

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

April 4, 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

SENATE BILL NO. 311

"An Act relating to the athletic commission and the commissioner of athletics; and relating to boxing, sparring, and wrestling contests, matches, and exhibitions."

HEARD AND HELD

SENATE BILL NO. 312

"An Act relating to the promotion of live public events for which tickets are sold in advance."

HEARD AND HELD

SENATE BILL NO. 272

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

MOVED CSSB 272(L&C) OUT OF COMMITTEE

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."

MOVED CSSB 393(HES) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 394(L&C) am

"An Act relating to allowing insurance policy forms to be filed and approved in languages other than English if an official English language version is also filed, and authorizing use of

insurance policy forms and associated materials in languages other than English."

MOVED CSHB 394(L&C) am OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 311

SHORT TITLE: ATHLETIC COMMISSION; BOXING & WRESTLING

SPONSOR(s): LABOR & COMMERCE

03/24/06 (S) READ THE FIRST TIME - REFERRALS
03/24/06 (S) L&C, FIN
04/04/06 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 312

SHORT TITLE: CONCERT OR ATHLETIC EVENT PROMOTERS

SPONSOR(s): LABOR & COMMERCE

03/24/06 (S) READ THE FIRST TIME - REFERRALS
03/24/06 (S) L&C, FIN
04/04/06 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 272

SHORT TITLE: MORTGAGE LENDING

SPONSOR(s): SENATOR(s) WAGONER

02/08/06 (S) READ THE FIRST TIME - REFERRALS
02/08/06 (S) L&C, FIN
03/02/06 (S) L&C AT 2:00 PM BELTZ 211
03/02/06 (S) -- Meeting Canceled --
03/07/06 (S) L&C AT 1:30 PM BELTZ 211
03/07/06 (S) Heard & Held
03/07/06 (S) MINUTE(L&C)
03/16/06 (S) L&C AT 1:30 PM BELTZ 211
03/16/06 (S) Scheduled But Not Heard
03/30/06 (S) L&C AT 1:30 PM BELTZ 211
03/30/06 (S) Heard & Held
03/30/06 (S) MINUTE(L&C)
04/04/06 (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
 03/09/06 (S) Heard & Held
 03/09/06 (S) MINUTE(L&C)
 04/04/06 (S) L&C AT 1:30 PM BELTZ 211

BILL: HB 394

SHORT TITLE: INSURANCE POLICIES IN FOREIGN LANGUAGES

SPONSOR(S): REPRESENTATIVE(S) MEYER

01/25/06 (H) READ THE FIRST TIME - REFERRALS
 01/25/06 (H) L&C, FIN
 02/22/06 (H) L&C AT 4:00 PM CAPITOL 17
 02/22/06 (H) Moved CSHB 394(L&C) Out of Committee
 02/22/06 (H) MINUTE(L&C)
 02/24/06 (H) L&C RPT CS(L&C) NT 5DP 1NR
 02/24/06 (H) DP: CRAWFORD, LYNN, LEDOUX, GUTTENBERG,
 ANDERSON;
 02/24/06 (H) NR: ROKEBERG
 03/02/06 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 03/02/06 (H) Moved CSHB 394(L&C) Out of Committee
 03/02/06 (H) MINUTE(FIN)
 03/03/06 (H) FIN RPT CS(L&C) NT 3DP 5NR
 03/03/06 (H) DP: FOSTER, MEYER, CHENAULT;
 03/03/06 (H) NR: JOULE, HAWKER, WEYHRAUCH, HOLM,
 KELLY
 03/13/06 (H) TRANSMITTED TO (S)
 03/13/06 (H) VERSION: CSHB 394(L&C) AM
 03/15/06 (S) READ THE FIRST TIME - REFERRALS

03/15/06 (S) L&C, FIN
04/04/06 (S) L&C AT 1:30 PM BELTZ 211

WITNESS REGISTER

RICK URION, Director
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community & Economic Development
PO Box 110800
Juneau, AK 99811-0800
POSITION STATEMENT: Supported SB 311 and SB 312.

AMY SEITZ
Staff to Senator Wagoner
State Capitol
Juneau AK
POSITION STATEMENT: Commented on SB 272 for sponsor.

ROGER PRINCE, Financial Institution Examiner
Division of Banking and Securities
Department of Commerce, Community & Economic Development
PO Box 110800
Juneau, AK 99811-0800
POSITION STATEMENT: Commented on SB 272.

LAURIE HOLTE
Alaska Housing Finance Corporation
PO Box 101020
Anchorage AK 99504
POSITION STATEMENT: Supported SB 272.

KEN GAIN
Independent Lenders of Alaska
Anchorage AK
POSITION STATEMENT: Supported SB 272.

KEVIN BREELAND, President
Alaska Mortgage Bankers Association
Anchorage AK
POSITION STATEMENT: Supported SB 272.

JOE BRAMMER
Legislative Board
Alaska Association of Mortgage Brokers (AKAMB)
Anchorage AK
POSITION STATEMENT: Supported SB 272.

JOHN MARTIN
Anchorage AK

POSITION STATEMENT: Had concerns regarding SB 272.

HEATH HILYARD,
Staff to Representative Tom Anderson
State Capitol
Juneau AK

POSITION STATEMENT: Addressed HB 393 for the sponsor.

MELANIE MILHORN, Director
Division of Retirement and Benefits
Department of Administration
PO Box 110200
Juneau, AK 99811-0200

POSITION STATEMENT: Commented on CSHB 393(HES).

EMILY NENON, Director
Alaska Government Relations
American Cancer Society
Anchorage AK

POSITION STATEMENT: Supported CSHB 393(HES).

MICHAEL PAWLOWSKI
Staff to Representative Kevin Meyer
State Capitol
Juneau AK

POSITION STATEMENT: Commented on HB 394 for the sponsor.

JEFFERY TROUTT, Deputy Director
Division of Insurance
Department of Commerce, Community & Economic Development
PO Box 110800
Juneau, AK 99811-0800

POSITION STATEMENT: Supported CSHB 394(L&C) AM.

SHELDON WINTERS
State Farm Insurance Company
Juneau AK

POSITION STATEMENT: Supported CSHB 394(L&C) AM.

ACTION NARRATIVE

CHAIR CON BUNDE called the Senate Labor and Commerce Standing Committee meeting to order at [1:32:21 PM](#). Present at the call to order were Senators Davis, Ben Stevens, Ellis and Chair Bunde. Senator Seekins arrived at 1:35.

SB 311-ATHLETIC COMMISSION; BOXING & WRESTLING

CHAIR CON BUNDE announced SB 311 to be up for consideration. He said the Athletic Commission had not been used in many years and this was clean up legislation that would remove that commission from the statutes.

RICK URION, Director, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community & Economic Development (DCCED), agreed that his portrayal of the bill was accurate. This provision is outdated and needs to go away.

CHAIR BUNDE announced that he would hold the bill until the next hearing to give committee members a chance to gather additional comments.

[1:35:21 PM](#)

SENATOR SEEKINS arrived.

SB 312-CONCERT OR ATHLETIC EVENT PROMOTERS

CHAIR CON BUNDE announced SB 312 to be up for consideration. He disclosed that he has a possible conflict because his son puts on concerts. He explained that the idea behind having a promoter's license is that if someone chooses to be a promoter and sell advance tickets to an event - whether it's a concert or an athletic event - and then for some reason would not be able to provide the concert, the bond that is called for in SB 312 would allow the state to at least partially reimburse consumers who had purchased the advance tickets. He viewed this as consumer protection legislation that would also provide revenue to the state in the form of licensing fees.

RICK URION, Director, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community & Economic Development (DCCED), explained that his division licenses 13 promoters at this time and the licenses cost \$375 a year. Promoters are also required to have a \$5,000 bond or cash deposit. No one has lost money while he has been the director and he has received only one complaint about a promoter who didn't have a bond. He also heard a rumor about someone losing money in Anchorage a while ago.

MR. URION suggested that the committee might want to consider whether it wants to expand SB 312 to cover promoters of boxing

and any event in which tickets are sold in advance because it might be more inclusive than they would like.

[1:38:33 PM](#)

SENATOR RALPH SEEKINS noted that the bill contained exemptions.

CHAIR BUNDE explained that if a promoter wants to put on an event for a non-profit, the profits have to go to the non-profit rather than to the private entity that might be using its name.

SENATOR SEEKINS asked if university or school-sponsored events would be 502(c)(3)s that would be covered under this bill.

MR. URION responded that he assumed those would be nonprofits.

CHAIR BUNDE asked his staff to get a Department of Law opinion. He then said SB 312 would be set aside.

SB 272-MORTGAGE LENDING

CHAIR CON BUNDE announced SB 272 to be up for consideration.

SENATOR RALPH SEEKINS moved to adopt CSSB 272, version P, as the working document. There were no objections and it was so ordered.

AMY SEITZ, staff to Senator Wagoner, sponsor of SB 272, reviewed changes that were on a memo from Terry Bannister, Legal Drafter.

[1:45:21 PM](#)

CHAIR BUNDE referenced a memorandum from Terry Bannister with a question about interstate commerce.

MS. SEITZ replied that it was her understanding that if out-of-state companies and instate companies were treated the same, that was not an issue.

ROGER PRINCE, Financial Institution Examiner, Division of Banking and Securities, Department of Commerce, Community & Economic Development (DCCED), referenced a letter from Ed Sniffen, Department of Law, regarding the Payday Loan Act that covered the same enforcement concerns against both instate and out-of-state companies as well as on-line companies. It said that as long as the Division of Banking and the law, itself (SB 272), treats interstate and out-of-state companies identically, there is no violation of interstate commerce clauses.

CHAIR BUNDE asked him if this bill treated both equally.

MR. PRINCE replied yes.

[1:48:02 PM](#)

LAURIE HOLTE, Alaska Housing Finance Corporation, said she supported SB 272.

[1:48:45 PM](#)

KEN GAIN, Independent Lenders of Alaska, said he reviewed the draft and considered the changes to be technical. The substance hadn't been changed and he still supported it.

[1:49:33 PM](#)

KEVIN BREEELAND, President, Alaska Mortgage Bankers Association, said he also found the changes acceptable.

[1:50:08 PM](#)

JOE BRAMMER, member, Legislative Board, Alaska Association of Mortgage Brokers (AKAMB). He said they were told at the last public hearing that the program administration fee as outlined in AS 06.60.600 would be applicable to all mortgage loan instruments recorded. He wanted clarification that exempt folks would still be required to charge the application \$10 fee. He had suggested making the fee negotiable to be paid by the buyer or the seller in the transaction, because he didn't know if that would comply with HUD guidelines.

MR. BRAMMER believed that the exemptions were fine and that a lot of them would be regulated by the feds, but felt that all parties who believed they were exempt should be required to apply for the exemption and pay an annual fee - much like Nevada's model legislation. This would insure that they have a full list of all the players and make certain that no one slides through the cracks in believing they are exempt and then harm is done to the consumer when it's too late to correct. He urged passage of this legislation.

[1:52:20 PM](#)

CHAIR BUNDE asked if his concerns about the revisions been discussed by the bill's sponsor.

MS. SEITZ replied that the sponsor hadn't heard of these concerns, but she assured him that they would be addressed in the next committee of referral.

[1:53:09 PM](#)

JOHN MARTIN said he was testifying for himself from Anchorage and had testified several times on the need to designate the mortgage broker as a lending institution since they are not a depository organization and do not have a depository relationship with their clients. Language in AS 06.60.010 clearly indicates that residential property transactions are to be covered by the license and will be a concern of the licensee. AS 06.60.025 would require an independent contractor to obtain a license and he asked why they would let someone be responsible for the independent contractor especially when he must agree to abide by the requirements of the chapter anyway. It just makes sense to delete this exemption.

He also pointed out that licenses are issued on a biennial basis, not an annual basis, and he recommended the same for this license. Also, the initial fee for most licenses is \$50 and the majority of license fees are under \$300 and he recommended adopting the same figures.

MR. MARTIN said an article in the October 2005 issue of Mortgage Originator Magazine indicated that the cost of background checks vary from \$10 to \$125 and he suggested capping the fee at \$125 with the balance to be refunded to the licensee if not used.

He recommended in Section .070 that the Department issue a license within 30 days rather than 90 days, because a person could waste a quarter of a year waiting around to be licensed to try and earn money and he didn't think that was fair to the licensee or the general public.

Regarding Section 250(b), loan files are two or more inches thick and he thought the Department needed to clarify exactly which information it wants retained. He didn't think it proper for the Department to have every single piece of paper, which may contain privacy issues that would catch the attention of the FTC. He thought this should be investigated. He also suggested combining Sections 250(c) and 250(d) and have both entities accountable on the same level. In Section 610(b), he found it convenient that the Department would mandate a \$10 fee, but it wouldn't be responsible or liable for an agent's defilement and he thought there should be some recourse. However, he thought the biggest component missing on this bill was licensing of originators because that's where 98 percent of the problem comes from in this business.

MR. MARTIN said he just received the new P version and hadn't had the opportunity to review it and wanted to be able to submit written comments on it.

CHAIR BUNDE thanked him and asked him to submit his comments to Senator Wagoner after his review.

1:57:45 PM

SENATOR SEEKINS moved to pass CSSB 272(L&C), version P, out of committee with individual recommendations and attached fiscal note. Senators Ben Stevens, Ellis, Davis, Seekins and Chair Bunde voted yea; and CSSB 272(L&C) moved from committee with the assurance that their questions would be address in the Finance Committee.

1:58:25 PM

CSHB 393(HES)-INSURANCE FOR COLORECTAL CANCER SCREENING

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

HEATH HILYARD, staff to Representative Tom Anderson, addressed CSHB 393(HES) for the sponsor. He said in the last meeting there was some concern about the fiscal note from the Division of Retirement and Benefits. Since that time, he had talked with the Division of Insurance and the Division of Retirement and Benefits and sought a legal opinion from Legislative Legal. As a result, the fiscal note before them was revised.

2:00:17 PM

MELANIE MILHORN, Director, Division of Retirement and Benefits, Department of Administration (DOA), said the Department administers two health plans - one for retirees and one for active employees. The governing authority for both those plans is found in AS 39.30.090. The state became self-insured in 1997. The active plan covers approximately 5,300 employees and 8,900 dependents for a total of 14,400 active people. The retiree plan provides system paid health care coverage for PERS, TRS, JRS (Judicial Retirement System) and EPORS (Elected Public Officers Retirement System) members - approximately 29,300 retirees and their dependent number of 24,700 for a total of 54,000 retirees. The Commissioner of the Department of Administration has the authority to make changes to both plans in AS 39.30.090 - .095.

The Division has not taken a position on policy aspect of CSHB 393(HES), but agrees that preventative services are in the best interests of employees and their families. They can also reduce costs to a plan.

MS. MILHORN explained that in preparing for the very first hearing on this bill, the Division was under the erroneous assumption that colorectal cancer screening would be mandated coverage for the retiree plan in accordance with AS 21.42. However, further discussions with the Division of Insurance and Department of Law and revealed that it is not a mandated coverage and the Division of Retirement and Benefits is not regulated under the Division of Insurance. So, there would not be an impact to the state's active or retiree plan.

The active plan already covers preventative services such as colorectal cancer screening if a physician requests that testing be done within 90 days of an annual exam. It does not cover preventative services for the retiree plan with the exception of those found in AS 21.42 - PSA testing, mammograms and pap smears. Those were not under the retiree plan, but the Commissioner of the Department of Administration had voluntarily amended it to include those preventative coverages.

CHAIR BUNDE asked if the process to get colorectal screenings included in the retirees plan would be to go through the Commissioner of the Department of Administration who has the authority to make the same decision he made on breast cancer screening for active employees.

MS. MILHORN replied yes.

[2:05:33 PM](#)

EMILY NENON, Director, Alaska Government Relations, American Cancer Society, said she had testified at the previous hearing and was available to answer questions.

[2:05:55 PM](#)

SENATOR SEEKINS moved to pass CSHB 393(HES) from committee with individual recommendations and attached revised fiscal note. Senators Davis, Ellis, Ben Stevens, Seekins and Chair Bunde voted yea; and CSHB 393(HES) moved from committee.

CSHB 394(L&C)AM-INSURANCE POLICIES IN FOREIGN LANGUAGES

CHAIR CON BUNDE announced CSHB 394(L&C)AM to be up for consideration.

MICHAEL PAWLOWSKI, staff to Representative Kevin Meyer, sponsor of HB 394, said that according to the last census, more than 80,000 Alaskans speak a language other than English at home.

Even though they are still required to purchase insurance, there is an obstacle in state law to a company providing them with associated materials or policies that are published in a foreign language. The problem is that since the law is silent on which version of policy, be it the non-English version or the English version, is the official version. And since insurance contracts and policies are interpreted against the insurance company with all of the associated materials brought in, and since no translation is ever perfect and there can be plenty of disagreement in court as to the nuances of a word, companies are reluctant to publish policies, pamphlets and materials in a language other than English. This has led to a growing portion of our population not being adequately served.

As the chairman said, insurance policies are hard enough to understand in our own language. And to ask someone to wade through the minutia of a contract without supporting materials for informational purposes is detrimental to them trying to conduct regular business in the state of Alaska. So, the sponsor introduced HB 394 to remove that obstacle from statute, put adequate barriers in to prevent misrepresentation of information and to clarify that these are to be only for informational purposes. He believes that this will lead to a freer market in the state to conduct business and serve Alaskans that truly need the service.

CHAIR BUNDE asked if it requires any one to try to provide written information in any language.

MR. PAWLOWSKI replied no, it requires nothing of anyone. It only removes an obstacle to allow people and companies to pursue a business activity that they might want to.

[2:09:31 PM](#)

SENATOR SEEKINS asked about language on page 2, line 6, that says an "insurer may not misrepresent information in an insurance policy ...translated into a language other than English" and asked if he could only misrepresent in English.

MR. PAWLOWSKI replied that was a good question, but that language came from, AS 21.36.030 on misrepresentation and false

advertising. The actual activity in English is covered under a separate statute.

2:10:28 PM

JEFFERY TROUTT, Deputy Director, Division of Insurance, said he was here primarily to answer questions, but wanted to expound on some of the issues raised. He recalled that the Division had received two health policies in Spanish. An English translation was sent along with it. Under that circumstance he said he would consider the Spanish version as the operative version. However, business phrases might mean one thing in Mexico and another in Chile or El Salvador. He said, "It's good to have an anchor so everybody knows what version you are working on."

MR. TROUTT said he viewed this as a consumer protection bill that would encourage insurance companies to provide materials in a form that people could understand and his Division supported the legislation. He strongly supported Senator Seekins' point about lying stating:

To me, I believe a lie is a lie whether it's in English, Spanish, Tagalong or Mandarin. And I would apply Section 21.36.120 and .140 against anybody, no matter what language they were lying in. But even though I believe those two statutes apply to misrepresentation in a foreign language, as somebody who works in enforcement, I don't mind you giving me a little extra rope to hang the bad guys with.

2:13:11 PM

SHELDON WINTERS, State Farm Insurance, said that State Farm is the largest insurer of homes and autos in the United States and in Alaska. He supported CSHB 394(L&C) AM saying it would help better serve State Farm's customers by providing more meaningful information to them.

This bill is needed, first, because it deals with the actual insurance policy forms that get filed with the Division. Currently, if a non-English version is filed, there is no law as to which version controls and he understands that the Division has unofficially assumed that the non-English version controlled. He suggested that two requirements be met - one, that both versions are filed and, two, that both versions provide notice to the consumer that this is for informational purposes and the English version controls.

Secondly, Mr. Winters said that insurance companies provide brochures describing coverage and other information to consumers and that is impossible if the consumer doesn't speak English. The problem is with court interpretation of such materials and the inherent subtle differences between an English version and a non-English version. Alaska's Supreme Court has ruled if there is a dispute about what a policy provides, the court has to not only look at the actual policy language, but at any other extra evidence that the consumer may have looked at or relied upon. That would include the advertising or the brochures the industry provides to them.

Other jurisdictions that allow policies and advertising material to be produced in a non-English version can produce a lot more information and he used California as an example. Twelve other states have laws that allow what is trying to be done here. However, most other states don't require an English and non-English version to be produced. Some don't even require the notice that the English version controls, but he believed that was good for the consumer.

CHAIR BUNDE remarked that this seems to be a relatively simple and non-controversial bill.

[2:18:15 PM](#)

SENATOR SEEKINS moved to pass CSHB 394(L&C) am from committee with individual recommendations and attached zero fiscal note. Senators Davis, Ellis, Ben Stevens, Seekins and Chair Bunde voted yea; and CSHB 394(L&C) am moved from committee.

There being no further business to come before the committee, Chair Bunde adjourned the meeting at [2:19:18 PM](#).