

**ALASKA STATE LEGISLATURE**  
**HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

March 26, 2004

3:26 p.m.

**MEMBERS PRESENT**

Representative Nancy Dahlstrom  
Representative Bob Lynn  
Representative Norman Rokeberg  
Representative David Guttenberg  
Representative Tom Anderson, Chair

**MEMBERS ABSENT**

Representative Carl Gatto, Vice Chair  
Representative Harry Crawford

**COMMITTEE CALENDAR**

HOUSE BILL NO. 148

"An Act instructing the State Board of Registration for Architects, Engineers, and Land Surveyors to adopt minimum technical standards relating to the practice of surveying."

- HEARD AND HELD

HOUSE BILL NO. 330

"An Act shortening the time periods after which certain unclaimed property is presumed to be abandoned; and providing for an effective date."

- MOVED CSHB 330(L&C) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 148

SHORT TITLE: LAND SURVEY STANDARDS

SPONSOR(S): REPRESENTATIVE(S) HARRIS

03/04/03 (H) READ THE FIRST TIME - REFERRALS  
03/04/03 (H) L&C  
03/31/03 (H) L&C AT 3:15 PM CAPITOL 17  
03/31/03 (H) Heard & Held  
03/31/03 (H) MINUTE(L&C)  
04/07/03 (H) L&C AT 3:15 PM CAPITOL 17  
04/07/03 (H) Scheduled But Not Heard

03/26/04 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 330

SHORT TITLE: DECREASE TIME TO CLAIM UNCLAIMED PROPERTY

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

05/21/03	(H)	READ THE FIRST TIME - REFERRALS
05/21/03	(H)	L&C, STA
03/24/04	(H)	L&C AT 3:15 PM CAPITOL 17
03/24/04	(H)	Scheduled But Not Heard
03/26/04	(H)	L&C AT 3:15 PM CAPITOL 17

#### **WITNESS REGISTER**

PETER FELLMAN, Staff  
to Representative John Harris  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Presented the CS for HB 148 on behalf of Representative John Harris, sponsor.

PATRICK KALEN, Chair  
Legislative Committee  
Alaska Society of Professional Land Surveyors (ASPLS)  
Fairbanks, Alaska

POSITION STATEMENT: Testified during the discussion of HB 148.

LILLIAN B. WOOD, Broker  
Valdez Realty  
Valdez, Alaska

POSITION STATEMENT: Testified on behalf of herself and her husband in support of HB 148.

PATRICK CHURCH, Surveyor  
Homer, Alaska

POSITION STATEMENT: Testified against HB 148, saying the bill works against the professional land surveyor's ability to exercise field judgment.

MICHAEL SCHODER, Land Surveyor;  
President  
Alaska Society of Professional Land Surveyors  
Anchorage, Alaska

POSITION STATEMENT: Testified on behalf of ASPLS in support of HB 148.

PAUL WHIPPLE, Land Surveyor

Alaska Society of Professional Land Surveyors;  
Past President  
Alaska Professional Design Council  
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 148 and answered questions.

RACHEL LEWIS  
Unclaimed Property Section  
Treasury Division  
Department of Revenue  
Juneau, Alaska

POSITION STATEMENT: Presented amendments to HB 330 on behalf of the Department of Revenue.

#### **ACTION NARRATIVE**

#### **TAPE 04-34, SIDE A**

Number 0001

**CHAIR TOM ANDERSON** called the House Labor and Commerce Standing Committee meeting to order at 3:26 p.m. Representatives Anderson, Dahlstrom, Lynn, Rokeberg, and Guttenberg were present at the call to order.

#### HB 148-LAND SURVEY STANDARDS

REPRESENTATIVE ROKEBERG announced that the first order of business would be HOUSE BILL NO. 148, "An Act instructing the State Board of Registration for Architects, Engineers, and Land Surveyors to adopt minimum technical standards relating to the practice of surveying."

Number 0074

PETER FELLMAN, Staff to Representative John Harris, Alaska State Legislature, sponsor of HB 148, testified that this bill had been before the House Labor and Commerce Standing Committee last session where several issues were pointed out. He stated that Representative Harris took the recommendations seriously and has worked with the State Board of Registration for Architects, Engineers and Land Surveyors, and the Alaska Society of Professional Land Surveyors, and individual land surveyors and real estate people.

MR. FELLMAN stated that this legislation directs the commissioner to adopt regulations for mortgage surveys by

working with the Alaska Society of Professional Land Surveyors; it also defines what a mortgage survey is.

REPRESENTATIVE LYNN asked if a mortgage survey is commonly known as an "as built" survey.

MR. FELLMAN responded that he thinks that is a fair characterization.

Number 0229

REPRESENTATIVE ROKEBERG moved to adopt the proposed committee substitute (CS) to HB 148, Version 23-LS0417\W, Kurtz, 2/23/04 as a work draft. There being no objection, Version W was before the committee.

REPRESENTATIVE ROKEBERG asked for clarification on the bill's intent.

MR. FELLMAN stated that the bill directs the commissioner to adopt regulations by working with the Alaska Society of Professional Land Surveyors (ASPLS). He pointed out that the Board of Registration for Architects, Engineers, and Land Surveyors enforce regulations rather than adopt regulations and they recommended that the commissioner work with ASPLS.

Number 0372

REPRESENTATIVE LYNN asked if Representative Harris' office had checked with mortgage lenders and various title companies in Alaska to see if they concur with the proposed CS.

MR. FELLMAN replied that they had. He stated that title companies can determine what type of survey they want. A mortgage survey defines where the buildings are on a piece of real estate. He said they support this bill.

REPRESENTATIVE LYNN probed as to whether or not mortgage companies had been contacted.

MR. FELLMAN stated that he has not contacted anyone from the lending industry.

REPRESENTATIVE ROKEBERG noted there is no correspondence from the title companies supporting this bill in the packet.

MR. FELLMAN replied that there was no correspondence. He noted that he had made phone calls to determine if this bill would cause a problem. He said, "They request whatever varying degree of survey they want. And, so this is ... sets a standard for a mortgage survey, so if they say give me a mortgage survey, we know what it is without having a mortgage survey done in the Kenai which would be different than a mortgage survey done in Fairbanks, ... this puts everybody on the same page ...."

REPRESENTATIVE LYNN asked if this bill sets a minimum standard for as built surveys.

MR. FELLMAN replied that it does.

Number 0520

REPRESENTATIVE ROKEBERG read a portion of Section 2:

In developing regulations establishing minimum standards for the performance of mortgage surveys, the commissioner shall consult with and consider adopting standards recommended by the Alaska Society of Professional Land Surveyors.

REPRESENTATIVE ROKEBERG then asked if the commissioner should also consult with the lending institutions, title companies, and real estate practitioners of the state, to make sure they are all in agreement. He said he is concerned that the standards being developed should be consistent with practices "out in the real world."

MR. FELLMAN replied that this is a good point.

Number 0598

PATRICK KALEN, Chair, Legislative Committee, Alaska Society of Professional Land Surveyors (ASPLS), testified that a couple of the surveyors put together a set of standards that originated with Ohio, and passed them for review to members of the ASPLS. He described the standards as a simple, two and a half page list of what should go into a mortgage survey.

REPRESENTATIVE ROKEBERG asked Mr. Kalen if he had consulted with the mortgage underwriters and the Land Title Association and so forth when he was discussing this proposed set of standards.

MR. KALEN replied that he had not.

REPRESENTATIVE ROKEBERG noted that according to the ASPLS letter [01/26/04] in the packet, if Alaska were to adopt standards used in Florida the costs to perform surveys would increase and this cost would be passed to the consumer. He asked if the ASPLS had consequently chosen a different approach.

MR. KALEN replied that the Florida standards were attractive since they solved problems, however, the increased cost "made it kind of sensitive." He noted that in Alaska there is a wide variation of lot sizes and some very rural land. He said he feels that these issues are addressed by the standards they propose. He went on to explain that Florida requires that the monumentation for a parcel always exist and, if a mortgage survey is done and the monumentation does not exist, the surveyor must reestablish the boundary. This procedure makes for a higher first-time expense but keeps titles very clear. Mr. Kalen commented, "The initial costs are definitely there, and ... we dodged them. We're taking the low-budget route."

Number 0765

REPRESENTATIVE ROKEBERG asked Mr. Kalen if he would object to the committee modifying the bill and requesting that ASPLS consult with other affected parties in the state in developing the standards.

MR. KALEN replied that he does not think there would be an objection and commented that his association is not the driving force behind this bill.

REPRESENTATIVE ROKEBERG asked who is the driving force.

MR. KALEN replied that he heard the ideas behind the bill from the sponsor, Representative Harris. He noted that there are not any standard surveying rules for plot plans, also called as-built surveys or mortgage surveys, with the consequence of uneven quality. He stated:

Speaking from the point of view of the board of registration, when we have poor surveys being done, and cases being brought against surveyors who are doing less than minimum standard work, we quite often find that mortgage surveys is a significant part of the bad work. But the investigators can't - have a real hard time getting a handle on it because of a lack of standards.

Number 0893

REPRESENTATIVE ROKEBERG asked if it is Mr. Kalen's testimony that there is no standardization in the nomenclature for these surveys since they are called by various names.

MR. KALEN replied that the term "as-built survey" is very inclusive and refers to any type of survey where the surveyor is locating physical features. As-built surveys include all of the engineering surveys for route surveys, the higher-grade American Land Title Association [ALTA] surveys. He referred to these surveys as the "non-problem" surveys, for example, mortgage surveys when Fred Meyer or Wal-Mart intend to build. These surveys invoke national standards and are very thorough and expensive. He compared a survey for property involving a \$100,000 loan with a survey involving \$1,000,000 loan. The more expensive loan will call for an ALTA survey using national standards and cost \$8,000 to \$15,000. In a plain mortgage survey, where the loan is \$100,000 or less, he said, "There aren't any rules at all. You just may show a cabin on a five acre lot and you may or may not show how far it is from the boundary, depending on who did the survey."

Number 1045

LILLIAN B. WOOD, Broker, Valdez Realty, testified for herself and her husband, Walter M. Wood, (indisc. - due to poor transmission).

CHAIR ANDERSON asked Ms. Wood to restate her position on HB 148.

MS. WOOD replied, "We're very much in support of the bill."

Number 1122

PATRICK CHURCH, Surveyor, testified that he had a discussion with the land surveyor on the board, about the "push" behind this legislation at the last ASPLS meeting. He felt that it was involved with active enforcement. [Some testimony indisc. - due to poor transmission.]

He referred to the certificate of registration for a land surveyor and said that without enforcement, additional personnel, and funding, he didn't think the problem would be fully addressed. He stated that surveyors have to use judgment in the field and said, "I don't know what this cookie cutter

attempt is going to ... it works against the land surveyors ability to exercise field judgment." He felt it should be up to the client to determine what is necessary.

REPRESENTATIVE ROKEBERG asked Mr. Church if he thinks it would be better because of common usage to use the term "as-built survey" or "as-built mortgage survey", rather than mortgage survey.

MR. CHURCH replied that he does not think there should be a statewide standard.

REPRESENTATIVE GUTTENBERG asked for clarification.

MR. CHURCH responded that he thinks that the title company or the client should determine what they require and think is necessary and the surveyor should exercise his professional judgment.

REPRESENTATIVE GUTTENBERG pointed out that if a property owner in Kodiak sold to someone getting a deed from a Fairbanks bank, a case of conflicting interests and concerns could result if there were different standards for the survey.

MR. CHURCH replied that he has many books he would refer to, including the standards of practice manual, to solve this problem. He also noted that techniques are changing and he does not believe this bill would solve the problem. He said he thinks the problem has to do with enforcement.

Number 1477

MR. FELLMAN stated that if there was no standard there would be nothing to enforce. He asked how could the Board of Registered Architects, Engineers, and Land Surveyors take action against a surveyor who didn't perform an acceptable survey if they did not know what the standard for a mortgage survey was.

REPRESENTATIVE GUTTENBERG asked Mr. Kalen if a minimum standard is established would that preclude a lending agency or realtor from asking for additional information.

MR. KALEN replied that is correct and likely since the minimum standards were not "very great." He opined that Mr. Church might not have actually seen the proposed minimum standards. The proposed standards would not have any effect on any mortgage survey that they produce, he added. However, he said he feels

absolutely certain that the new standards would have an effect on some poorly done surveys. He testified that the enforcement aspect is a problem because of the present lack of standards.

Number 1603

REPRESENTATIVE LYNN disclosed that he is a licensed, associate real estate broker with an office in Anchorage. He said that in his experience surveys come as part of a package where the lender requires an as-built survey that is basically a map showing the improvements on the property. It is difficult to do these surveys without monuments since there is no established point of reference without them. He stated there needs to be some minimum standards that include using monuments. He said he would like to see an economical, portable survey that could be taken from one title company, lender, or realtor to another.

Number 1698

MICHAEL SCHODER, Land Surveyor; President, Alaska Society of Professional Land Surveyors, responded to previous testimony:

ASPLS does support this bill. We are a key part in the committee substitute that you are considering here today ... our active standards of practice subcommittee will work diligently to develop mortgage survey standards. ... Mr. Church had referred to our standards of practice manual as being six inches thick. It is. Most of that manual, though, is a compilation of Alaska statutes and administrative code. Our standards section has been in place for over 20 years but it is limited to a variety of other types of surveys. And we never got a chance to actually address the mortgage survey. This really is the low-end survey of many of the things that we do as a profession. Although it does create some problems,

I think that Mr. Kalen has accurately reflected a reference to the America Land Title Association, ACSM [American Congress on Surveying and Mapping], ALTA standard survey that is a very thorough survey. [It] is always an option to a lender for those properties, even residential properties, that may have boundary problems, that they want a very consistent survey, as Representative Lynn said, even to go across the country so it would look the same to any mortgage. So, that's always an option. ... I think the rub is

that for most lower-priced properties, as Mr. Kalen has mentioned earlier, they're not willing to invest that type of money in a real estate closure process.

We have had quite a bit of discussion about the title of what we call these things. ... Typically in Anchorage, we call them "as-builts" and in Fairbanks they're called "claw plans" (ph) and in Anchorage, our municipal public works has a whole different -- that's a pre-building permit survey. It's called a "plot plan" so there may be needs [to] have some work with a title of mortgage survey, or as was suggested earlier, maybe "as-built mortgage survey". We're willing to work with that and we are also willing to work with those lenders, title companies, and others, as the ASPLS helps develop the mortgage survey standards.

Number 1825

PAUL WHIPPLE, Land Surveyor, Alaska Society of Professional Land Surveyors; Past President, Alaska Professional Design Council, testified in support of HB 148. He stated he personally does not do mortgage surveys or residential lot surveys but intercepts many phone calls from the public regarding the confusion that is generated by not having any standards. He opined that by establishing standards much of this confusion would be cleared up.

CHAIR ANDERSON, upon determining no one else wished to testify, closed public testimony.

REPRESENTATIVE ROKEBERG asked if as-built surveys are currently not defined in statute or regulation.

MR. SCHODER replied that to his knowledge that is correct.

REPRESENTATIVE ROKEBERG asked if the standards of practice manual is compiled by his association. He also expressed confusion as to the several terms for mortgage surveys used in information from the ASPLS and in HB 148, and he asked if Mr. Schoder could help the committee clarify this issue.

Number 1980

MR. SCHODER replied that this was so and he described the manual. He said there is no specific section that spoke to as-built mortgage surveys. He said he feels that the best-defined

term is the ALTA ACSM survey because it has specific, well-defined, standards. He related that the terms in common usage around the country - of mortgage surveys, mortgage inspections, as-built surveys - all refer to the same instrument: it is a location survey done to prove to the lenders that the improvements on the property do not encroach on others and that the improvements exist as reported in their real estate transaction. It exists specifically for the lender's use and is consequently very inexpensive. He noted that many surveyors do not perform these surveys because of the low return and the liability. This type of survey is not designed to be an accurate boundary survey. He suggested working together with the House Labor and Commerce Standing Committee to arrive at a clear definition and term.

REPRESENTATIVE ROKEBERG replied that the bill empowers the ASPLS to do this work and he is troubled by this testimony. He clarified that the House Labor and Commerce Standing Committee, as it represents the public, through this bill would grant some authority to the ASPLS. He further stated the committee wants to make sure that [ASPLS] performed in the most cost effective and best way to satisfy consumers and members of the industry. He noted that in his experience these surveys were called as-built surveys and asked what term would be preferred.

MR. WHIPPLE offered that a mortgage survey is a subset of an as-built survey. He said the title of HB 148 is testimony to a nationwide discussion as to what to call this kind of survey. He said in Montana it is called a "mortgage inspection survey," in Ohio it is call a "mortgage survey," and it's also known as a "mortgage as-built location survey". He opined that the term used in the bill is the most convenient and simple and hoped that the public would use and understand it.

Number 2149

MR. KALEN commented that the ASPLS believes that both the proposed standards and the proposed legislation do an excellent job of grasping what word to use and how to define it. He continued, "For the purposes of this section, mortgage survey means a drawing that is made and sealed by a land surveyor, showing the location of improvements on a parcel of real property ...."

REPRESENTATIVE ROKEBERG noted that there is usage in the bill packet of the terms "mortgage location survey" and "As-Built Survey" [preamble to proposed mortgage survey standards]. He

also noted that he just realized that there is more than one type of a mortgage survey and asked Mr. Kalen if this is correct.

MR. KALEN said the only way he would consider more than one type of a mortgage survey would be if the lender invoked the ALTA survey standards. This would still be a mortgage survey but with a higher level of standards.

REPRESENTATIVE ROKEBERG argued for a clear distinction to be made since this would accord with drafting laws. He asked if they could use the ALTA and the American Congress of Surveying and Mapping standards to define the term.

MR. KALEN replied that the ALTA standards are a part of the Alaska Society of Professional Land Surveyors Standards of Practice Manual.

Number 2270

REPRESENTATIVE GUTTENBERG said if the committee is going to set a minimum standard then it should be a minimum standard, not minimum standards for different kinds of surveys. If the industry and lending agencies and realtors want additional standards they can request them at another level.

MR. KALEN agreed.

CHAIR ANDERSON proposed that Representative Rokeberg craft an amendment.

MR. FELLMAN said that the intent of HB 148 is to establish standards for a mortgage survey. He said, "This is really a bottom end. So that if somebody says they want a mortgage survey to determine where the buildings are, how far they are from a property line - that's what this would do."

REPRESENTATIVE ROKEBERG stated that this bill establishes a single minimum standard. He expressed concern that the mortgagors needed to take part in this process so that the bill would reflect their concerns.

MR. FELLMAN agreed.

Number 2378

REPRESENTATIVE ROKEBERG stated he would like to make some conceptual amendments and get a CS drafted since there is no other committee referral. HB 148 could be circulated among the interested parties and then brought back to the committee, he suggested.

**TAPE 04-34, SIDE B**

Number 2375

REPRESENTATIVE GUTTENBERG agreed and expressed a concern about asking the commissioner to adopt regulations without anyone from their office being present.

MR. FELLMAN said he has ascertained that Gerald Jennings [Land Surveyor, Realty Services (Anchorage), Division of Mining, Land and Water, Department of Natural Resources] is the individual who would work with the surveyors.

Number 2355

REPRESENTATIVE ROKEBERG moved to adopt Conceptual Amendment 1, stating, "The committee's intent is to establish a minimum standard for ... a mortgage survey, singular. That the title should have 'mortgage surveys' is OK."

Number 2308

CHAIR ANDERSON objected and immediately removed his objection. Hearing no further objections, Chair Anderson announced that Conceptual Amendment 1 was adopted.

Number 2295

REPRESENTATIVE ROKEBERG moved to adopt Conceptual Amendment 2 to HB 148.

CHAIR ANDERSON objected.

REPRESENTATIVE ROKEBERG explained that Conceptual Amendment 2 would state that "the Alaska Society for Professional Land Surveyors adopt standards ... not inconsistent with the American Land Title Association (ALTA), the American Congress of Survey and Mapping (ACSM), and, I believe, the National Society of Professional Surveyors (NSPS), as closely as possible."

REPRESENTATIVE ROKEBERG requested feedback from Mr. Schoder, Mr. Kalen, and Mr. Whipple on Conceptual Amendment 2.

Number 2259

MR. SCHODER said it might be workable. He said he understands the intent of [Conceptual Amendment 2] is to be as consistent as possible with the ACSM and NSPS standards.

REPRESENTATIVE ROKEBERG explained that the intent is for Alaska to conform to national standards as much as possible.

MR. SCHODER said that is reasonable.

MR. KALEN relayed concerns because "the ALTA surveys are big guys with a lot more detail in them."

REPRESENTATIVE ROKEBERG responded, "We want you to do that - we want you to say that."

MR. KALEN replied, "You mean make some big surveys?"

REPRESENTATIVE ROKEBERG explained that Mr. Kalen should reflect in the regulations that are drafted that they exist. He asked if ALTA surveys are defined by ALTA.

MR. KALEN replied that they are defined by ALTA and ACSM. He noted that ALTA was used in the drafting of the proposed regulations. He said that much of what Representative Rokeberg is aiming at may have already been accomplished.

Number 2200

REPRESENTATIVE ROKEBERG said that one of his concerns is that there should be a minimum standard for a mortgage survey. He suggested that Mr. Kalen's testimony indicates that there are different types of surveys that could be commissioned by lenders and property owners. He said he believes that the regulations should be drafted to serve the purpose. He asked if he is asking too much.

MR. KALEN opined that ALTA standards could be added as needed.

REPRESENTATIVE ROKEBERG explained that a committee substitute would be drafted and sent to Mr. Kalen to see if it would work.

Number 2149

CHAIR ANDERSON removed his objection. There being no further objection, Conceptual Amendment 2 was adopted.

Number 2139

REPRESENTATIVE ROKEBERG offered Conceptual Amendment 3 and explained that it would best be placed on page 2, line 1, after "the Alaska Society for Professional Land Surveyors." He said, "It is conceptual because they will consult with mortgage lenders, land title companies, and real estate companies when considering and when drafting these regulations. The purpose of which is to conform with the needs of the public and the consumers to which they're serving."

CHAIR ANDERSON suggested using Representative Lynn's idea to use "real estate and land title professionals when adopting regulations".

REPRESENTATIVE ROKEBERG agreed to that friendly amendment. He suggested that the cost to the consumer should be kept minimal.

CHAIR ANDERSON objected for discussion purposed.

Number 2093

REPRESENTATIVE GUTTENBERG reminded the committee that it is looking for minimum standards. He opined that each of the organizations would have a different interpretation of what the minimum is for them. He said that the surveyors are being asked to define what the minimum is.

REPRESENTATIVE ROKEBERG added that the mortgage companies are the ones that need the surveys done.

REPRESENTATIVE GUTTENBERG said right, but that he has done surveys for himself which did not require a mortgage company. "If a mortgage company wants a survey that's enhanced over what a minimum is, that's okay," he remarked. He suggested that there should be a choice if a person wanted a survey on their own property that was just minimum or less than minimum standards.

CHAIR ANDERSON replied that he thought that was a good advisory note to Conceptual Amendment 3.

Number 2036

CHAIR ANDERSON withdrew his objection. There being no further objection, Conceptual Amendment 3 was adopted.

CHAIR ANDERSON stated that the three amendments would be included in a new committee substitute and announced that HB 148 would be held over.

HB 330-DECREASE TIME TO CLAIM UNCLAIMED PROPERTY

CHAIR ANDERSON announced that the final order of business would be HOUSE BILL NO. 330, "An Act shortening the time periods after which certain unclaimed property is presumed to be abandoned; and providing for an effective date."

Number 2003

RACHEL LEWIS, Unclaimed Property Section, Treasury Division, Department of Revenue (DOR), reported that HB 330 was introduced late into last year's legislative session, [sponsored by the House Rules committee by request of the governor] and reworked over the interim, and as a result, DOR and the Department of Law arrived at suggested amendments.

Number 1980

REPRESENTATIVE LYNN moved to adopt the proposed committee substitute (CS) for HB 330, Version 773-04-0035 Hbil.doc, 12/5/2003, as the working document. There being no objection, Version 773-04-0035 was before the committee.

MS. LEWIS explained the differences between the previous and current versions of the bill. She said that the first version of the bill addressed specifically dormancy periods with unclaimed property. It lowered dormancy or abandonment periods when a check has gone uncashed for a period of time. "The proposed CS addresses other parts of the Uniform Law Commissioner's Model Punitive Damages Act of 1995, which also had things to do with cleaning up some definitions and adding a burden of proof section, which the State of Alaska statute did not," she related. It also eliminates, in Section 6, the seven distributions for stock before it becomes unclaimed property.

Number 1892

MS. LEWIS explained that in Section 10 the language is cleaned up regarding unclaimed property below \$100. Unclaimed property need not be reported unless it totals \$750, she added. Section

11 is an addition about uniform law commission and talks about examining reports of people who have unclaimed property.

MS. LEWIS said that in the past DOR was required to publish in the paper every year the new unclaimed property reported with value over \$100, which cost about \$30,000. Last year there were 348 claims from the newspaper publication notice and 1,806 claims from the DOR web site, which bears no cost, and which generated \$390,000 being returned to unclaimed property owners, she said. Section 13 leaves it up to DOR to determine how to give notice of unclaimed property, she pointed out.

MS. LEWIS reported that all of the dormancy periods are directly in line with the uniform law commission. She said that DOR is trying to narrow it down for people who are reporting unclaimed property to make it easier for them. There is a better chance of finding the owner of unclaimed property when the dormancy period is shorter, she said, and it is a benefit to the state because the money is put in DOR's trust fund.

Number 1773

REPRESENTATIVE DAHLSTROM thanked Ms. Lewis for the great job in testifying for the first time. She asked for the numbers regarding publication costs to be repeated.

MS. LEWIS repeated the numbers.

REPRESENTATIVE DAHLSTROM asked if the reason so much more money was generated from the web site is because it had a national audience.

MS. LEWIS said yes.

Number 1730

REPRESENTATIVE ROKEBERG asked about the definition of gift certificate as defined in Sections 16 and 14, whether it is the gift certificate itself or the unused balance held by the corporation.

MS. LEWIS said it is supposed to come to unclaimed property as the gift certificate number and the person's name. The full amount of the gift certificate is reimbursed, she said. If there is a balance on the gift certificate, then it would only be the remaining balance, she added. She said gift certificates

are already mentioned in the law, but what is not included are electronically stored gift cards.

REPRESENTATIVE ROKEBERG asked if DOR is asking companies to report their unclaimed balances.

MS. LEWIS said yes.

REPRESENTATIVE ROKEBERG asked if retailers typically report to the state this unclaimed money.

MS. LEWIS replied that there is low compliance from gift certificates.

REPRESENTATIVE ROKEBERG asked about the time period for unclaimed stocks.

MS. LEWIS explained that any activity on a stock certificate like a stock split, a dividend, a merger, or an acquisition will take "seven of those pieces of activity that's generated by a company before it's considered unclaimed." The Uniform Law Commissioner's Model Punitive Damages Act eliminates that completely. "After five years, when you send a dividend check and it's not cashed, and you send a last-known letter to that address, if they still haven't responded, it's unclaimed. Five years is long enough. You don't have to wait for that other activity," she said.

CHAIR ANDERSON asked if anyone has strong opposition to [the proposed CS to HB 330].

Number 1530

MS. LEWIS explained the demutualization section of the bill was not listed in the Uniform Law Commissioner's Model Punitive Damages Act in 1995, which most states are using now. It is a relatively new type of property that was generated because mutual companies, in order to create revenue, decided to take what were know as policyholders for life insurance and turn them into stockholders so that they could generate revenue. Ms. Lewis continued to explain:

Between the time when you are a policyholder with an insurance company and when that policy pays out, there is usually no activity. It's only upon the death of someone that that would happen. You know your premium's paid; 25 to 30 years later when you die,

your estate is going to get the life insurance money. By making it a stock form of ownership, they have not tried to contact any of these lost policyholders, so now we have a lot, and it's estimated that between \$100 billion to \$200 billion worth of stock and stock proceeds generated from these demutualizations that are being held by companies - as their lost stockholders now, but they were originally policyholders - they've been lost for years. So demutualization is saying those companies have no way of knowing if those policyholders are lost and not to wait until the date of demutualization happened to start the countdown for making it unclaimed property, but to make the countdown start when they know that the policyholder became abandoned from their property. There are 13 states that have adopted this language. It's just because we know right now that there are people who are lost and their property is not getting turned over because the companies are holding it as active accounts because nothing has given them the flag that it's inactive.

Number 1437

REPRESENTATIVE GUTTENBERG related a story about a person he knows who had a stock investment for a long period of time. For many years that person made contributions and then stopped. They got a notice that their account had been lost and was found by a third party who tried to claim a reward of 25 percent for telling the person where their money was. He asked if this is the kind of situation Ms. Lewis is referring to.

MS. LEWIS replied that there are two different issues in this case. Fee finders have access to those records before the state has an opportunity to try and locate the lost money, she reported.

REPRESENTATIVE GUTTENBERG relayed that the person had been receiving notices all along but didn't respond and so their account was abandoned. In this case the person couldn't read, he said.

CHAIR ANDERSON said it is a concern, but is probably best discussed in regulations rather than statute.

Number 1334

REPRESENTATIVE LYNN said the proposed CS has been explained so well that he has no questions.

REPRESENTATIVE DAHLSTROM moved to report CSHB 330, Version 773-04-0035, Hbil.doc, 12/5/2003, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 330(L&C) was reported from the House Labor and Commerce Standing Committee.

**ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:37 p.m.