

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

March 9, 2006

1:32 p.m.

**MEMBERS PRESENT**

Senator Con Bunde, Chair  
Senator Ralph Seekins, Vice Chair  
Senator Ben Stevens  
Senator Johnny Ellis  
Senator Bettye Davis

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 274(FIN)

"An Act relating to the practice of accounting; and providing for an effective date."

MOVED CSSSHB 274(FIN) FROM COMMITTEE

SENATE BILL NO. 307

"An Act relating to a fee provided for in the rental agreement for late payment of rent under the Uniform Residential Landlord and Tenant Act."

HEARD AND HELD

CS FOR HOUSE BILL NO. 393(HES)

"An Act requiring that certain health care insurance plans provide coverage for the costs of colorectal cancer screening examinations and laboratory tests; and providing for an effective date."

HEARD AND HELD

CONFIRMATION HEARINGS:

Alcohol Beverage Control Board - Billy G. Andrews, Gail M. Niemi  
State Board of Registration for Architects, Engineers and Land Surveyors - Charles A. Leet

Board of Veterinary Examiners - Steve Torrence

CONFIRMATIONS ADVANCED

**PREVIOUS COMMITTEE ACTION**

BILL: HB 274

SHORT TITLE: PUBLIC ACCOUNTANTS

SPONSOR(s): REPRESENTATIVE(s) HAWKER

04/18/05 (H) READ THE FIRST TIME - REFERRALS  
04/18/05 (H) L&C, FIN  
01/11/06 (H) SPONSOR SUBSTITUTE INTRODUCED  
01/11/06 (H) READ THE FIRST TIME - REFERRALS  
01/11/06 (H) L&C, FIN  
01/25/06 (H) L&C AT 3:15 PM CAPITOL 17  
01/25/06 (H) Heard & Held  
01/25/06 (H) MINUTE(L&C)  
02/01/06 (H) L&C AT 3:15 PM CAPITOL 17  
02/01/06 (H) Moved CSHB 274(L&C) Out of Committee  
02/01/06 (H) MINUTE(L&C)  
02/03/06 (H) L&C RPT CS(L&C) 7DP  
02/03/06 (H) DP: CRAWFORD, LYNN, KOTT, LEDOUX,  
GUTTENBERG, ROKEBERG, ANDERSON  
02/09/06 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
02/09/06 (H) Moved CSHB 274(FIN) Out of Committee  
02/09/06 (H) MINUTE(FIN)  
02/10/06 (H) FIN RPT CS(FIN) 9DP 1NR  
02/10/06 (H) DP: HAWKER, FOSTER, STOLTZE, KERTTULA,  
JOULE, MOSES, WEYHRAUCH, HOLM, MEYER;  
02/10/06 (H) NR: KELLY  
02/22/06 (H) TRANSMITTED TO (S)  
02/22/06 (H) VERSION: CSSSHB 274(FIN)  
02/23/06 (S) READ THE FIRST TIME - REFERRALS  
02/23/06 (S) L&C, FIN  
03/07/06 (S) L&C AT 1:30 PM BELTZ 211  
03/07/06 (S) Scheduled But Not Heard  
03/09/06 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 307

SHORT TITLE: LANDLORD REMEDIES; LATE FEE

SPONSOR(s): LABOR & COMMERCE

02/23/06 (S) READ THE FIRST TIME - REFERRALS  
02/23/06 (S) L&C, JUD  
03/09/06 (S) L&C AT 1:30 PM BELTZ 211

BILL: HB 393

SHORT TITLE: INSURANCE FOR COLORECTAL CANCER SCREENING

SPONSOR(s): REPRESENTATIVE(s) ANDERSON

01/25/06 (H) READ THE FIRST TIME - REFERRALS  
01/25/06 (H) L&C, HES  
02/03/06 (H) L&C AT 4:15 PM CAPITOL 17

02/03/06 (H) -- Meeting Canceled --  
02/06/06 (H) L&C AT 3:15 PM CAPITOL 17  
02/06/06 (H) Moved CSHB 393(L&C) Out of Committee  
02/06/06 (H) MINUTE(L&C)  
02/08/06 (H) L&C RPT CS(L&C) 5DP 1NR 1AM  
02/08/06 (H) DP: CRAWFORD, LYNN, LEDOUX, GUTTENBERG,  
ANDERSON;  
02/08/06 (H) NR: KOTT;  
02/08/06 (H) AM: ROKEBERG  
02/14/06 (H) HES AT 3:00 PM CAPITOL 106  
02/14/06 (H) Moved CSHB 393(HES) Out of Committee  
02/14/06 (H) MINUTE(HES)  
02/17/06 (H) HES RPT CS(HES) 6DP  
02/17/06 (H) DP: GARDNER, CISSNA, ANDERSON, GATTO,  
SEATON, WILSON  
02/22/06 (H) TRANSMITTED TO (S)  
02/22/06 (H) VERSION: CSHB 393(HES)  
02/23/06 (S) READ THE FIRST TIME - REFERRALS  
02/23/06 (S) L&C, HES  
03/09/06 (S) L&C AT 1:30 PM BELTZ 211

**WITNESS REGISTER**

REPRESENTATIVE MIKE HAWKER  
State Capitol  
Juneau AK  
**POSITION STATEMENT:** Sponsor of HB 274.

LISA ROGERS  
Alaska Society of CPAs  
Alaska Offnet  
**POSITION STATEMENT:** Supported HB 274.

DAN KANADY, CPA  
Wasilla AK  
**POSITION STATEMENT:** Supported HB 274.

JANE ALBERTS  
Staff to Senator Bunde  
State Capitol  
Juneau AK  
**POSITION STATEMENT:** Introduced SB 307 for the sponsor.

BOB MAIER  
Alaska Manufactured Housing Association  
Anchorage AK  
**POSITION STATEMENT:** Supported SB 307.

GEORGE CAMP, Manager  
Diamond State Properties  
Anchorage AK  
**POSITION STATEMENT:** Supported SB 307.

CLAYTON WALKER  
Alaska Law Offices  
Anchorage AK  
**POSITION STATEMENT:** Supported SB 307.

WAYNE STEVENS, President and CEO  
Alaska State Chamber of Commerce  
Juneau AK  
**POSITION STATEMENT:** Supported SB 307.

CRYSTAL NOVOTNY  
Staff to Representative Tom Anderson  
State Capitol  
Juneau AK  
**POSITION STATEMENT:** Introduced HB 393 for the sponsor.

MARIE DARLIN  
Capitol City Task Force  
AARP  
Juneau AK  
**POSITION STATEMENT:** Supported HB 393.

EMILY NENON, Director  
Alaska Government Relations  
American Cancer Society  
Anchorage AK  
**POSITION STATEMENT:** Supported HB 393.

MIKE FORD  
Alaska Native Health Board  
Juneau AK  
**POSITION STATEMENT:** Supported HB 393.

RICK URION  
Juneau AK  
**POSITION STATEMENT:** Supported HB 393.

DR. FRANK SACCO, General Surgeon  
Alaska Native Medical Center  
Anchorage AK  
**POSITION STATEMENT:** Supported HB 393.

CARE TUKS  
Wasilla AK

**POSITION STATEMENT:** Supported HB 393.

#### **ACTION NARRATIVE**

**CHAIR CON BUNDE** called the Senate Labor and Commerce Standing Committee meeting to order at [1:32:55 PM](#). All members were present at the call to order.

#### **CSSSHB 274(FIN)-PUBLIC ACCOUNTANTS**

CHAIR CON BUNDE announced CSSSHB 274(FIN) to be up for consideration.

REPRESENTATIVE MIKE HAWKER, sponsor of HB 274, said that this legislation is the result of a project that was begun five years ago by the Alaska Society of Certified Public Accountants and the Alaska State Board of Public Accountancy to modernize Alaska's public accountancy statutes. It would move them toward a national standard embodied in the Uniform Accountancy Act, which is draft legislation offered by the American Institute of Certified Public Accountants. This draft act seeks to bring consistency and equivalency amongst different jurisdictions for both education and training requirements to facilitate the practice of accountancy in a consistent manner among states. Alaska's CPA statutes were largely drafted around 1962 and have had very little updating since then.

The vast majority of the changes in HB 274 are ministerial, conforming language that modernizes the state's terms. But it has a couple of very substantial improvements in moving them toward the national standards. It increases oversight of accountants, brought on by issues such as Enron and a few other places. This bill would make peer reviews that are currently optional, mandatory.

Further, HB 274 clearly defines the requirements for allowing the practice of out-of-state firms in the state. They are currently a very vague set of provisions. It also conforms education requirements to that of the national standards, which reduces the years of experience required. He pointed out that the bill would require that CPAs have a degree in accounting where previously they could have had a degree in anything - as long as they could pass the test.

REPRESENTATIVE HAWKER said this bill is supported by the Alaska Society of CPAs, Alaska State Board of Accountancy and the accounting industry in general.

CHAIR BUNDE said the Alaska Society of Independent Accountants had a question and asked if it still had concerns.

REPRESENTATIVE HAWKER replied that those concerns were addressed in House Finance Committee and the Society now endorses the bill.

CHAIR BUNDE asked how someone files a grievance under this bill.

REPRESENTATIVE HAWKER replied a person would appeal to the Alaska State Board of Public Accountancy, which has the regulatory and discipline authority for recognized practitioners.

[1:38:29 PM](#)

LISA ROGERS, Alaska Society of CPAs, said she has been licensed to practice certified public accounting in Alaska since 1989 and supported HB 274. She has been working on regulatory and legislative issues facing the profession for at least five years. HB 274 provides a much needed update and revision to those statutes. She encouraged the committee to support this bill.

DAN KANADY, Wasilla CPA, supported HB 274 because it brings the board's requirements closer to national standards. However, he thought reducing the experience requirement from two years to one year would allow easier entry into the CPA profession. The offsetting strengths of the bill are the 150-semester hours education in accounting with an accounting degree and the peer review examination.

[1:43:56 PM](#)

CHAIR BUNDE asked if people who are licensed CPAs but didn't have a degree would be grandfathered in under their old license.

REPRESENTATIVE HAWKER replied yes.

CHAIR BUNDE asked if anyone opposed this bill.

REPRESENTATIVE HAWKER replied no.

SENATOR RALPH SEEKINS moved to report CSSS HB 274(FIN) from committee with individual recommendations and attached fiscal

note. Senators Seekins, Ben Stevens, Ellis, Davis and Chair Bunde voted yea; and it moved from committee.

**SB 307-LANDLORD REMEDIES; LATE FEE**

CHAIR CON BUNDE announced SB 307 to be up for consideration.

JANE ALBERTS, staff to Senator Bunde, said that SB 307 addresses a problem from the 2002 Superior Court ruling on how landlords collect late fees. The court ruled two separate notices were required. This has caused problems. SB 307 returns the notification process back to what it was prior to the 2002 Superior Court Ruling. It allows landlords to include the late fee on the same seven-day Notice to Quit for nonpayment of rent.

She explained that the 2002 ruling required a seven-day Notice to Quit for nonpayment of rent and a 10-day Notice to Quit for nonpayment of the late fee. This meant that two separate notices had to be sent to the tenant. Having two different notices with different due dates and different amounts has caused problems and many have ended up being settled in court.

BOB MAIER, Alaska Manufactured Housing Association, supported this legislation. He explained that they are asking for the notice and late fee to be included on the Notice to Quit to cut down on misunderstandings. Rent is usually due on the first of the month and generally there is a 5 to 10 day grace period before a late fee is assessed. After that time a Notice to Quit is hung. He supported having the dollar amount of the rent and the dollar amount of the late fee to be included on the seven-day Notice to Quit to make communication clearer between landlord and tenant. The Building Owners and Managers Association supports SB 307. It has over 12,000 members worldwide with 108 members in Alaska.

CHAIR BUNDE asked if this would make it easier to evict renters.

MR. MAIER replied no; it is just a simplification for the landlords, the tenants and the courts.

CHAIR BUNDE asked if an eviction notice is served and protested, does it have to be settled in court.

MR. MAIER replied that any Forced Entry and Detainer (FED) is filed with the District Court where judges have a wide purview to make decisions.

[1:50:33 PM](#)

GEORGE CAMP, Manager, Diamond State Properties, said Diamond Properties is a 522 mobile home park in Anchorage. He sends out an average of 20 Notices to Quit per month on the rent issue alone. He supported SB 307 because it would cut down on administrative costs by only requiring one notice. It would also clarify the law for everyone concerned.

[1:51:22 PM](#)

ED SNIFFEN, Assistant Attorney General, Division of Consumer Protection, said the department doesn't take a position on this bill but he wanted to point out some of the consequences SB 307 would have. Before the Nakamoto case in 2002, there was an accepted practice that was illegal and has always been illegal. The Nakamoto case recognized it as illegal under the current law. Mr. Sniffen explained:

It was illegal because we have two statutes, one that requires a 10-day Notice to Quit for failure to pay late fees and other surcharges and another statute that requires a seven-day notice for failure to pay rent. Rent is treated completely differently from late fees and surcharges and for a reason. Under the statute, if you fail to pay rent, there are specific review requirements the court has to go through to decide if you didn't pay because you didn't get your notice - maybe there were offsets, maybe you had to perform repairs, maybe you had to pay utilities - a variety of reasons. And the court has directed, by statute, to look at those issues when deciding whether or not to allow an eviction for failure to pay rent.

If you fail to pay a late fee, however, there is another notice required. And the failure to pay a late fee has to rise to the level of being a material breach of the contract before you can evict a tenant and that's the current state of the law. So, by combining these two concepts into one notice, you are essentially allowing landlords to evict tenants for failing to pay late fees. When under the current system, you can only do that for failing to pay rent and then you could proceed to evict for failure to pay late fees, but only if you show that the late fee failure was a material violation of the lease agreement.

MR. SNIFFEN said some subtle consequences would have impacts on tenants. One of the ways landlords could currently get around this is by just issuing a 10-day Notice to Quit. Then the late fees can be included with the late rent. It would be a 10-day notice, not a seven-day notice.

[1:54:39 PM](#)

CLAYTON WALKER, Alaska Law Offices, Anchorage, said he has represented a lot of landlords. He explained that the statute doesn't say anything about the 10-day notice being for late fees; it's simply for any other material violation of a lease. Also, the tenant is only allowed one opportunity in a six-month period to remedy a 10-day violation. So, if he misses making a second late payment, he has no right to remedy that circumstance. He elaborated:

So, having a landlord use a 10-day notice rather than a seven-day notice is harmful for consumers. The seven-day notice, in contrast, that tenant could be late every month, get the seven-day notice; pay within the seven days and they've remedied. They have a right to stay in the premises. Allowing late fees to be included with the rent on that kind of a notice would allow them to remedy that indefinitely, no matter how many times they were late. In contrast, a 10-day notice, they would be out the second time they failed to within six months.

MR. WALKER informed them that the Nakamoto Superior Court case has not been consistently applied by the courts. Some of the courts feel that the decision was wrongly decided and there is a split within district court on how to handle the issue. Passing this statute would create uniformity among the district courts in how they handle the issue, which would simplify things for both the tenants and the landlords, both of whom have problems understanding the amount that needs to be paid.

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CHAIR BUNDE asked if this bill would encourage people to be chronically late. He asked if under the old system, a person was late twice, he could be evicted.

MR. WALKER replied that was his understanding.

CHAIR BUNDE asked if under existing law with the 10-day notice for a late fee, could a person get the chance to cure that once

every six months. So being late twice would be cause for eviction.

MR. WALKER replied that was correct as long as the court thought the late fee non-payment was a material breach of the lease. If the late fee was \$50 and the rent was \$1,000, he might decide to let them stay and the landlord would have to wait until the late fees accumulate to a much larger number that a judge would find as material.

[1:58:52 PM](#)

WAYNE STEVENS, President and CEO, Alaska State Chamber of Commerce, supported SB 307 because it clarifies and simplifies the process and is in the spirit of regulatory reform, which was passed last year.

[1:59:33 PM](#)

CHAIR BUNDE announced the bill would be held for further work with Mr. Sniffen.

#### **CSHB 393(HES)-INSURANCE FOR COLORECTAL CANCER SCREENING**

CHAIR CON BUNDE announced CSHB 393(HES) to be up for consideration.

SENATOR JOHNNY ELLIS said he had concerns with the fiscal note.

CHAIR BUNDE responded that is one of the reasons he is going to hold the bill for further explanation.

CRYSTAL NOVOTNY, staff to Representative Tom Anderson, sponsor, read the sponsor statement to HB 393. Current Alaska state law requires that health insurance policies cover screenings for breast, cervical and prostate cancer. Colon cancer is the only cancer with a recommended screening test available that is not on this list.

Colorectal cancer is the second-leading cause of death in Alaska and across the nation. An estimated 57,000 Americans died from colon cancer in 2005. Alaska Natives have the highest rate of colorectal cancer in the nation. Cancers that are caught through colorectal screening have a 90 percent five-year survival rate. The five-year survival rate is only 10 percent if the cancer is not caught until symptoms appear. A colonoscopy is over 90 percent effective at detecting colon cancer and can remove

precancerous colon polyps, which prevents cancer from ever developing.

Screening is cost effective. National studies confirm the cost of these screenings spread across the insured population is minimal and covering screenings also has the potential for long-term savings by avoiding treatment costs. Colonoscopies are required only once every 10 years starting at the age of 50. Medicare picks up coverage for the full range of screenings including colonoscopies when a person becomes Medicare-eligible. This underscores the cost effectiveness covering for what most people will be only two colonoscopies between the ages of 50 and 65. The Institute of Medicine reports that the death rate from colon cancer could drop by up to 80 percent if a majority of Americans were regularly screened. Eighteen other states including Texas, Missouri and Nevada have already adopted similar legislation requiring screening coverage.

[2:05:07 PM](#)

MARIE DARLIN, Capitol City Task Force, AARP, supported HB 393 saying it would save lives and health care costs.

[2:05:55 PM](#)

EMILY NENON, American Cancer Society, supported HB 393. She related that this legislation would not get everyone in the state covered, but it is a significant piece as the state regulates about 25 percent of all insurance policies. The American Cancer Society is working on the other pieces as well and has gotten 70 percent of all the federal employee health benefit plans and Medicare to include this coverage.

[2:07:19 PM](#)

MS. NENON discussed the cost of colon cancer screening and how it reduces costs by actually preventing cancer. Treatment for colon cancer costs \$250,000 per year just for the drug, so colonoscopies save money as well as lives.

[2:10:53 PM](#)

CHAIR BUNDE asked the cost of an uninsured colonoscopy.

MS. NENON replied about \$2,500 in Anchorage.

SENATOR ELLIS asked if she had seen the fiscal notes for HB 393.

MS. NENON replied that she was concerned with the assumptions that were made. When you look at the cost of adding the benefit, you also have to look at the treatment savings, for instance.

[2:12:24 PM](#)

MIKE FORD, Alaska Native Health Board, supported HB 393. Alaska Natives have the highest rate of colon cancer from other racial groups. "So, whenever we can chip away at the problem, we would like to do so."

He also commented that he wasn't certain the fiscal note reflected the true fiscal effect of the bill. The current active state employee plan covers colon screening, but it is different for retirees.

[2:13:29 PM](#)

RICK URION, cancer survivor, said he is still undergoing treatment. He is in the group of people who have a high rate of survival because he had an early detection colonoscopy. The screening that detected the cancer was within one year of the previous colonoscopy.

[2:14:47 PM](#)

DR. FRANK SACCO, General Surgeon, Alaska Native Medical Center, voiced support for HB 393. He remarked how colon cancer has tremendous emotional and economic costs affects on a person who develops it. He emphasized that this cancer can be decreased and cured, unlike a lot of other cancers. It's frustrating for him to see folks die needlessly.

[2:16:35 PM](#)

SENATOR SEEKINS asked what kind of screening Alaska Native Medical Center provides for people.

DR. SACCO replied it provides two things - flexible sigmoidoscopies for people of average risk and colonoscopies for high-risk folks. Its screening rates are below the national average.

[2:18:02 PM](#)

SENATOR SEEKINS asked him to explain the virtual colonoscopy program.

DR. SACCO replied that it may be a way to get more folks screened, but unfortunately it still requires a full bowel preparation for the patient who would still get a tube inserted that gets inflated with air. About 30 to 40 percent of the patients will have something that warrants a colonoscopy. It's not recommended for general screening.

[2:19:22 PM](#)

CHAIR BUNDE asked if this bill would impact his clients.

DR. SACCO replied that it would help. About 40 percent of his patients have other some sort of coverage or private insurance. He noted that over half his hospital's budget comes from what it collects, not from the federal government. Collecting more means it can provide more services.

CHAIR BUNDE asked why colon cancer is more prevalent in native cultures.

DR. SACCO speculated diet, genetic and lifestyle issues. The gene is more prevalent in Natives and their traditional diets are low in fiber. Screening is the only proven way to detect cancer and remove polyps that would prevent it from developing.

[2:22:40 PM](#)

CARE TUKS, Wasilla, related that she has survived 10 separate bouts with cancer. She testified that screening and early detection works. If it's detected early, thousands of lives could be saved as well as thousands of dollars in prolonged treatment.

CHAIR BUNDE said he would set this aside for a future date.

#### **CONFIRMATION HEARINGS**

[2:27:02 PM](#)

CHAIR BUNDE announced that there were no objections to the following names being forwarded to the full body for confirmation.

Billy G. Andrew and Gail M. Niemi from Juneau

Charles A. Leet from Palmer

Steve Torrence from Juneau

CHAIR BUNDE adjourned the meeting at [2:28:45 PM](#).