

ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE

April 25, 2006

1:31 p.m.

MEMBERS PRESENT

Representative Jim Elkins, Co-Chair
Representative Carl Gatto, Co-Chair
Representative Mark Neuman
Representative Bill Thomas
Representative Woodie Salmon

MEMBERS ABSENT

Representative Vic Kohring
Representative Mary Kapsner

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 300(L&C)

"An Act relating to the handling of negative equity in motor vehicle transactions; and relating to the contents of retail installment contracts."

- MOVED CSSB 300(L&C) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 300

SHORT TITLE: MOTOR VEHICLE NEGATIVE EQUITY/CONTRACTS

SPONSOR(s): SENATOR(s) SEEKINS

02/14/06	(S)	READ THE FIRST TIME - REFERRALS
02/14/06	(S)	TRA, L&C
02/23/06	(H)	TRA AT 1:30 PM CAPITOL 17
02/23/06	(H)	-- Meeting Canceled --
03/09/06	(S)	TRA AT 1:30 PM BUTROVICH 205
03/09/06	(S)	Moved SB 300 Out of Committee
03/09/06	(S)	MINUTE(TRA)
03/10/06	(S)	TRA RPT 2DP 1NR
03/10/06	(S)	DP: HUGGINS, KOOKESH
03/10/06	(S)	NR: FRENCH
03/16/06	(S)	L&C AT 1:30 PM BELTZ 211
03/16/06	(S)	Heard & Held
03/16/06	(S)	MINUTE(L&C)
03/28/06	(S)	L&C AT 1:30 PM BELTZ 211

03/28/06	(S)	Moved CSSB 300(L&C) Out of Committee	
03/28/06	(S)	MINUTE(L&C)	
03/29/06	(S)	L&C RPT CS 4DP	NEW
		TITLE	
03/29/06	(S)	DP: BUNDE, DAVIS, ELLIS, SEEKINS	
04/05/06	(S)	TRANSMITTED TO (H)	
04/05/06	(S)	VERSION: CSSB 300(L&C)	
04/06/06	(H)	READ THE FIRST TIME - REFERRALS	
04/06/06	(H)	TRA, L&C	
04/25/06	(H)	TRA AT 1:30 PM CAPITOL 17	

WITNESS REGISTER

BRIAN HOVE, Staff
to Senator Ralph Seekins
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 300 on behalf of Senator Seekins, sponsor.

ED SNIFFEN, Assistant Attorney General
Commercial/Fair Business Section
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 300.

ACTION NARRATIVE

CO-CHAIR CARL GATTO called the House Transportation Standing Committee meeting to order at [1:31:38 PM](#). Representatives Gatto, Elkins, Neuman, and Thomas were present at the call to order. Representative Salmon arrived as the meeting was in progress.

SB 300-MOTOR VEHICLE NEGATIVE EQUITY/CONTRACTS

CO-CHAIR GATTO announced that the only order of business would be CS FOR SENATE BILL NO. 300(L&C), "An Act relating to the handling of negative equity in motor vehicle transactions; and relating to the contents of retail installment contracts."

BRIAN HOVE, Staff to Senator Ralph Seekins, presented SB 300 on behalf of Senator Seekins, sponsor. He said SB 300 alters the definition of principle balance to put one group of creditors on a level playing field with "another group." Senator Seekins [a car dealer] has banks and credit unions that offer his customers financing as well as acceptance companies, like General Motors

Acceptance Corporation and Chrysler Credit. The lenders are federally regulated, but the acceptance companies must also adhere to state laws, "but not the banks and credit unions."

MR. HOVE said when a customer has a trade-in vehicle and owes, for example, \$9,000 on that vehicle, but the value of the vehicle is only \$8,000, the extra \$1,000 can be "rolled into the new deal if you're talking about a bank or credit union." Under the state law it is difficult, if not impossible, for the acceptance companies to "write a deal for that customer," he explained. "The concept of negative equity aside, that cat's out of the bag, what we have here is a disparity in how banks are treated and how acceptance companies are treated." He said customers are better off if they have more financing options. He said dealerships will often send an application to several lenders to find the best deal. It limits options by excluding acceptance companies and provides an "unlevel playing field" between acceptance companies and banks and credit union.

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CO-CHAIR GATTO said a car dealership that makes loans has different rules than a bank or credit union even when lending the same amount of money for the same car. Senate Bill 300 changes the rules for acceptance corporations, which are nationwide. He asked if nationwide banks have the same option.

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MR. HOVE said, "They would be governed by the same regulations. It's regulation Z. It's a federal regulation. So whether it's the First National Bank of Alaska or Bank of America, they would have to both abide by Regulation Z."

CO-CHAIR GATTO asked about the language in the bill that updates the definition of "principle balance."

MR. HOVE said on page 2, line 14, "we've added an 11 here to the 10 that currently exists. These are items the contract must indicate." He read to the committee:

If the retail and installment contract is for the sale of a motor vehicle, the amount, if any, that the seller agrees to pay to this charge and outstanding obligation...

MR. HOVE stopped reading to explain that, "this would be, in my earlier example of a \$1,000 difference between the trade-in value of the old vehicle versus its payoff balance." He continued reading:

The discharge and outstanding obligation of the buyer under an existing motor vehicle agreement, loan installment, sales contract, or lease, this would be the amount indicated on the contract.

MR. HOVE said, "So it amounts to a disclosure."

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CO-CHAIR GATTO asked, "Is there is a fee when someone has negative equity to go ahead and essentially do what the bill wants to allow them to do?"

MR. HOVE said, "No, there is not."

CO-CHAIR GATTO asked if the amount of the negative equity would be added to the car price or if it is treated separately.

MR. HOVE said that in the "old days" that is how it worked, "but that didn't mathematically describe the transaction, and so what this is attempting to do is to properly describe the transaction, not put it into [the price of the car]."

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REPRESENTATIVE THOMAS said he generally needs a down payment when he buys a car, so how can a buyer have negative equity?

MR. HOVE said at one time a 25 percent down payment was required with a 36-month maximum term. "But because of the robustness in our economy, lenders are always looking for good deals, and so for good customers they're willing." He noted that down payments have declined over the years. "Now it is zero." He said the terms have increased by several years as well.

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REPRESENTATIVE THOMAS said he bought two vehicles in the last two years outside the state and needed a down payment. He noted that trucks now cost from \$50,000 to \$60,000.

MR. HOVE said that is the way he purchases vehicles, but the last vehicle had such a low interest, "I didn't bother putting a down payment on it." He said the transaction depends on the lenders and how flush the economy is with cash.

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REPRESENTATIVE THOMAS said loan rates are higher in Alaska.

ED SNIFFEN, Assistant Attorney General, Commercial/Fair Business Section, Department of Law, said he supports the bill. When trading in a vehicle and entering a lease, two things are happening, especially if there is negative equity for the vehicle being traded in. As soon as the vehicle is traded in and the dealer agrees to assume that extra balance, the dealer is doing two things, he said. The dealer is paying off the debt on that other vehicle, so it is a loan subject to regulation Z. The new vehicle is being leased under another transaction that is regulated under "a whole different set of regulations called Regulation M, which is the consumer leasing transaction." He said current law has two sets of disclosure requirements that acceptance companies have to comply with. He explained that SB 300 brings the two together, so a car dealer can streamline the paperwork and provide one set of notices to the consumer to clarify what the consumer is specifically doing. The feature brings Alaska on line with the federal requirement, he noted.

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CO-CHAIR GATTO asked if the seller must disclose the terms verbally, or if a signature is required.

MR. SNIFFEN said he is not aware of a requirement of a verbal disclosure. Financial disclosures are required in writing.

CO-CHAIR GATTO said the sponsor told him about the difficulty of selling a car because of the stack of papers he gives to buyers of his vehicles that must be signed. Senator Seekins said nobody reads them, and Co-Chair Gatto spoke of the consequences of signing the documents. He asked if the legislature should address verbal disclosures in the future.

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MR. SNIFFEN said he can't say how many times that a consumer told him, "I didn't know what I was signing." The inherent problem with a verbal requirement is the inability to enforce it

because of the he-said-she-said situation. The written requirement gives a consumer a chance to "at least look at it." He said he understands the amount of paperwork in purchasing a car and the nonchalant attitude of consumers.

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CO-CHAIR GATTO said a 20-page bill has parts highlighted in bold type, so he suggested requiring a seller to read certain contract highlighted provisions. The seller may be dangling the keys in front of eager buyers who just want to drive off with the car.

REPRESENTATIVE THOMAS said, "That's why you have a wife. To make sure you don't do that."

CO-CHAIR GATTO imagined the pressure of a dealer announcing a discount that ends in 15 minutes and stated that a verbal disclosure may help.

MR. SNIFFEN said he agrees and suggested a one-page summary of what the stack of papers mean.

CO-CHAIR GATTO suggested a sectional for each page.

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MR. HOVE said regulation Z requires disclosures with pertinent details in a box at the top of the contract, including the principal amount and interest rate.

REPRESENTATIVE NEUMAN said he sees the bill as protection for consumers by clarifying the transaction.

REPRESENTATIVE THOMAS said the letter from the Alaska Automobile Dealers urges passage of the bill to help dealers and consumers.

REPRESENTATIVE THOMAS moved to report CSSB 300(L&C) out of committee with individual recommendations and the accompanying fiscal notes. Hearing no objections, CSSB 300(L&C) moved out of the House Transportation Standing Committee.

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ADJOURNMENT

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at [1:58:35 PM](#).