

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

April 13, 2005

3:34 p.m.

MEMBERS PRESENT

Representative Tom Anderson, Chair
Representative Pete Kott
Representative Gabrielle LeDoux
Representative Bob Lynn
Representative Norman Rokeberg
Representative David Guttenberg

MEMBERS ABSENT

Representative Harry Crawford

COMMITTEE CALENDAR

HOUSE BILL NO. 226

"An Act relating to breaches of security involving personal information; and relating to credit report security freezes."

- HEARD AND HELD

HOUSE BILL NO. 213

"An Act relating to alcohol server education."

- MOVED HB 213 OUT OF COMMITTEE

HOUSE BILL NO. 227

"An Act relating to the Alaska Small Loans Act; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 226

SHORT TITLE: PERSONAL INFORMATION BREACH

SPONSOR(S): REPRESENTATIVE(S) GARA

03/21/05	(H)	READ THE FIRST TIME - REFERRALS
03/21/05	(H)	L&C, JUD
04/06/05	(H)	L&C AT 3:15 PM CAPITOL 17
04/06/05	(H)	<Bill Hearing Postponed>

04/13/05 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 213

SHORT TITLE: ALCOHOL SERVER EDUCATION

SPONSOR(S): REPRESENTATIVE(S) RAMRAS

03/09/05 (H) READ THE FIRST TIME - REFERRALS
03/09/05 (H) L&C, FIN
04/13/05 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 227

SHORT TITLE: ALASKA SMALL LOANS ACT

SPONSOR(S): LABOR & COMMERCE

03/21/05 (H) READ THE FIRST TIME - REFERRALS
03/21/05 (H) L&C, JUD
04/01/05 (H) L&C AT 3:15 PM CAPITOL 17
04/01/05 (H) Bill Postponed
04/04/05 (H) L&C AT 3:15 PM CAPITOL 17
04/04/05 (H) Scheduled But Not Heard
04/13/05 (H) L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

REPRESENTATIVE LES GARA
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 226.

GEORGE BERRY

Teamsters Local 959
Fairbanks, Alaska

POSITION STATEMENT: During discussion of HB 226, stressed the need to keep an individual's right to privacy at the forefront when [employers] perform background checks.

JOHN GEORGE, Lobbyist

American Council of Life Insurers;
Property Casualty Insurance Association of America
Juneau, Alaska

POSITION STATEMENT: Testified in support of the concept of HB 226, but expressed some concerns.

BARBARA HUFF TUCKNESS, Director
Governmental and Legislative Affairs
Teamster Local 959
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 226.

CLYDE SNIFFEN, Assistant Attorney General
Civil Division (Anchorage)
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Stated that the department has no legal concerns with HB 226.

STEVE CLEARY, Executive Director
Alaska Public Interest Research Group (AkPIRG)
Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 226, applauded the quick efforts of the committee.

DAN SIMIEM, President
Laborers Local 942
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 226.

REPRESENTATIVE JAY RAMRAS
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke as the sponsor of HB 213.

MIKE O'HARE, Staff
to Representative Kott
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 213, related his experience with the techniques in alcohol management course.

JON BITTNER, Staff
to Representative Anderson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 227 on behalf of the House Labor and Commerce Standing Committee, sponsor.

MARK DAVIS, Director
Division of Banking & Securities
Department of Commerce, Community, & Economic Development
Juneau, Alaska

POSITION STATEMENT: Expressed concerns with HB 227.

MARK HAMBLIN
Wells Fargo Financial

(No address provided)

POSITION STATEMENT: Testified in support of HB 227.

RICHARD BLOCK

Mellen Investment Company, LLC

Anchorage, Alaska

POSITION STATEMENT: Expressed concerns with HB 227, and stated that it would put his company out of business.

SHANE OSOWSKI

Equity Investors, Inc.

Anchorage, Alaska

POSITION STATEMENT: Expressed concerns with HB 227.

JIM JOHNSON

Affordable Loan Company

Anchorage, Alaska

POSITION STATEMENT: Testified on HB 227.

KENNETH GAIN, President

Cash Now Financial

Anchorage, Alaska

POSITION STATEMENT: Expressed concerns with HB 227, and suggested that at a minimum Section 1 be deleted.

PEGGY ANNE MCCONNOCHIE

Alaska Association of Realtors

Juneau, Alaska

POSITION STATEMENT: Expressed concerns with HB 227, and suggested that at a minimum Section 1 be deleted.

ACTION NARRATIVE

CHAIR TOM ANDERSON called the House Labor and Commerce Standing Committee meeting to order at 3:34:26 PM. Representatives Anderson was present at the call to order. Representatives Rokeberg, Lynn, LeDoux, Kott, and Guttenberg arrived as the meeting was in progress.

HB 226-PERSONAL INFORMATION BREACH

CHAIR ANDERSON announced that the first order of business would be HOUSE BILL NO. 226, "An Act relating to breaches of security involving personal information; and relating to credit report security freezes."

[3:34:59 PM](#)

CHAIR ANDERSON then announced that HB 226 would be held over until Friday, at which time he indicated the legislation would be reported from committee. He mentioned that one party has requested that the legislation be held in order to have time for a bit more research. He also mentioned his intention to co-sponsor HB 226.

[3:35:10 PM](#)

REPRESENTATIVE LES GARA, Alaska State Legislature, sponsor, noted that there is a proposed committee substitute. He explained that HB 226 responds to the ChoicePoint, Inc., security fraud cases. He informed the committee that a number of financial companies that make money by selling people's personal and financial information don't use the required security safeguards. Therefore, people's personal and financial information are being stolen. In the ChoicePoint case the information of 145,000 people was stolen and the company didn't immediately tell the victims. This legislation follows a California law that specifies that if a company that makes money on people's information discovers that information has been stolen or misused, it must inform the individuals right away. In the ChoicePoint case, a number of months passed before the 145,000 people were told that their information had been stolen. In California, the individuals were notified because of the state law requiring such knowledge be provided to the individual whose information was lost or stolen.

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REPRESENTATIVE GARA highlighted that HB 226 also provides that an individual who is worried that his or her information has been stolen can call one of the three credit reporting agencies and request a hold on his or her financial information. The aforementioned is referred to as a security freeze. Representative Gara related that the Department of Law, the Alaska Public Interest Research Group (AkPIRG), and the U.S. Public Interest Research Group (AkPIRG) appear to be supportive of this legislation.

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CHAIR ANDERSON surmised that HB 226 is senior friendly. He recalled reading information relating that one of the senior

advocacy groups supports the California legislation, on which this based.

REPRESENTATIVE GARA stated that AARP is supportive of HB 226. He opined that in this kind of security fraud, seniors are as vulnerable as everyone else not more vulnerable than others. Representative Gara further opined that everyone has an interest in knowing if one's personal and financial information has been stolen. Moreover, it's quite an outrage that these companies aren't informing people when the information is stolen. "They make money off us, and they have a duty to protect us," he stressed.

The committee was at-ease from 3:40 p.m. to 3:44 p.m.

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CHAIR ANDERSON moved to adopt CSHB 226, Version I, as the working document. There being no objection, Version I was before the committee.

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GEORGE BERRY, Teamsters Local 959, informed the committee that he works in the oil and gas industry through the Teamsters union. He related that he and his coworkers are very concerned with these types of businesses operating seemingly unregulated. Mr. Berry noted that the legislation appears to require a remedy for the individual to whom harm is done from poor or inaccurate reporting, or theft or disclosure of information to an unknown third party, and for that he thanked the sponsor. He stressed the need to keep an individual's right to privacy at the forefront when [employers] perform background checks. Mr. Berry related that this will be implemented in the [oil and gas industry] in the near future and thus there is the desire to be sure that the appropriate protections are in place in the [employee's] contract language.

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JOHN GEORGE, Lobbyist, American Council of Life Insurers; Property Casualty Insurance Association of America, acknowledged that insurance companies have much of this sensitive information, such as social security numbers. The insurance companies are concerned with regard to protecting such information. He related that generally, the insurance [industry] supports the concept of HB 266, which seems to be a

national movement. He mentioned that this concept has been introduced in about 28 states. Mr. George informed the committee that Congressional legislation, which is essentially the earlier mentioned California bill, has been introduced. The aforementioned, national approach, is probably better than having each state pass it's own legislation, possibly with slight differences. Therefore, he urged the committee to consider that. Mr. George related that the organizations he represents believe that privacy of information and disclosure of any breach of this type of information should apply to everyone. Although this legislation doesn't specifically state that it applies to governmental entities, the sponsor has related that the reference to "any person" does include the state and other governmental entities, he noted.

MR. GEORGE further informed the committee that his clients are also concerned with regard to information that's being acquired and information that's being accessed. He explained that one can acquire something, but not have access to it because it's encrypted data. In that case, there really isn't a breach of information. Again, the sponsor believes the aforementioned concern is addressed. Mr. George pointed out that the legislation refers to encryption, which is the current technology used to protect information. However, in the future there may be other applications, and therefore he suggested that the language should be broadened to refer to "encryption or other technology that prohibits access to the data". He noted that because other states are adopting similar legislation, companies already have notification processes in mind. Therefore, he expressed the need to have the notification process be consistent with the law as long as it meets the specified timeframes to get the notice out, even if a bit different than what's prescribed in the law. Thus, companies could use the same notice procedures in all states. He informed the committee that the sponsor has agreed to meet with him and discuss his concerns.

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REPRESENTATIVE GUTTENBERG asked if anyone used a more generic, board language than "encryption."

MR. GEORGE replied yes, and suggested that the language "any other method or technology that renders the personal information unreadable or unusable" would include future technology that's developed.

BARBARA HUFF TUCKNESS, Director, Governmental and Legislative Affairs, Teamster Local 959, related her support of HB 226. She said that Mr. George adequately covered her concerns with regard to background checks. For smaller employers that [financially] don't have access to a secure system for background checks, something in statute would be appropriate. Ms. Huff Tuckness noted that she is working with the sponsor to address the background check, the chain of custody, and how documents received on an employee are handled through the processing company or the specific employer.

CLYDE SNIFFEN, Assistant Attorney General, Civil Division (Anchorage), Department of Law, informed the committee that the department reviewed HB 226 for legal concerns for which it has none. Mr. Sniffen opined that HB 226 will help address some of the earlier mentioned security breach issues.

STEVE CLEARY, Executive Director, Alaska Public Interest Research Group (AkPIRG), applauded the committee's quick action in addressing this national problem. He informed the committee that he just learned that about 185,000 GM MasterCard holders had their personal information breached again. The question is how and when these people will be notified as well as how best these people can protect themselves.

DAN SIMIEM, President, Laborers Local 942, stated his support of HB 226. Mr. Simiem pointed out that companies that retrieve and bank this data should have some kind of firewall protection. He offered his understanding that the problem comes when these companies go to smaller [entities], which tend to open the portals to the information. Therefore, he requested that be given consideration.

[3:56:54 PM](#)

REPRESENTATIVE LYNN highlighted that the legislation refers to businesses that use personal information. He noted that when he gets new software, it has to be registered, which includes personal information. He asked if that would be included under HB 226 or would it be limited to large companies such as ChoicePoint.

REPRESENTATIVE GARA clarified that [under HB 226] if information on an individual held by any government entity or company has been breached, the individual(s) have to be told. He surmised that Representative Lynn is alluding to the companies that sell information, for which legislation was introduced last year. He

said that it's probably worth another look. Representative Gara clarified that HB 226 relates to stolen information rather than the sale of information. He mentioned his concern that the sale of information may be regulated by federal law and thus the state may not be able to address it. In further response to Representative Lynn, he specified that HB 226 doesn't change anything in regard to entering information for a computer information form, for example. However, he said that is of concern as well.

3:58:48 PM

REPRESENTATIVE GUTTENBERG turned to the situation in which a site from which one has downloaded information pulls data from an individual's computer and uses the data. The aforementioned is a breach of the individual's security. He suggested that most people don't have firewalls on their home computers. He asked if the aforementioned situation is addressed in HB 226.

REPRESENTATIVE GARA reiterated that HB 226 addresses companies that have individuals' personal information and [the notification procedures] required when they discover that the information has been stolen. This legislation merely says that once the company finds out that the information has been stolen, they have to inform the individuals immediately. The sale of an individual's information is of great concern, but he said he didn't know how to regulate it at this point.

REPRESENTATIVE LEDOUX posed a situation in which an individual took information from one of these companies that stores data and then sells it. She inquired as to what would happen.

REPRESENTATIVE GARA reiterated that HB 226 protects people when there has been an unauthorized use of their information. Therefore, if a company that holds data discovers that someone has taken data without the company's consent, then the company has to inform those whose data was taken. He said he wasn't sure of the federal rules regarding a situation in which the person who took the information subsequently sells it.

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REPRESENTATIVE LEDOUX asked whether "they" have to tell [the individual] that his or her information is being sold.

REPRESENTATIVE GARA specified that this legislation doesn't address the sale of the information that has been authorized by

the company housing the data. Again, this is an issue that should be reviewed, but he said he didn't know how to address it at this point.

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REPRESENTATIVE GUTTENBERG surmised that it would address the Commerce Clause. He inquired as to how those companies that are located out of state or out of the country would be addressed.

REPRESENTATIVE GARA highlighted that this legislation includes a provision that specifies that it applies to the full extent the constitution allows. Generally, if there is an out-of-state company that is selling personal information of Alaskans, the company has "touched us enough" that the state can regulate it. Therefore, this legislation applies to companies located out of state if they use the information of Alaskans.

CHAIR ANDERSON, upon determining there were no further questions, closed public testimony.

[HB 226 was held over.]

HB 213-ALCOHOL SERVER EDUCATION

CHAIR ANDERSON announced that the next order of business would be HOUSE BILL NO. 213, "An Act relating to alcohol server education."

[4:05:17 PM](#)

REPRESENTATIVE JAY RAMRAS, Alaska State Legislative, sponsor of HB 213, began by highlighting that as a restaurant owner he has accumulated years of experience in the food and beverage industry. He said that this bill covers the techniques in alcohol management (TAM) course, which provides extraordinarily useful information for servers, bartenders, security, and doormen. However, under the current law individuals have to renew their TAM card by retaking the entire four-hour exam every three years. The aforementioned is time ill spent for professional servers who have been in the industry for years. Therefore, the legislation would provide that those who have already taken the four-hour course would merely have to take the written test demonstrating an understanding of the course subject. The aforementioned is an excellent funding mechanism for Cabaret Hotel Restaurant & Retailer's Association (CHARR) and other advocacy groups in the industry, since there is a fee

charged for the course. The fees for the course aren't addressed in this legislation. He stated that he is only trying to be mindful of professionals in the food service industry and suggest that after being in the industry for three years, they should be allowed to demonstrate their competency with the laws and regulations concerning alcohol rather than requiring another full course and exam.

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CHAIR ANDERSON asked how much it would cost to renew the certification.

REPRESENTATIVE RAMRAS answered that an applicant would have to go through the same facility and the same testing and certification program. He reiterated that this legislation would not make any changes to the fees, but would allow restaurant workers to arrive in the last half hour of the four-hour exam to take the qualifying test to obtain recertification. The examination is really not the hard part. He related his own experience with the course, and characterized the challenging part as sitting through the course itself. Representative Ramras stated that the TAM course is extraordinarily useful and makes servers more knowledgeable about the law concerning alcohol, which makes the dispensing of alcohol safer.

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CHAIR ANDERSON surmised then that this legislation would allow a worker in the food and beverage industry to skip the four-hour course and simply take the test.

REPRESENTATIVE RAMRAS said that this correct, clarifying that it would be optional whether or not the individual would sit for the four-hour course. These workers, numbering in the thousands across the state, oftentimes surrender work shifts to take the four-hour course for which the establishment does not pay. The proposal embodied in HB 213 would save time while the individual would still have to demonstrate competency of the course material.

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REPRESENTATIVE KOTT asked if this legislation was supported by CHARR.

REPRESENTATIVE RAMRAS recalled that CHARR indicated its support for HB 213 when the organization was present earlier. In further response to Representative Kott, Representative Ramras said he was not a TAM instructor, but he has sat through the course.

REPRESENTATIVE LEDOUX related her understanding that the purpose of retaking the test is merely the receipt of the fee, and therefore she questioned why these workers can't just pay the fee and forgo the test.

REPRESENTATIVE RAMRAS disagreed with Representative LeDoux, and stressed that there is value in requiring that those who have taken the exam remain familiar with the rules that govern serving alcohol. Therefore, he opined that it's appropriate for the state to enforce a renewal of the TAM card and certification. However, if one can demonstrate competency of the information, then there is no need to sit for the entire course. Representative Ramras characterized the exam as easy, with a low failure rate. The exam, he explained, is designed to get the industry workers to sit through the three hours of course instruction. Therefore, passage of the exam fulfills the Alcoholic Beverage Control Board's requirement.

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REPRESENTATIVE GUTTENBERG asked if it's the sponsor's intent for the fee to be the same for taking the three-hour course and exam, and the exam alone.

REPRESENTATIVE RAMRAS clarified that his intent is not to interfere with private enterprise, and therefore it's up to the entities that offer the TAM course to set the fee. This bill provides the worker with the ability to forgo the three hours of instruction when seeking recertification.

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REPRESENTATIVE GUTTENBERG announced that he didn't see a statement from the ABC Board, and was wondering if it had offered any comment on this.

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REPRESENTATIVE RAMRAS informed the committee that when the ABC Board performs a compliance test, it reviews whether every single employee [in an establishment serving alcohol] has to

produce a current TAM card. An employee has 30 days upon being hired or expiration of a TAM card to take the course.

4:17:28 PM

REPRESENTATIVE KOTT asked if Representative Ramras had retaken the refresher course.

REPRESENTATIVE RAMRAS pointed out that he was not a server and that he did not have to take the class, although most working owners are required to have a TAM card. He said that at his restaurant he is allowed to greet, but not seat guests.

REPRESENTATIVE KOTT pointed out that Section 1 refers to a TAM card being shown as proof to the ABC board, and asked if the issuance of such a card is something new or is this section merely making the use of the card clear to everyone.

REPRESENTATIVE RAMRAS clarified that the TAM card has always been an acceptable way to prove one's course completion to the ABC Board. This legislation simply says that when an individual demonstrates the competency, he or she will be issued a new card with a new expiration date.

REPRESENTATIVE KOTT stated that one of his staff, Mike O'Hare, had been certified and could offer his view of the TAM course.

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MIKE O'HARE, Staff to Representative Kott, Alaska State Legislature, stated that currently, there is a renewal test that requires one to sit through the entire TAM course every three years. It is not a difficult test after sitting through the four-hour course, he opined.

REPRESENTATIVE KOTT moved to report HB 213 out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, it was so ordered.

HB 227-ALASKA SMALL LOANS ACT

CHAIR ANDERSON announced that the final order of business would be HOUSE BILL NO. 227, "An Act relating to the Alaska Small Loans Act; and providing for an effective date."

JON BITTNER, Staff to Representative Anderson, Alaska State Legislature, presented HB 227 on behalf of the House Labor and

Commerce Standing Committee, sponsor. Mr. Bittner paraphrased from the following written sponsor statement [original punctuation provided]:

The last significant revision of the Alaska Small Loans Act (ASLA) occurred between 1995 and 1996. The bill (then numbered House Bill 319) was signed into law in July 1996 and brought this section of statute up-to-date with the changing market demands. There have been several changes to the market in the last decade, and more importantly, there has been many more changes in technology. As computer systems become more and more adept at taking, storing, sorting, and retrieving information, our laws must reflect the most efficient use of those innovations.

House Bill 227, the latest revision of AS 06.020, takes into account not only the market-driven or technological changes, but also the changes in the value of money. Put simply, goods cost more today than they did twenty, ten, or even five years ago. For example, it is not unheard of to pay between \$7,500 and \$10,000 for an ATV or snowmachine. Also, manufacturer's list prices for new automobiles can start as high as \$40 - \$50,000. Clearly the definition of what constitutes a small loan needs some adjustment.

HB 227 improves the business environment by encouraging industry competition, which ultimately should decrease loan prices as well as providing consumers additional products and services to choose from. HB 227 will also update the Small Loans Act to reflect current technology. As written today, the law does not recognize automated or centralized process utilized by most companies today.

We worked with both members of financial community and with the Division of Banking and Securities to find language balancing the parties' wish lists and consumer protection. HB 227 updates the ASLA to make the law reflective of current industry practices and raises the limit of a small loan from \$25,000 to \$50,000 broadening the Department's regulatory oversight. Additionally, it doubles the liquid assets and bond requirements from \$25,000 to \$50,000 for businesses writing small loans.

REPRESENTATIVE ROKEBERG inquired as to who requested this legislation.

MR. BITTNER related his understanding that both members of the banking community and the Division of Banking & Securities requested introduction of HB 227. In further response to Representative Rokeberg, Mr. Bittner said that he was fairly certain Wells Fargo Financial Corporation was involved. However, he deferred to Mr. Davis regarding the number of entities that fall under this provision of law.

MARK DAVIS, Director, Division of Banking & Securities, Department of Commerce, Community, & Economic Development (DCCED), clarified that currently there are eight licensees, of which seven are licensees of Wells Fargo bank and the one remaining is an independent licensee. Therefore, there are two different entities.

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MR. DAVIS noted that although the division generally supports the legislation as written, he has provided the committee with written remarks regarding some issues with which the division is concerned. He agreed that the legislation, as reform legislation, is necessary. This legislation basically raises the lending limit for a small loan from \$25,000 to \$50,000 and caps [the interest rate of] most loans to a maximum of 24 percent. Currently, licensees are able to do business as "other business" over \$25,000 at any rate wished. Furthermore, currently loans over \$10,000 can be made at any rate the [lending institution] wishes. Therefore, this reform would lower rates.

[4:26:19 PM](#)

MR. DAVIS expressed concern with the exemption for sellers of insurance under AS 06.20.010(b)(5), and related that the Division of Banking & Securities and the Division of Insurance oppose that. He explained that the divisions believe that although an entity may sell insurance, it shouldn't be in the lending business. Furthermore, Mr. Davis suggested including a requirement in AS 06.20.060 of a physical location. He noted that in 1996, the language "accessibility and convenience for borrowers of money was put in the Act, the type of language which the division supports. He then turned attention to Section 13, AS 06.20.070(b), regarding web sites and related

that the division would prefer to follow the practice that was included in the Deferred Deposit Loan Act of last year, which requires a license for anyone attempting to operate [on the Internet]. Mr. Davis said the division has concerns with AS 06.20.120 because the current language of HB 227 doesn't allow the division the ability to revoke a multiple location license for a violation in a singular location. He expressed the need for the division to have the right to revoke a multiple location license if a singular location seems to be operating at the behest of the central office. He indicated that committee staff had been given language to address the aforementioned. Mr. Davis moved on to the surrendering of licenses at the end of operations, which is found in AS 06.20.130(c). The current language specifies a difference between non-corporate entities and corporate entities, but the division doesn't see a reason for that. Again, committee staff have been provided language that specifies that an entity would have to ensure that all loans are transferred before it can stop doing business in order to avoid harming consumers. Furthermore, the language provided specifies that the entity would have to notify the division because the division can't enforce the provision unless it knows the entity is going out of business. He then moved on to AS 06.20.160(c), which specifies that the division can only have access to a licensee's books and records during an examination. However, the division believes that to be too restrictive. Obviously, a complaint to the division may not occur during the time of an examination, and therefore the division should have the right to examine for that complaint.

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MR. DAVIS noted the division's concern with regard to the legislation's handling of business licensing, which is located in AS 06.20.130(c). Currently, the legislation provides an exemption for business licenses. After talking with the Division of Occupational Licensing, he said he understands that the Division of Occupational Licensing requests that the exemption be eliminated and require these small loan companies to acquire a simple business license. Mr. Davis related the preference for the fee, specified as \$75 an hour in the legislation, to actually follow what is specified in the Deferred Deposit Loan Act, which is \$75 per staff hour. Furthermore, the fees in HB 227 are excessive, he opined. For example, up to \$500 can be charged for an origination fee. He noted that committee staff has been given the division's proposed fee schedule.

CHAIR ANDERSON announced his intention to hold HB 227 and hold open public testimony on it.

4:30:46 PM

MARK HAMBLEN, Wells Fargo Financial, noted support for HB 227, although he said there are some small changes that Wells Fargo would want as well. He concluded by thanking the Division of Banking & Securities for coming to Wells Fargo for input on the legislation. He said he would contact the division regarding the small changes.

4:31:38 PM

RICHARD BLOCK, Mellen Investment Company, LLC, informed the committee that his interest in this is limited because of what Mellen Investment Company, LLC, does. He explained that Mellen Investment Company, LLC, only make loans secured by interest in real property. However, the company's portfolio does include some loans that are between \$25,000 and \$50,000. Mr. Block informed the committee that he has provided the committee with written testimony. Mr. Block said that his analysis of HB 227, as it relates to the activities in which Mellen Investment Company, LLC, engages, will drive it out of business. "In other words, the volume of business we do will not justify paying the fees, putting up the bonds, and going through the administrative challenges that this bill would put up for us," he related. If Mellen Investment Company, LLC, and other similarly situated companies are out of the market, then a monopoly for certain large banking institutions has been created. He emphasized that Mellen Investment Company, LLC, and others have been providing a service, particularly to those in rural areas, that have equity in real estate for business purposes but don't qualify for bank lending. Mr. Block related that he was greatly dismayed to discover that his bank is sponsoring HB 227, which will put Mellen Investment Company, LLC, out of business. In conclusion, Mr. Block said that he would hope the committee would adopt the amendment he has proposed at the end of his [written] testimony to exclude loans secured by interest in real estate from HB 227.

4:34:26 PM

SHANE OSOWSKI, Equity Investors, Inc., informed the committee that Equity Investors, Inc., is a private lender that performs small real estate backed equity loans beyond \$25,000. Mr. Osowski related that he objects to HB 227 because it mischaracterizes \$50,000 obligations as small loans. He opined

that \$50,000 is not a small amount, impulse item, that justifies the level of bureaucracy and barriers to competition provided in the legislation. Mr. Osowski pointed out that 50 years after the enactment of the Alaska Small Loans Act, there are only two licensees in Alaska. Therefore, he said he didn't believe that one could claim that adding additional restrictions in the \$50,000 market would invite new business and further a competitive lending environment. Mr. Osowski then turned attention to the two credit studies submitted to support HB 227, which actually lean against the bill. The first credit report notes that restrictions ration high-risk consumers out of the market, and also tend to ration out consumers seeking small amounts of credit, which is classified as \$50,000 in HB 227. Both reports conclude that the best way to protect high-risk borrowers is to ensure alternative sources of financing from which to choose and facilitate unrestricted entry of new competitors into the market. However, this legislation proposes to do the exact opposite.

[4:37:00 PM](#)

MR. OSOWSKI concluded by charging that HB 227 treats borrowers of \$40,000 loans as unsophisticated borrowers, which isn't the case. Furthermore, federal law already protects homeowners with a three-day cooling off period. Moreover, individuals have the ability to shop nationwide for alternatives via the Internet, but this precludes that and forces individuals to go with the two licensees in Alaska. Mr. Osowski stressed that Alaska has unique property needs and HB 227 impacts those with impaired credit as well as nonconforming properties in rural areas. He also stressed that HB 227 doesn't ensure competition but rather does the opposite. He urged the committee to consider the aforementioned when considering to vote against HB 227 or eliminating Section 1 from it.

JIM JOHNSON, Affordable Loan Company, explained that the Affordable Loan Company basically operates buying paper under the Alaska Retail Installment Sales Act, which doesn't limit the fee or the interest charged to the consumer. Mr. Johnson surmised that HB 227 suggests a fee that has been reduced to the consumer for delinquency. He said that he didn't find the 24 percent objectionable today, but sometimes a law causes problem in the future and it takes years for the legislature to make changes to address the problem. Mr. Johnson opined that the administration of the Division of Banking & Securities is helpful.

KENNETH GAIN, President, Cash Now Financial, informed the committee that his company is a small private real estate lender as described by Mr. Block. Mr. Gain said that some of the most valuable testimony heard today was on HB 226 regarding the problems with errors in credit reports and stolen information. With modern technology, most institutional lenders are highly driven by credit scores. Many people have good credit, but because of a mistake in their credit report are denied credit. Cash Now Financial serves that market of people who don't meet the credit standards of the institutional lenders. More importantly, companies such as Cash Now Financial serve A credit borrowers with properties against which the major institutional loaners won't loan. While limiting this to \$50,000 wouldn't put him out of business, he said it would severely limit the company. He said that he would either have to raise the interest rates by 4 percent to comply with the law and the company's current loan volume or not make loans under \$50,000. As written, HB 227 is anti-competitive and restricts credit. At a minimum, he suggested deleting Section 1 of HB 227.

PEGGY ANNE MCCONNOCHIE, Alaska Association of Realtors, noted that she submitted a letter to the committee. Ms. McConnochie opined that HB 227 is a restraint of trade, will allow less choice for consumers, and push those borrowers with problems with income from the marketplace. She urged the committee, at a minimum, to eliminate Section 1 of HB 227.

CHAIR ANDERSON announced that HB 227 would be held over.

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at [4:43:23 PM](#).