often predatory loan companies funded by banks. They are all one big family, and this is what they want to do. They want to determine from whose customer base to proceed.

MR. CONN said it is in [the companies'] interest to merge and share information, but it isn't in the consumers' interest. Many consumers, particularly elderly ones, do not know that insurance and brokerage products are not federally insured.

MR. CONN emphasized that Alaska's constitution has a privacy section that is explicit. He thinks Alaskan consumers believe that their privacy is not dead. [Alaskans] want the capability to opt in, and if there is an important subject that must be shared between entities, then certainly the corporation that is taking the business can do [the consumer] the service of reaching out and asking whether it can share information, either health or financial information.

MR. CONN said he disagrees with those who suggest that there is a small amount of financial information; in the insurance realm, for example, he personally deals with his house, cars, and a number of things. [The company] has a long-term [relationship] with him, and he said he has a reliable insurance agent; he doesn't want that agent sharing his information with a corporate partner or to a third-party affiliate merely to increase business. He said he doesn't think being strong in the area of opting in will throw [Alaska] out of compliance. He said the compliance has more to do with licensing and reciprocity.

Number 1008

MR. CONN said there is the constant theme song that if insurance doesn't like what is happening, is it might go elsewhere, but he doubts whether that is true. He looks to the legislature, he emphasized, not to the Division of Insurance, which has been so reluctant to share this legislation with the consumer organizations until being asked by a committee. He asked the lawmakers to stand up for the right to privacy, as was done with

the patients' bill of rights, and press for opt-in rather than opt-out at every turn, both in HB 184 and in HB 106.

CHAIR MURKOWSKI indicated that the bill would be held over and that she would be looking to Mr. Lohr for notice regarding when the bill could be rescheduled.

Number 1115

REPRESENTATIVE HAYES asked if [the committee] is going to try to get this bill through both chambers, or just parts of it.

CHAIR MURKOWSKI said [SB 138, the companion bill] was heard in Senate Labor and Commerce Standing Committee in one hearing.

MR. LOHR agreed and said it will be up again tomorrow [in the Senate] and he thought there might be a committee substitute (CS) offered at that time. He said [the division] would be happy to provide the text of the amendments as soon as they are back from Mr. Ford. He mentioned that the consultation with industry would hopefully happen on Friday.

[HB 184 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:15 p.m.