

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

March 1, 2006

3:42 p.m.

MEMBERS PRESENT

Representative Pete Kott
Representative Gabrielle LeDoux
Representative Bob Lynn
Representative Norman Rokeberg
Representative Harry Crawford
Representative David Guttenberg

MEMBERS ABSENT

Representative Tom Anderson, Chair

COMMITTEE CALENDAR

HOUSE BILL NO. 416

"An Act relating to the amount of the state business license fee."

- MOVED CSHB 416(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 402

"An Act relating to marriage brokers and advertisers and to dating and social referral services."

- MOVED CSHB 402(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 439

"An Act relating to authorizing the state to join with other states entering into the Interstate Insurance Product Regulation Compact and authorizing the compact to supersede existing statutes by approving standards, rules, or other action under the terms of the compact."

- MOVED CSHB 439(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 424

"An Act relating to mortgage lenders and persons who engage in activities relating to mortgage lending; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 416

SHORT TITLE: BUSINESS LICENSE FEE

SPONSOR(s): REPRESENTATIVE(s) RAMRAS

02/01/06 (H) READ THE FIRST TIME - REFERRALS
02/01/06 (H) EDT, L&C, FIN
02/13/06 (H) EDT AT 6:00 PM CAPITOL 106
02/13/06 (H) Moved CSHB 416(EDT) Out of Committee
02/13/06 (H) MINUTE(EDT)
02/15/06 (H) EDT RPT(EDT) NT 3DP 2NR
02/15/06 (H) DP: LYNN, CRAWFORD, RAMRAS;
02/15/06 (H) NR: COGHILL, NEUMAN
02/27/06 (H) L&C AT 3:15 PM CAPITOL 17
02/27/06 (H) Heard & Held
02/27/06 (H) MINUTE(L&C)
03/01/06 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 402

SHORT TITLE: MARRIAGE BROKERS AND ADVERTISERS

SPONSOR(s): REPRESENTATIVE(s) KERTTULA

01/27/06 (H) READ THE FIRST TIME - REFERRALS
01/27/06 (H) L&C, JUD, FIN
02/15/06 (H) L&C AT 3:15 PM CAPITOL 17
02/15/06 (H) Heard & Held
02/15/06 (H) MINUTE(L&C)
03/01/06 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 439

SHORT TITLE: INSURANCE PRODUCT REGULATION COMPACT

SPONSOR(s): REPRESENTATIVE(s) COGHILL

02/10/06 (H) READ THE FIRST TIME - REFERRALS
02/10/06 (H) L&C, JUD
03/01/06 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 424

SHORT TITLE: MORTGAGE LENDING

SPONSOR(s): LABOR & COMMERCE

02/03/06 (H) READ THE FIRST TIME - REFERRALS
02/03/06 (H) L&C, JUD
03/01/06 (H) L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

JIM POUND, Staff
to Representative Jay Ramras
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Discussed HB 416.

RICK URION, Director
Juneau Office
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community, & Economic Development
Juneau, Alaska
POSITION STATEMENT: Discussed a proposed amendment from the
department.

HANNAH MCCARTY, Staff
to Representative Beth Kerttula
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented Version Y of HB 402 on behalf of
the sponsor, Representative Kerttula.

REPRESENTATIVE JOHN COGHILL
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Spoke as the sponsor of HB 439.

JOHN GEORGE
American Council of Life Insurers (ACLI)
Juneau, Alaska
POSITION STATEMENT: Testified in favor of HB 439.

LINDA HALL, Director
Division of Insurance
Department of Commerce, Community, & Economic Development
Anchorage, Alaska
POSITION STATEMENT: Answered questions during hearing on HB
439.

JOSH APPLEBEE, Staff
to Representative Tom Anderson
House Labor and Commerce Standing Committee
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the proposed committee substitute for HB 424, on behalf of the House Labor and Commerce Standing Committee.

JOHN CARMAN, Partner & President
HomeState Mortgage Company;
Chair, Legislative Committee
Alaska Mortgage Bankers Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support of the proposed committee substitute for HB 424.

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

POSITION STATEMENT: Testified in support of the proposed committee substitute for HB 424.

KEVIN BREELAND, President
Alaska Mortgage Bankers Association;
Minority Partner, Residential Mortgage
Anchorage, Alaska

POSITION STATEMENT: Testified on HB 424.

DWIGHT DEELY, President
Evergreen Alaska Mortgage
Fairbanks, Alaska

POSITION STATEMENT: Related his agreement with the intent and spirit of the legislation, but expressed concern regarding whether the language will impact mortgage brokers more than bankers and lenders.

CHRIS SKINNER, Broker, President
Kelstar Alaska Mortgage;
Member, Legislative Committee
Alaska Association of Mortgage Brokers
(No address provided)

POSITION STATEMENT: Testified that brokers do believe that licensing is necessary, but the language of HB 424 needs work.

DOUG ISAACSON, President
Alaska Association of Mortgage Brokers;
President, Gold Coast Mortgage
Fairbanks, Alaska

POSITION STATEMENT: Expressed concerns with HB 424.

LOU KONETSKI, Senior Vice President
Gold Coast Mortgage
Fairbanks, Alaska
POSITION STATEMENT: Expressed concerns with HB 424.

LINDA PATRICK, Vice President
Evergreen Alaska Mortgage Corporation
Fairbanks, Alaska
POSITION STATEMENT: Expressed concerns with HB 424.

VERNON RUSH, President
Alaska Capital;
Partner, Equity Investors;
Managing Partner, Astoria Investments;
Chair, Alaska State Mortgage Brokers Association Legislative
Committee;
Independent Lender
Anchorage, Alaska
POSITION STATEMENT: Expressed concerns with HB 424.

JOHN MARTIN, Manager
Alaska Mortgage Solutions
Anchorage, Alaska
POSITION STATEMENT: Expressed concerns with HB 424.

JOE BRAMMER, Manager
First Metropolitan Mortgage
Anchorage, Alaska
POSITION STATEMENT: Expressed concerns with HB 424.

JAY WILCOX, Loan Executive
Long Beach Mortgage
Anchorage, Alaska
POSITION STATEMENT: Expressed concerns with HB 424.

DAN FAUSKE, CEO/Executive Director
Alaska Housing Finance Corporation
Department of Revenue
Anchorage, Alaska
POSITION STATEMENT: Testified that AHFC does support of the
basic premise of HB 424, which is some type of regulation or
control to protect consumers.

ACTION NARRATIVE

REPRESENTATIVE KOTT, ACTING CHAIR, called the House Labor and
Commerce Standing Committee meeting to order at [3:42:05 PM](#).

Representatives Guttenberg, Rokeberg, Lynn, and Kott were present at the call to order. Representatives Crawford and LeDoux arrived as the meeting was in progress.

HB 416-BUSINESS LICENSE FEE

ACTING CHAIR KOTT announced that the first order of business would be HOUSE BILL NO. 416, "An Act relating to the amount of the state business license fee." [Before the committee is CSHB 416(EDT).]

3:42:52 PM

JIM POUND, Staff to Representative Jay Ramras, Alaska State Legislature, speaking on behalf of the sponsor, reminded the committee that at the prior hearing of HB 416 there were questions regarding whether the misdemeanor language needed to be changed. He explained that it doesn't because the misdemeanor charge primarily is unsworn falsification, which is used throughout the revenue and taxation classification. There was also concern with regard to the receipts from the \$100 fee. He related that he has been advised by the subcommittee for the Department of Commerce, Community, & Economic Development (DCCED) that the receipts have been transferred so that the agencies funded by this won't be as strongly impacted. Mr. Pound highlighted that the committee should have before it an amendment regarding the amount of the fee and a transitional provision. He mentioned that the department has a request for an amendment regarding the difference between a civil fine and an infraction. An infraction is criminal while a civil fine isn't. He related that he didn't believe the department had a problem changing [the fine] from \$50 to \$100 if the license fee is \$50.

3:45:11 PM

RICK URION, Director, Juneau Office, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community, & Economic Development (DCCED), related that this morning's national news reported that Alaska is one of the top five states in the nation with business taxes that are attractive to businesses. Mr. Urion then informed the committee that under the current rules, approximately \$7.1 million was collected in fiscal year (FY) 06 and distributed in the following amounts to the following agencies: \$2.5 million to the Alaska Travel Industry Association (ATIA); \$1.1 million to the Office of Trade and Economic Development; \$85,000 to the

Division of Community Advocacy; \$1.4 million to the Division of Corporations, Business, and Professional Licensing; \$400,000 to legislative grants; \$615,000 to the International Office within the Office of the Governor; and \$1.1 million to the Tax Division within the Department of Revenue. Mr. Urion said that the [Division of Corporations, Business, and Professional Licensing] is a self-supporting agency and thus any decreases in revenue generated from business licenses would have to be replaced by general fund revenues. He then noted that he has a proposed amendment for the committee's consideration.

[3:48:20 PM](#)

MR. URION explained that his proposed amendment addresses the fine such that it changes it from an infraction to a civil penalty. The desire, he explained, is to make it such that those who are operating without a business license are written a citation that they pay. In addition, if HB 416 is passed with a decrease in the business license, an effective date of January 1, 2008, will be required because the division has sold business licenses that will expire December 31, 2007, and rebates would be more costly. Such an effective date will allow the division to offer two-year business licenses next year at whatever price determined.

REPRESENTATIVE LYNN inquired as to the purpose of a business license.

MR. URION answered that a business license is a tax, a source of revenue. The revenue is utilized to pay for services.

REPRESENTATIVE ROKEBERG recalled that the committee had requested the sponsor speak with Mr. Urion in order to develop a transition provision, which doesn't seem to have occurred. He then turned to the \$2.5 million in "tourism contract money" that is taken from [the funds received by the division]. Since the state doesn't allow dedicated funds, Representative Rokeberg inquired as to the nexus in the budget for the aforementioned source of revenue and on what it's spent.

MR. URION explained that the division merely generates the revenue while the Office of Management & Budget (OMB) specifies where the funds will be utilized. In further response to Representative Rokeberg, Mr. Urion related his belief, with regard to the requested change in the effective date, that the division has adequate regulatory authority to change the procedure in order to utilize a prorated reduction. However, he

did note that new regulations would have to be passed. He pointed out that the division will be able to sell a license for \$100 plus the specified annual fee, all of which can be set in regulation, for the business licenses that have already been sold and will expire January 1, 2007.

[3:53:11 PM](#)

REPRESENTATIVE ROKEBERG suggested that unless the aforementioned was done in regulation in advance, the division would be breaking the law unless the language in the bill was changed to provide for such.

MR. URION noted his agreement, adding that the legislation should include transitional language allowing the division to establish regulations to set the aforementioned fees.

REPRESENTATIVE LEDOUX suggested that the division could, on January 1, 2007, sell a one-year license.

MR. URION pointed out that the current law specifies that the division sells two-year licenses. In fact, the division has already sold some two-year licenses. The division, he said, doesn't want to be in a position of having to field requests for rebates as it would cost more than would be saved.

[3:54:40 PM](#)

REPRESENTATIVE ROKEBERG moved that the committee adopt Amendment 1, labeled 24-LS1555\F.1, Bannister, 3/1/06, which read:

Page 1, line 7:
Delete "\$50"
Insert "\$100"

Page 1, line 10:
Delete "\$25"
Insert "\$50"

Page 2, following line 2:
Insert a new bill section to read:
"*** Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to read:
TRANSITIONAL PROVISION. The annual fee for a business license that is paid in 2006 before July 1, 2006, or before the effective date of this Act, whichever is later, is the rate established under

AS 43.70.030(a), as that subsection exists before being amended by sec. 2 of this Act."

REPRESENTATIVE LYNN objected and opined that there shouldn't be a tax unless there is a need for it. He further opined that there isn't a need for this tax and when there is an opportunity to reduce taxes it should be taken. Such action will send the message to the small business community that Alaska wants them to be in business.

[3:57:36 PM](#)

REPRESENTATIVE LYNN, in response to Acting Chair Kott, said that he objected to increasing the business license fee from \$25 to \$50.

REPRESENTATIVE LYNN offered Amendment 1 to Amendment 1 such that the following portion of Amendment 1 would be deleted:

Page 1, line 10:
Delete "\$25"
Insert "\$50"

REPRESENTATIVE LYNN explained that the aforementioned returns CSHB 416(EDT) to its original state in which it establishes a \$25 business license on an annual basis while maintaining the fine.

There being no objection, Amendment 1 to Amendment 1 was adopted.

[3:59:50 PM](#)

REPRESENTATIVE ROKEBERG moved that the committee adopt Amendment 2 to Amendment 1 such that the following portion of Amendment 1 would be deleted:

Page 1, line 7:
Delete "\$50"
Insert "\$100"

REPRESENTATIVE LYNN objected, but removed his objection upon explanation that Amendment 2 to Amendment 1 and a further amendment would be cleaner.

[There being no further objection, Amendment 2 to Amendment 1 was adopted.]

REPRESENTATIVE ROKEBERG moved that the committee adopt Conceptual Amendment 3 [to Amendment 1], which would in the transitional provision of Amendment 1, as amended, insert language following "license" specifying that [the business license] "shall be paid on a pro rata basis as determined by department regulation before December 31, 2007". Additionally, Conceptual Amendment 3 would insert language providing the authority for the department to take up the regulations prior to the effective date of the legislation and would specify an effective date of July 1, 2006.

There being no objection, Conceptual Amendment 3 [to Amendment 1] was adopted.

ACTING CHAIR KOTT, upon determining there was no objection to Amendment 1, as amended, announced that Amendment 1, as amended, was adopted.

REPRESENTATIVE ROKEBERG moved that the committee adopt Amendment 2, a memorandum from the Division of Corporations, Business and Professional Licensing, as follows [original punctuation provided]:

***Section 1.** AS 43.70.020 is amended by adding a new subsection to read:

(e) If a person knowingly engages in a business in the state without having a current license issued under (a) of this section, the department may impose a civil fine not to exceed \$50. In this subsection, "knowingly" has the meaning given AS 11.81.900.

REPRESENTATIVE LYNN objected. Representative Lynn moved that the committee adopt an amendment to Amendment 2 such that the civil fine may not to exceed \$100.

There being no objection, the amendment to Amendment 2 was adopted.

REPRESENTATIVE LYNN removed his objection to Amendment 2.

There being no further objection, Amendment 2, as amended, was adopted.

REPRESENTATIVE ROKEBERG moved to report CSHB 416(EDT), as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB

416(L&C) was reported from the House Labor and Commerce Standing Committee.

[4:06:06 PM](#)

REPRESENTATIVE LYNN moved that the committee rescind its previous action in reporting CSHB 416(L&C) from the House Labor and Commerce Standing Committee. There being no objection, CSHB 416(EDT), as amended, was before the committee.

REPRESENTATIVE LYNN moved that the committee adopt a conforming title change to reflect the changes of the earlier amendments.

REPRESENTATIVE LEDOUX objected and inquired as to the process of rescinding action.

ACTING CHAIR KOTT explained that the committee had only rescinded its action in passing CSHB 416(EDT), as amended, out of committee.

REPRESENTATIVE LEDOUX withdrew her objection.

[4:09:02 PM](#)

REPRESENTATIVE LYNN moved to report CSHB 416(EDT), as amended, out of committee with individual recommendations and the accompanying fiscal notes [and the conforming title change]. There being no objection, CSHB 416(L&C) [and the conforming title change] was reported from the House Labor and Commerce Standing Committee.

[4:09:45 PM](#)

HB 402-MARRIAGE BROKERS AND ADVERTISERS

ACTING CHAIR KOTT announced that the next order of business would be HOUSE BILL NO. 402, "An Act relating to marriage brokers and advertisers and to dating and social referral services."

[4:10:41 PM](#)

REPRESENTATIVE LYNN moved to adopt CSHB 402, Version 24-LS1432\Y, Mischel, 2/21/06, as the working document. There being no objection, Version Y was before the committee.

HANNAH MCCARTY, Staff to Representative Beth Kerttula, Alaska State Legislature, speaking on behalf of the sponsor, said that Version Y includes two changes, one of which is in reference to Representative Rokeberg's concern that the definition of "marriage broker" isn't tight enough. Therefore, the language "with a person who resides outside of the United States" was added on page 3, lines 29-30. Adding the aforementioned language doesn't include businesses such as Match.com, which provide marriage and dating services between U.S. citizens.

REPRESENTATIVE LYNN asked if that [language] would include territories of the U.S.

MS. MCCARTY said she didn't know the answer to that. However, she related that when the definition of "recruit" was developed, the territory question wasn't considered. Ms. McCarty then directed the committee's attention to the other [new] language which is located on page 3, lines 19-21, which is taken from the federal Violence Against Women Act. This language provides that a traditional match-making service of a cultural or religious nature that's not for profit and is consistent with international, federal, state, and local laws is exempt from the requirements in HB 402.

[4:12:46 PM](#)

REPRESENTATIVE ROKEBERG indicated that Version Y addresses his concern.

[4:13:39 PM](#)

ACTING CHAIR KOTT, upon determining there were no questions or witnesses, announced that public testimony was closed.

REPRESENTATIVE LEDOUX moved to report CSHB 402, Version 24-LS1432\Y, Mischel, 2/21/06, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 402(L&C) was reported from the House Labor and Commerce Standing Committee.

HB 439-INSURANCE PRODUCT REGULATION COMPACT

[4:14:48 PM](#)

ACTING CHAIR KOTT announced that the next order of business would be HOUSE BILL NO. 439, "An Act relating to authorizing the state to join with other states entering into the Interstate

Insurance Product Regulation Compact and authorizing the compact to supersede existing statutes by approving standards, rules, or other action under the terms of the compact."

[4:15:22 PM](#)

REPRESENTATIVE JOHN COGHILL, Alaska State Legislature, sponsor, informed the committee that HB 439 was introduced by request. He said that the National Association of Insurance Commissioners (NAIC) has a model act which allows states to enter into a compact for insurance products. He said that the different life insurance products are diverse, as different states make different laws which effect the sale and management of these products. He stated that the industry is looking for areas in which the regulations can be better aligned. He said that this can be done by federal law or by creating compacts between states. He said that there are currently 20 states in the compact, and 26 are needed to create the compact. He offered his understanding that there are 17 states considering joining the compact. He explained that Section 1 of the bill adopts the Interstate Insurance Product Regulation Compact. He referred to Sections 2 and 3, stating that these sections are no longer necessary, and suggested an amendment to remove these sections. He explained that page 2 of the bill includes the reason for joining the compact. This includes promoting and protecting the interests of the consumer. He expressed that these are all reasons for his promotion of the compact.

[4:19:28 PM](#)

REPRESENTATIVE COGHILL, in response to a question, said that he would like to remove Sections 2 and 3 on page 23. He explained that this is currently happening, and therefore is not necessary. He said that the compact will not supersede the state, and added that it is an agreement for the description of insurance products.

[4:21:10 PM](#)

REPRESENTATIVE GUTTENBERG asked what types of insurance would be included in the compact.

REPRESENTATIVE COGHILL referred to page 5, which specifies life insurance and long-term insurance issues.

[4:22:55 PM](#)

ACTING CHAIR KOTT, referring to a memo from Legislative Legal and Research Services, asked if the issue regarding the unconstitutionality of the compact had been addressed.

REPRESENTATIVE COGHILL replied that the compact contains a severability provision, which is very clear.

JOHN GEORGE, American Council of Life Insurers (ACLI), explained that the state does relinquish some authority to the compact; however, the state also retains the ability to take it back. He said that the insurance companies have the option of filing with the state rather than the compact. He said that if the Division of Insurance does not agree with guidelines or rules that the compact sets, the bill includes a provision that allows the Division of Insurance to opt out. In addition, the legislature has the ability to repeal membership in the compact. In regard to the question of constitutionality, he said that a policy form approved by the compact does not preclude an individual from asking the division to hold a hearing. He said that the statutes clearly state that any aggrieved party may ask for a hearing and the director can call a hearing at any time. He added that the compact gives notice before adoption of standards, which allows time to hold hearings if they are needed.

MR. GEORGE said that the products that would be covered under the compact are those which have a long-term relationship with the consumer. He explained that auto and homeowner's policies are generally one year. He said that if a person is living in Alaska, it is appropriate for Alaska to have jurisdiction; however, for those people who have moved to the state from other parts of the country, their life insurance policy may originate from the previous state. He said that it is appropriate for life insurance policies to be fairly consistent, regardless of where it is purchased. He opined that when an insurance company is creating a new product, it will first go to states with a larger population and come to Alaska last, making residents of the state wait for years before having access to the product.

[4:26:29 PM](#)

MR. GEORGE went on to say that the compact was formulated by NAIC and has been studied and approved by the National Conference of Insurance Legislators (NCOIL). He reiterated an earlier comment that six more states are needed to make the compact effective, and said "We would urge you to be the 21st state."

REPRESENTATIVE ROKEBERG, referring to the sponsor statement, asked if health insurance would be covered.

MR. GEORGE replied that it would not.

[4:27:54 PM](#)

LINDA HALL, Director, Division of Insurance, Department of Commerce, Community, & Economic Development (DCCED), informed the committee that she would not be taking a position on the bill, but would provide comments. She said that the financial service marketplace is changing and insurance companies are forming banks, which are then selling insurance products. She stated that Alaska has a very mobile population. She said that the NAIC has attempted to do a "speed-to-market", in order to get the products to the consumer as quickly as possible. In regard to federal regulation, she opined that Alaska is more likely to have accessibility on a state level.

MS. HALL explained that it has delegated the [Interstate Insurance Product Regulation Commission] to develop uniform standards. She said that these standards must be adopted by two-thirds of the majority of the member states. She noted that the legislature may decide to opt out if a standard does not meet the needs of the state. She said that this can also be done by regulation and opined that this process would be more complicated. In regard to the number of states required to create a compact, she said that it requires 26 states, or sufficient states to have 40 percent of the premium of a product. She said that the four products included in the compact are: life insurance; annuities; disability income; and long-term care insurance.

REPRESENTATIVE LEDOUX asked how the products included in the compact is determined.

MS. HALL replied that it is her understanding that these products are the most mobile policies. She opined that these are most likely the easiest to regulate. In regard to developing standards, she said that this is a process led by state regulators. She stated that there was some concern that the compact would adopt the regulations of the state with the lowest standards. In regard to giving the insurance company the ability to choose whether it files with the state or with the compact, she said that there was some concern that the insurer may choose the route with the lowest standards to comply with.

She stated that the compact appears to have higher standards than the state, which include a 10-day free look and minimum readability standards. She said that while Alaska currently has general product standards, it does not have a readability standard. She said that the standards that are being set have potential to provide greater consumer protection than current law.

MS. HALL went on to highlight that page 22, Section 1 points out which areas would still be reserved to the states. She said that while she did not request that the bill be introduced, she believes that there is potential to provide benefits to Alaskan consumers.

MS. HALL, in response to a question, said that the interpretation of the standard is challenged more often than the standard itself. She opined that the state still maintains the ability to enforce this.

[4:38:38 PM](#)

REPRESENTATIVE GUTTENBERG asked what the state's course of action would be if the compact takes up an issue that is outside the state's policy and the state decides to opt out.

MS. HALL opined that the legislature would vote on the issue.

REPRESENTATIVE ROKEBERG asked if Ms. Hall [would agree with the bill passing.]

MS. HALL replied that [she would.]

REPRESENTATIVE GUTTENBERG noted that Ms. Hall is a member of NAIC and asked if she feels confident that the state would be well represented [by the other members of the NAIC.]

MS. HALL replied that she does.

[4:41:27 PM](#)

REPRESENTATIVE ROKEBERG asked if the bill has a fiscal note.

MS. HALL offered her understanding that the original funding will be provided by NAIC; however, the majority of the funding will come from filing fees.

ACTING CHAIR KOTT closed public testimony. He noted that there is a proposed amendment from the sponsor.

REPRESENTATIVE ROKEBERG made a motion to adopt Amendment 1, which would remove Sections 2-3. There being no objection, Amendment 1 was adopted.

[4:44:21 PM](#)

REPRESENTATIVE LYNN moved to report HB 439, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 439(L&C), was reported from the House Labor and Commerce Standing Committee.

HB 424-MORTGAGE LENDING

[4:46:06 PM](#)

ACTING CHAIR KOTT announced that the final order of business would be HOUSE BILL NO. 424, "An Act relating to mortgage lenders and persons who engage in activities relating to mortgage lending; and providing for an effective date."

JOSH APPLEBEE, Staff to Representative Tom Anderson, House Labor and Commerce Standing Committee, Alaska State Legislature, presented the proposed committee substitute (CS) to HB 424 on behalf of the sponsor, the House Labor and Commerce Standing Committee. He explained that industry and the Division of Banking & Securities have been working closely to reach [agreeable] language, which was provided this afternoon. The aforementioned is embodied in CSSB 272, Version 24-LS1644\I, Bannister, 3/1/06, which he said he hoped the committee would adopt in order to begin the process.

REPRESENTATIVE ROKEBERG moved to adopt CSSB 272, Version 24-LS1644\I, Bannister, 3/1/06, as the working document. There being no objection, it was so ordered.

[4:48:00 PM](#)

ACTING CHAIR KOTT announced that due to the late receipt of this version, it isn't the committee's intent to move the bill out of committee today.

[4:48:42 PM](#)

JOHN CARMAN, Partner & President, HomeState Mortgage Company; Chair, Legislative Committee, Alaska Mortgage Bankers Association, stated that he is in favor of this legislation. He informed the committee that he has been working for the past five years to pass such legislation. Currently, there is no legislation in Alaska for mortgage bankers or brokers, and therefore anyone can present himself/herself as a mortgage banker or broker. The aforementioned, he opined, is to the detriment of the consumers in Alaska. He indicated that [HomeState Mortgage] would like additional legislation next year to license individual mortgage originators, although he acknowledged that more compromise and discussion will be required regarding education requirements and other things. In response to Acting Chair Kott, Mr. Carman confirmed that Alaska is the only state that does not have regulation or laws governing the mortgage origination process.

REPRESENTATIVE CRAWFORD related his understanding that under this legislation, the state would license Internet mortgage brokers as well.

MR. CARMAN replied yes. In response to Representative Rokeberg, Mr. Carman said the difference between brokers and bankers is a bit murky. For instance, HomeState Mortgage performs brokering and banking services. However, a broker basically facilitates the loan, which will close in the name of whoever the individual arranges the loan while a mortgage banker closes in its name and sells to the secondary market after the loan is closed. Therefore, brokers tend to be smaller because they don't have the necessary lines of credit and capital to close in the broker's name.

[4:52:16 PM](#)

REPRESENTATIVE ROKEBERG related his understanding that there is some resistance to HB 424 from the originators.

MR. CARMAN explained that the brokers have said they want each originator to be licensed rather than the company. Mr. Carman opined that originator legislation is necessary and legislation is being worked on with the Division of Banking & Securities that would license originators. However, too many issues arise when attempting to license every person in the process and would slow the process too much this year. Therefore, the [Alaska Mortgage Bankers Association] will work on that for next year.

ACTING CHAIR KOTT mentioned that the committee has been provided a letter from the Alaska Mortgage Bankers Association that appears to identify some problems with HB 424.

MR. CARMAN said he believes the problems noted in the letter have been addressed in the proposed committee substitute adopted earlier.

4:54:56 PM

MARK DAVIS, Director, Juneau Office, Division of Banking & Securities, Department of Commerce, Community, & Economic Development (DCCED), stated that [the department] is in favor of legislation that will regulate mortgages. He related that the division receives about 15 calls per week from consumers making complaints against mortgage companies over which the division has no jurisdiction. Additionally, the division receives about 25 calls a week from companies who want to do business and the division informs them that they are unregulated. Therefore, one of the tenets of HB 424 is to regulate these entities as is done in the Lower 48. Another tenet of HB 424 is to cover interstate mortgage companies doing business in Alaska. He explained that the aforementioned would be very similar to jurisdiction used in the pay day lending legislation last year. The division has had a fairly positive experience with the pay day lending law. The desire, he opined, is to achieve a balance between a healthy industry and consumer protection. He mentioned that the legislation will likely require further work at some point. The legislation provides a licensing procedure, appropriate regulatory authority to the state in order that it may investigate, review, and resolve consumer complaints regarding mortgage lenders and brokers. Furthermore, this legislation will provide for a level playing field such that all companies follow the same set of rules. Mr. Davis noted that the division is in favor of defining [mortgage brokers and bankers] as being financial institutions under Title 06 in order to bring them into the banking community. He emphasized that a mortgage is one of the largest transactions that many people perform whether via a financial institution, bank, or some other lending process.

4:58:00 PM

KEVIN BREELAND, President, Alaska Mortgage Bankers Association; Minority Partner, Residential Mortgage, confirmed that his letter dated March 1, 2006, to Chair Anderson was drafted prior to review of the proposed CS. He said that he has been working

with the Division of Banking to resolve issues and will continue to do so. The spirit of the legislation, he said, [the Alaska Mortgage Bankers Association, does support. He opined that licensing of lenders is necessary.

REPRESENTATIVE LEDOUX recalled that the letter relates concerns with regard to paragraphs (10) and (11) on page 13 of the proposed CS.

MR. BREELAND said that his letter brought attention to paragraphs (10) and (11) in order to ensure the intent of those provisions are interpreted by the court system in the same manner [as specified in the letter]. In further response to Representative LeDoux, Mr. Breeland said that he was no longer concerned about the membership reviewing them because he has spoken over the phone with members. He explained that he, personally, was confused with the intent of these paragraphs. However, he said he is more comfortable now with these paragraphs and would be able to articulate the intent of these provisions.

[5:02:10 PM](#)

DWIGHT DEELY, President, Evergreen Alaska Mortgage, said that he and other [brokers] haven't had much time to review the proposed CS. Mr. Deely related that he agreed with the intent and spirit of the legislation. However, much of the concern is related to the language and whether it will impact mortgage brokers more than bankers and lenders.

ACTING CHAIR KOTT opined that the committee agrees with the spirit of the legislation, but it wants to ensure that it doesn't become problematic later.

MR. DEELY agreed. He informed the committee that he is licensed in multiple states and performs most business via the Internet. He mentioned that he has went through these licensing issues in multiple states, which he characterized as a nightmare. Although he agreed that without any state regulations, shady businesses can do business in the state, he expressed the need to take care and allow input from all the interested organizations.

ACTING CHAIR KOTT reiterated that this legislation won't be reported out of committee today.

[5:05:07 PM](#)

CHRIS SKINNER, Broker, President, Kelstar Alaska Mortgage; Member, Legislative Committee, Alaska Association of Mortgage Brokers, reiterated Mr. Deely's testimony that [brokers] haven't had the opportunity to review the legislation as they should. In fact, Ms. Skinner opined that the Alaska Association of Mortgage Brokers has been left out of this process. She recalled that at one point the Alaska Association of Mortgage Brokers was working with the Alaska Mortgage Bankers Association on legislation. However, legislation was introduced by another party and language that was necessary to protect consumers wasn't included in the legislation. Ms. Skinner said that upon reading through the legislation she felt that mortgage brokers would be the most affected by this legislation, and thus should be able to be more involved in the process. She noted that brokers do believe that licensing is necessary, but the language of the legislation needs some work.

[5:06:37 PM](#)

DOUG ISAACSON, President, Alaska Association of Mortgage Brokers; President, Gold Coast Mortgage, reiterated earlier testimony that the proposed CS was just received today. The language of the proposed CS is different than the prior version. Mr. Isaacson then explained that there are many different members involved in the mortgage conduit, although each is working to the same end goal of helping more people enter into home ownership. He indicated that all groups are working together to develop language that promotes professionalism and protects the consumer. Mr. Isaacson explained that the Alaska Association of Mortgage Brokers is affiliated with the national association, which has members in 49 states. He further explained that brokers have members that are sometimes lenders, pure brokers, and net branches. The concern, he said, is that the membership hasn't had an opportunity to review the new proposed legislation.

MR. ISAACSON went on to say that customer protection requires a test of competency. Therefore, if the competency of the licensee isn't being provided for, then consumer protection isn't being encouraged. Furthermore, anyone can incorporate themselves in a fashion to be excluded by this legislation, save the small group of licensees who will face additional fees on their loans. The aforementioned will be forwarded on to the consumer. Moreover, if that additional fee isn't placed on all mortgage loans in Alaska, a certain section of the industry will be placed at a competitive disadvantage. The aforementioned has

nothing to do with competency. However, when one reviews a competency requirement, education comes into play, even for the companies. Mr. Isaacson said that he would like to see a competency test in this legislation and not exclude nonprofit agencies. He then discussed the exclusion of "quasi-governmental" agencies. He went on to say, "When you have the State of Alaska condoning a fiduciary assigned by the court, the ability to not be licensed, you're defeating your own desire to protect the public." For example, if a pension fund doesn't have to be licensed or show competence and is able to perform mortgages for the pension holders, the [consumers] who trust the government to provide safeguards are placed at risk. Furthermore, just because an individual has a securities license or is a real estate agent or attorney doesn't mean that he/she can keep up with the ever-changing requirements of mortgage origination or lending functions.

MR. ISAACSON specified that he isn't speaking against the legislation, but rather against the "vast gaping holes" in it. On the other hand, [the legislation] specifies that the state's agents should also have oversight over federal regulation, which he opined goes too far. The state auditors who currently do not regulate federally chartered banks will have to provide a test of competency to audit federal regulations. Therefore, the right to audit will become a requirement to audit. The aforementioned, he opined, places a huge burden on the department, which will have to train and supervise people. These are usually the same auditors who will also be doing the state banking. Mr. Isaacson then highlighted that there is no cap on the amount charged. Therefore, he expressed the need for there to be language included that specifies how much the audit/examination can cost. He also expressed the need to include language that specifies that the department has the option to examine a mortgage broker, but can also decide that such examination isn't warranted. Furthermore, this legislation seems to specify that the state will be a collection agency for mandating payments to appraisers, without stipulating that appraisers have to have reasonable appraisals. Mr. Isaacson expressed the need for there to be language specifying differing levels of penalties for different prohibited practices. Lack of payment to an appraiser shouldn't be taken on the same level of discipline as say, theft of escrow funds, he opined. Mr. Isaacson informed the committee that he will provide the committee with written testimony, which suggests the aforementioned. He concluded by expressing the need to review the legislation line by line in order to provide consumers with protection and professionalism in the industry.

[5:21:01 PM](#)

LOU KONETSKI, Senior Vice President, Gold Coast Mortgage, opined that mortgage brokers are being discriminated against as compared to the bank officers who perform the same functions as the mortgage brokers. He highlighted that if one totals the fees and taxes involved with this legislation, it amounts to more than \$1,000 per year. However, the mortgage officers working with the banks won't have to pay anything. Mr. Konetski opined that mortgage brokers are being treated worse than criminals as they are forced to pay \$75 an hour for their own investigation. He then informed the committee of the committee "Don't Borrow Trouble," which addresses predatory lending. The aforementioned committee has found that most of the problems with mortgage loans have to do with out-of-state lenders doing business in Alaska, although the legislation doesn't address that matter very well.

[5:23:32 PM](#)

LINDA PATRICK, Vice President, Evergreen Alaska Mortgage Corporation, echoed earlier statements regarding only recently receiving the proposed CS and not having the ability to review the legislation. Ms. Patrick opined that regulation is important, especially for predatory lenders. She explained the difficulty with [out-of-state] lenders who offer cheaper loans, although those lenders don't know the idiosyncrasies in Alaska. She expressed the need to protect clients, while she hoped this legislation will not micromanage brokers.

[5:25:34 PM](#)

VERNON RUSH, President, Alaska Capital; Partner, Equity Investors; Managing Partner, Astoria Investments; Chair, Alaska State Mortgage Brokers Association Legislative Committee; Independent Lender, speaking as a lender, opined that HB 424, as written, isn't onerous. However, it doesn't protect the public. As a broker and a person who has contracted with banks to originate mortgage loans, Mr. Rush interpreted the legislation, as per the language on page 3, to mean that he is exempt from this legislation. He explained that he is an independent contractor [functioning] as a mortgage broker with written agreements with exempt entities. Furthermore, he noted that he doesn't issue mortgage loan commitments or set the rates, terms, et cetera of the mortgage. Mr. Rush said he didn't believe the drafters of HB 424 truly under the differences in mortgage

brokering. Moreover, the legislation doesn't protect the public, he reiterated. He pointed out that DiTech is technically a bank and would be exempt under this legislation. Mr. Rush mentioned his agreement with the idea of licensing the lender and the originator because the person dealing with the client is the one representing what he/she can do. In conclusion, Mr. Rush opined that the current proposed CS needs much further scrutiny.

[5:28:21 PM](#)

JOHN MARTIN, Manager, Alaska Mortgage Solutions, began by explaining that he is a net branch operation, which means that he is a lender as well as a broker. He informed the committee that he has been a resident of Alaska since 1959 and has seen many changes over the years, especially in recent years, with regard to mortgage loans. He also informed the committee that he is a past president and founding member of the Alaska Association of Mortgage Brokers. One of the reasons the Alaska Association of Mortgage Brokers was founded was the belief in licensing. Therefore, there is the desire for fair licensing while there is also some consumer protection and the opportunity for everyone to be able to effectively operate their business. Mr. Martin cautioned against over regulation because Alaska is a cash poor state, in regard to mortgage loans. Over regulation of mortgage loans in Alaska may result in the loss of closing loans and placing Alaskans in homes. Mr. Martin opined that the proposed CS needs much amending to be effective because, as stated earlier, this legislation is only part of [what is necessary]. He specified that the legislation should include originators and how they will be tested for competency, have a background check, and require a specified amount of education to be obtained on a biannual basis.

[5:30:35 PM](#)

JOE BRAMMER, Manager, First Metropolitan Mortgage, said that he has some of the same concerns expressed by Mr. Isaacson. He opined that with all exemptions under AS 06.60.020, this legislation doesn't do much to protect consumers because most will be exempt in one way or another. For instance, a mortgage that is a bank, savings and loan, or credit union, or is a subsidiary or affiliate of the aforementioned doesn't have to comply with any provision of this legislation. He highlighted the exemptions for quasi governmental agencies, attorneys, real estate brokers and agents, fiduciary capacity, and persons licensed by the U.S. Small Business Administration. Mr. Brammer

noted his wholehearted agreement with Mr. Carman in that the lack of legislation regulating mortgage originators is of detriment to the consumers of the state. He further agreed with Mr. Martin that this legislation should be made whole by adding the mortgage origination requirement that the originators of this state need to be licensed. "Essentially, the way that this bill reads it is big business trying to legislate small business out of business," he opined.

[5:32:53 PM](#)

JAY WILCOX, Loan Executive, Long Beach Mortgage, noted his agreement with much of the previous testimony. The current proposed CS doesn't seem to protect the consumer. Mr. Wilcox related that predatory lending is the thing to watch. He further related that the problems he has seen in Alaska are in relation to originators who don't know Alaska and its laws. Without licensing mortgage originators, implementing education and competency requirements, consumers aren't being provided any benefit. Therefore, the aforementioned should be added to the legislation.

[5:35:13 PM](#)

DAN FAUSKE, CEO/Executive Director, Alaska Housing Finance Corporation (AHFC), Department of Revenue, related he, too, hasn't had a chance to review the proposed CS, about which there have been some good points raised. Mr. Fauske specified that AHFC does support of the basic premise of the legislation, which is some type of regulation or control to protect consumers.

[5:36:13 PM](#)

ACTING CHAIR KOTT announced that public testimony on HB 424 will be held open until this measure is heard again.

[5:36:38 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:36 p.m.