

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

February 23, 2009

3:22 p.m.

**MEMBERS PRESENT**

Representative Kurt Olson, Chair  
Representative Mark Neuman, Vice Chair  
Representative Mike Chenault  
Representative John Coghill  
Representative Bob Lynn  
Representative Robert L. "Bob" Buch  
Representative Lindsey Holmes

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 29

"An Act increasing the minimum wage; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 108

"An Act relating to real property foreclosures, to the sale of property on execution, and to deeds of trust."

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 29

SHORT TITLE: ALASKA MINIMUM WAGE

SPONSOR(S): REPRESENTATIVE(S) OLSON

01/20/09	(H)	PREFILE RELEASED 1/9/09
01/20/09	(H)	READ THE FIRST TIME - REFERRALS
01/20/09	(H)	L&C, FIN
02/23/09	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 108

SHORT TITLE: PROPERTY FORECLOSURES AND EXECUTIONS

SPONSOR(S): REPRESENTATIVE(S) RAMRAS

02/02/09 (H) READ THE FIRST TIME - REFERRALS  
02/02/09 (H) L&C, JUD  
02/23/09 (H) L&C AT 3:15 PM BARNES 124

**WITNESS REGISTER**

JENNIFER SENETTE, Staff  
Representative Kurt Olson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified on behalf of the prime sponsor of HB 29, Representative Kurt Olson, Chair, House Labor and Commerce Standing Committee.

CHRYSTAL SCHOENROCK  
4Lands Bar  
Nikiski, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 29.

LARRY HACKENMILLER  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified and answered questions during the discussion of HB 29.

JOHN BROWN, Retired  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 29.

MARIE DARLIN, Coordinator  
AARP Capital City Task Force  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 29 and answered questions during the discussion of HB 29.

REPRESENTATIVE JAY RAMRAS  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified and answered questions during the discussion of HB 108.

JANE PIERSON, Staff  
Representative Jay Ramras  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified on behalf of the prime sponsor, Representative Jay Ramras and answered questions during the discussion of HB 108.

STEPHEN ROUTH, Attorney  
Routh & Crabtree, APC  
Anchorage, Alaska

**POSITION STATEMENT:** Testified and answered questions during the discussion of HB 108.

ROBERT SCHMIDT, Attorney  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 108.

#### **ACTION NARRATIVE**

[3:22:42 PM](#)

**CHAIR KURT OLSON** called the House Labor and Commerce Standing Committee meeting to order at 3:22 p.m. Representatives Buch, Coghill, Holmes, Neuman, and Olson were present at the call to order. Representatives Lynn and Chenault arrived as the meeting was in progress.

#### HB 29-ALASKA MINIMUM WAGE

[3:23:07 PM](#)

CHAIR OLSON announced the first order of business would be HOUSE BILL NO. 29, "An Act increasing the minimum wage; and providing for an effective date."

[3:23:48 PM](#)

JENNIFER SENETTE, Staff to Representative Kurt Olson, Alaska State Legislature, on behalf of the prime sponsor, Representative Kurt Olson, offered to present the bill. She provided background information on the minimum wage in Alaska. She explained since 1959 Alaska's minimum wage has been higher than the federal level due to the cost of living in Alaska. She offered that on July 24, 2009 the federal minimum wage will increase to \$7.25 per hour. Currently, Alaska's minimum wage is \$7.15 per hr. Thus, if the minimum wage in Alaska is not increased, the minimum wage in Alaska will fall below the federal level.

MS. SENETTE explained that HB 29 would set the minimum wage at \$7.15 or .50 cents higher than the federal minimum wage. Thus, the proposed change in HB 29 would effectively change Alaska's minimum wage to \$7.75 per hour. She related almost 9,000

Alaskans earn under \$7.75 per hour and would benefit from this bill. An Alaskan working full time at the current minimum wage falls earns \$15,000 per year, which is just above the federal poverty level. However, if the person earning minimum wage has a family, the person would often fall below the poverty level. She offered that increasing the minimum wage in Alaska under this bill would add approximately \$100 to each minimum wage holder's monthly paycheck.

MS. SENETTE pointed out Alaska has not increased its minimum wage since 2002. In 2003, Alaska's minimum wage was the highest in the nation, but Alaska dropped to the 11th highest in 2008, and if unchanged will drop to 21st in the nation. She opined that the price of goods has continued to rise while wages have remained stagnant. Thus, Alaska is losing ground compared to other states' wages. Alaskan workers "are feeling the pinch" she stated. She further opined that HB 29 would help vulnerable Alaskans by placing Alaska's minimum wage at its historical level. She mentioned that since introducing HB 29, the committee has had an outpouring of feedback throughout Alaska from people who support or oppose the bill. She remarked that the minimum wage affects many Alaskans. She stated she anticipates a committee substitute would be introduced to address issues that have been raised.

[3:27:18 PM](#)

CHAIR OLSON explained HB 29 mirrors a bill that died during the last legislature. He stated that no changes have been made to last year's bill. He recalled Representative Gara and Crawford were joint prime sponsors of the previous bill and helped develop last year's committee substitute, which dropped off inflation proofing. He said he hopes to address prior issues that were identified in the bill.

[3:28:52 PM](#)

REPRESENTATIVE COGHILL recalled several factors are tied to the minimum wage in Alaska, including wages for those who drive school buses. He inquired as to the formula for establishing minimum wages in Alaska.

MS. SENETTE recalled school bus drivers are included in the formula but she was not certain of other factors.

CHAIR OLSON recalled school bus drivers were paid a multiple of the wage, such as two or three times the minimum wage.

CHAIR OLSON, in response to Representative Coghill, stated Ms. Senette could acquire more information for the committee at the next hearing.

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CRYSTAL SCHOENROCK, 4Lands Bar, stated she was speaking on behalf of herself. She related she is also a member of the Kenai Peninsula Alaska Cabaret, Hotel, Restaurant and Retailers Association (CHARR) and National Federation of Independent Business (NFIB). She offered that she is somewhat against the minimum wage since she has a number of part-time employees. She opined it will make it hard on the employer to make up the difference in wages since business is slow. She further opined that she cannot afford to lose help and does not want to layoff any employees. She surmised if she must layoff employees, the employees would probably have to draw unemployment insurance and possibly resort to public assistance.

MS. SCHOENROCK said she cannot afford to take any more loss or to pay additional wages. She expressed concern that the Kenai Peninsula has been impacted by the closure of the Agrium Inc. plant, and with fewer tourists due to increases in fuel costs. She offered her understanding of the issues surrounding minimum wages, but reiterated she could not afford to pay additional wages. She mentioned shipping costs have also increased. She concluded by saying, "I'm kind of in a tight bind here."

[3:33:02 PM](#)

LARRY HACKENMILLER stated he was representing himself but noted he is also a member of the NFIB and ICHARR. He related that HB 29 is another minimum wage bill. He stated one good thing is that HB 29 does not connect wages to the consumer price index (CPI). He noticed that the bill proposes a 50 cent increase, which is the lowest wage increase for bills of this type. "That doesn't make it a good bill; just two good points in a bill," he said. He opined that when discussing the poverty level, that he assumed the federal rate of \$7.15 per hour is the basis for comparison. He offered that the federal rate was enacted years before the economy and fuel cost issues arose. He said, "It's a bad time to basically raise anything." He described his own experience, such that his son worked as a luggage person for one of the tour companies and earned the minimum wage, but he lived also at home. He said he did not know how many others shared his experience.

MR. HACKENMILLER surmised that employees in the food and beverage industry receive tips and make well above the \$15,000 per year. He related his understanding that during prior hearings it was difficult to determine how many people were married who held minimum wage jobs. He expressed concern that tip credits cannot be used to calculate the minimum wage and he expressed interest in learning the reasoning behind that exclusion. He further opined that tips help keep the industry low in terms of employer costs. He said he did not believe employees who also earn tips are making less than poverty level wages. He mentioned that the employer must pay taxes on the wages. In closing, Mr. Hackenmiller summarized that HB 29 contains "two good points and the one bad point".

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JOHN BROWN stated that he is currently retired. He offered his support for HB 29. He said, "It's time." He opined that the median family income has not kept up with inflation for almost 35 years. He asserted that to maintain a vibrant economy requires decent wages. He said, "It amazes me when I hear CHARR come down here and keep wages suppressed when most all of them are dependent on discretionary money to come into their businesses. It's just...they should be coming down here screaming for people to get wage increases." He related that unfortunately it is not possible to police tip wages. He recalled talking to an employee who works for a pizza place who hardly receives tips, so the employee relies only on the minimum wage. He said he believes HB 29 should have a consumer price index (CPI) escalator in the bill. He opined what the U.S. needs is to have 150 million people earning decent wages and benefits. He said he hopes HB 29 will pass so Alaska can move on to a brighter future. He concluded by stating the U.S. needs to rebuild its economy "with real money."

[3:39:18 PM](#)

MARIE DARLIN, Coordinator, AARP Capital City Task Force, offered to speak in support of HB 29. She explained that Alaska has the highest cost of living in the nation, and generally Alaska's minimum wage has been higher than the federal minimum wage. She emphasized that Alaska also has an aging population. She surmised that due to the higher cost of living and problems with investment losses, many older citizens will continue to work. Thus, the AARP supports the increase for minimum wage. She pointed out members should have received a copy of the

publication, "Senior Snapshot" which provides information on the number of seniors, ages 60 years or older who live in members' districts, along with economic status. She said she thought the information would help legislators determine how many people will be affected by the minimum wage in Alaska. She surmised that Alaska is number one in the nation for the number of citizens aged 60 or higher.

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MS. DARLIN, in response to Representative Neuman, advised that she believes the number of senior citizens living in Alaska represent over \$1.5 billion dollars in income. She reminded members that seniors are valuable to Alaska since they spend their money in the communities in which they reside and also provide volunteerism in Alaska. She opined that currently many seniors cannot afford to travel due to the higher cost of travel. In further response to Representative Neuman, Ms. Darlin opined that lower income seniors spend their whole paychecks.

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MS. DARLIN, in response to Representative Buch explained the statistics were compiled from a McDowell Survey performed a few years ago that examined seniors. She offered her belief that the study can be found on the Alaska Commission for Aging website at <http://www.hss.state.ak.us/acoa/publications.htm>, and noted the "Senior Snapshot" can also be found on the website's main page.

REPRESENTATIVE COGHILL recalled previous testimony revealed about 9,000 people would depend on the minimum wage. He inquired as to whether Ms. Darlin knew how many seniors will depend on minimum wages. He stated he would seek the information from the website.

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CHAIR OLSON announced that he would keep public testimony open on HB 29.

3:46:25 PM

REPRESENTATIVE NEUMAN inquired as to whether Alaska's minimum wage would always be 50 cents per hour higher than the federal minimum wage if HB 29 passes.

CHAIR OLSON answered yes.

[3:47:03 PM](#)

HB 108-PROPERTY FORECLOSURES AND EXECUTIONS

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 108, "An Act relating to real property foreclosures, to the sale of property on execution, and to deeds of trust."

[3:47:15 PM](#)

The committee took an at-ease from 3:47 p.m. to 3:48 p.m.

[3:48:33 PM](#)

REPRESENTATIVE JAY RAMRAS, Alaska State Legislature, introduced his staff, Jane Pierson. He explained that the Alaska Housing Finance Corporation (AHFC) recently presented before the House Economic Development, Trade, and Tourism. Thus, he said he is happy to report to the committee that the housing market in Alaska is strong, and foreclosures are at a historically low rate. He mentioned that one issue that remains is how to treat the equity in situations in which a homeowner has a significant amount of equity and faces foreclosure. He opined banks often become interested only in "making themselves whole" without concern for the homeowner's equity during real estate foreclosures. He related his interest is to create a marketplace with multiple interested buyers instead of one interested buyer, which is often the bank. He surmised that when multiple buyers are interested in foreclosure property, that the homeowner who is defaulting on his/her loan will obtain a better price for the home.

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REPRESENTATIVE RAMRAS offered that when a homeowner loses his/her home, at least if the owner obtains a decent return the person could have a "small nest egg to restart life". He pointed out that the language in this bill passed the House in the 25th Legislature, as House Bill 163 but some questions subsequently arose could not be resolved during the remainder of the legislative session and the bill died.

[3:51:31 PM](#)

REPRESENTATIVE BUCH recalled House Bill 163 when it came before the legislature last year. He said he appreciated the sponsor coming forth by reintroducing the bill. He related his understanding that the state has an outdated method for advertising. He inquired as to whether the intent of the bill is to upgrade the means to disseminate information to the public.

REPRESENTATIVE RAMRAS agreed. He opined that people have migrated from using classified advertising to website lists like "Craig's List."

REPRESENTATIVE RAMRAS, in response to Representative Holmes, explained the version of House Bill 163 that passed the House last legislature is the starting point for HB 108.

[3:53:53 PM](#)

REPRESENTATIVE COGHILL recalled that timing, at the time of the sale, was raised as an issue during foreclosures.

REPRESENTATIVE RAMRAS agreed.

REPRESENTATIVE RAMRAS, in response to Representative Neuman, explained the idea for the bill came about when an attorney, Stephen Routh, identified what he believed was a flaw in the foreclosure process. Additionally, Representative Ramras recalled other parties expressed concern that perhaps Mr. Routh would "have an angle". However, he recalled that some of his own best ideas have come from first-hand experiences. He opined that HB 108 is meant to provide protection of excess equity for homeowners. He related a scenario in which a home whose value is \$100,000 and a person owes \$50,000 on the home. He offered that the remaining money represents the homeowner's equity. He related when a bank "buys out" the borrower during foreclosure, the homeowner who defaulted on the loan will not gain access to the equity.

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REPRESENTATIVE RAMRAS, in response to Representative Neuman, explained when a bank is the only buyer, the bank will only seek what is owed on the loan. However, if three buyers were interested in purchasing the home under foreclosure, a bidding process would ensue, he explained.

[3:58:04 PM](#)

JANE PIERSON, Staff, Representative Jay Ramras, Alaska State Legislature, responded to Representative Neuman by stating Section 10 describes how proceeds are to be distributed. She read a portion of proposed AS 34.20.080(f)(1), as follows:

(1) the beneficiary of the deed of trust being foreclosed until the beneficiary is paid the full amount that is owed under the deed of trust to the beneficiary;

(2) the persons who held, at the time of the sale, record interests, except easements, in the property...

MS. Pierson interpreted these paragraphs to mean that the interests shall be made whole and the higher priority shall be satisfied before distribution is made to the recorded interest. Thus, once those that are owed, aside from the owner, get their share, the remainder goes to the previous owner of the house, she related.

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MS. PIERSON reviewed the sectional analysis of HB 108, as follows:

Section 1. removes the posting requirements at the U.S. Post Office.

Section 2. Adds notice of execution of sale of property also be noticed on the Internet website and describes the requirements that the website must meet to qualify.

Section 3. Amends AS 09.35.142 to allow an Internet website owner to bring a court action to establish that the website qualifies under AS 09.35.140(b)

Section 4. Amends AS 34.20.070(b) to adjust to 90 days the minimum length of time that must elapse between recording a notice of default on a deed of trust and holding the foreclosure sale. Sets a limit of two days (before a foreclosure sale) when certain defaults on a deed of trust may be cured by a specific payment.

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MS. PIERSON continued to review the sectional analysis of HB 108, as follows:

Section 5. Amends AS 34.20.070(c) requires that possession be actual physical possession where possession is required for certain persons to be entitled to receive a notice of default for foreclosure sale.

Section 6. Adds new subsection to AS 34.20.070 - foreclosure by trustee.

Proposed AS 34.20.070(e) establishes when a person who holds a lien or nonpossessory property interest that can be inferred from an inspection of the property is entitled to receive a notice of default for a foreclosure sale.

Proposed AS 34.20.070(f) allows a trustee additional time after recording to deliver the notice of default when the trustee delivers the notice personally to the property or to an occupant of the property. Allows the trustee to place the notice on the property or as close as practicable to the property under certain conditions.

Proposed AS 34.20.070(g) states that an affidavit signed by a trustee or another person who delivered notice personally under sec. 34.20.070(f) is prima facie evidence that the trustee complied with proposed AS 34.20.070(f). Establishes a conclusive presumption.

Proposed AS 34.20.070(h) establishes how a trustee may satisfy the notice requirements for a person known by the trustee to be deceased.

[4:02:52 PM](#)

MS. PIERSON continued to review the sectional analysis of HB 108, as follows:

Proposed AS 34.20.070(i) establishes how a trustee may satisfy the notice requirements for a person known by the trustee to be deceased and for whom the trustee or the deed of trust beneficiary knows that a personal

representative has been appointed for the deceased person.

Proposed AS 34.20.070(j) states that an heir or devisee of a deceased person must challenge a foreclosure sale within 90 days if alleging non-receipt of notice and if the trustee gave notice as required by (h) - (i).

Proposed AS 34.20.070(k) describes the persons who may bring a court action to enjoin a foreclosure sale.

Proposed AS 34.20.070(l) states that when a court injunction action meets certain conditions, a court may impose conditions that it considers appropriate to protect the deed of trust beneficiary.

Proposed AS 34.20.070(m) defines certain terms for AS 34.20.070.

[4:03:51 PM](#)

MS. PIERSON continued to review the sectional analysis, as follows:

Section 7. AS 34.20.080(a) is amended to require that the proceeds from a foreclosure sale are placed in escrow until disbursed. This section allows a trustee to accept foreclosure bids by telephone, the Internet, and electronic mail if certain conditions are met.

Section 8. Amends AS 34.20.080(b) Allowing the attorney or other agent of the trustee to conduct the sale. Additionally, allows the trustee to set reasonable rules for the conduct of the sale. Adds language that conforms the deed delivery requirements to the new provision in proposed AS 34.20.070(g) allowing the trustee to rescind the sale under certain circumstances.

Section 9. Amends AS 34.20.080(e) Limiting the postponement of a foreclosure sale to not more than 12 months unless a new notice of sale is given. Establishes that postponement for up to 12 months does not provide a basis for challenging the validity of the foreclosure sale.

[4:04:59 PM](#)

MS. PIERSON continued with the sectional analysis, as follows:

Section 10. Adds a new subsection to AS 34.20.080.

Proposed AS 34.20.080(f) indicates how any cash proceeds of the sale are to be distributed after delivery of a deed.

Proposed AS 34.20.080(g) allows a trustee to withhold delivery of the deed for up to five days, prohibits the trustee from issuing the deed under certain conditions, and describes what the trustee must do when rescinding the sale.

Proposed AS 34.20.080(h) allows the trustee to reschedule a rescinded sale, establishes a minimum time that must elapse after the rescinded sale before the new sale may be held, and establishes the notice procedure that the trustee must follow for rescinding the sale.

Proposed AS 34.20.080(i) establishes that if a sale is not rescinded it completely terminates the rights of the trustor of the deed in the property.

Section 11. Amends AS 34.20.120(a), allowing the attorneys for the beneficiaries or their successors in interest to execute and acknowledge the substitution of a trustee for certain deeds of trust.

Section 12. Amends AS 34.20.120(b), which adds a requirement to the contents of a trustee substitution for a situation when the substitution is executed by the attorneys for the beneficiaries or their successors.

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MS. Pierson continued with the sectional analysis, as follows:

Section 13. Adds a new section AS 34.20.125(a) requiring a trustee to provide a surety bond before performing trustee duties under a deed of trust foreclosure.

AS 34.20.125(b) requires the bond to be terminable at any time by the surety by complying with certain requirements, indicates when the bond terminates, and indicates that the surety is not liable after termination for more than the face amount of the bond. States that a revision of the amount of the bond is not cumulative.

AS 34.20.125(c), gives notice requirements for a termination of the bond.

AS 34.20.125(d), requires a trustee to file evidence of a bond each year with the Department of Commerce, Community, and Economic Development (DCCED). Requires the department to verify that the evidence is satisfactory, keep an updated list of bonded trustees.

AS 34.20.125(e) exempts certain persons from the bonding requirements.

AS 34.20.125(f) defines "department" in this section to mean the DCCED.

[4:08:15 PM](#)

STEPHEN ROUTH, Attorney, Routh & Crabtree APC, stated that he is an attorney with the firm Routh & Crabtree, APC and that he has practiced law for over 30 years. He related during his practice, he has handled thousands of foreclosures over the years. He reiterated that this language passed the House last legislature as House Bill 163 with unanimous support. He stated that HB 108 is supported by credit unions, title insurance companies, and banks. He recalled that he has discussed last year's bill with groups including Alaska Public Interest Research Group (AkPIRG) and legal services. He said, "The bill is good for borrowers, title agents, finance institutions, cleans up language, streamlines process." He related that his office notices the impacts from imprecise language since his firm handles litigation.

MR. ROUTH opined that litigation solves problems, but not very efficiently. He offered his belief that HB 108 contains cleanup language. He recalled Representative Ramras's staff referred to language in current law which states "three months", but that "90 days" is more precise. He mentioned problems exist with requirements to post notices in U.S. Post offices since the USPO will no longer allow postings of state notices. He summarized

by relating that the language in the bill was built on consensus, with input from title companies, other attorneys, financial institutions, and borrowers' groups. He related three other states have mandated Internet requirements since last year including Florida. He outlined problems with notices in newspapers since the publications are not precisely listed.

[4:11:55 PM](#)

MR. ROUTH detailed the foreclosure process, which he said begins with a default payment, and the beneficiary or the lender records the notice of default, which is mailed, posted, and published and a sale is held. He noted the proposed bill details the mail and posting requirements. He stressed that people can show up and bid at a real estate auction if they are aware of the sale. He emphasized when no one shows up at the real estate auction, the property reverts to the lender. He opined that the situation is bad for the bank and for the neighborhood. He further opined that property values in areas surrounding the foreclosure drop, which can lead to an escalation of defaulted loans. He offered his belief that when someone learns about a pending sale and buys a home and moves in, the process is good for the neighborhood and the borrower. He characterized it as a "win-win." He related from his own experience that his office uses a website to provide free service. He opined instances in which property is well presented on a website will attract bidders and on average property is twice as likely to be sold to a third party.

[4:13:58 PM](#)

REPRESENTATIVE HOLMES referred to the Internet requirements set out in Section 2. She said she agrees with the idea of using the Internet. However, she said she wants to be sure people can qualify. She stated the proposed language sets out six criteria that must be met. She inquired as to how many websites would be able to comply with those standards.

MR. ROUTH recalled when he checked last year, that three websites met the criteria, although he thought currently more might meet the criteria. He added that the requirements were added in an attempt to track the newspaper publication in existing law. Thus, it was important to find sources that were not subscription based but were free to the public. Additionally, it was important to not bury the notice within a website like "Amazon.com". He opined that the provision requiring continuous operation was to provide continuity. He

explained that the viewership was considered a low number of hits. Thus 5,000 appeared to be a low number. The final requirement that a website must be a business with an office in Alaska was to add a local presence. He stated the requirement was added to prevent situations such as the only contact number for the business is an 800 number, or to contact someone in a foreign country like Bangladesh.

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REPRESENTATIVE HOLMES agreed the criteria made a lot of sense. She referred to paragraph (3), to be used primarily to advertise real property under foreclosure. She inquired as to whether newspaper sites such as "Adn.com" would qualify since the website has a section of the classifieds that list foreclosures.

MR. ROUTH answered that yes, the website would qualify. He stated that the Anchorage Daily News meets the requirement for 5,000 "hits". He added that when he last checked the publication had 76,000 monthly users.

REPRESENTATIVE HOLMES stated she just wanted to ensure that online newspapers were not precluded from advertising the foreclosure notices.

[4:17:44 PM](#)

REPRESENTATIVE HOLMES referred to Section 4 of HB 108, which is the requirement the homeowner must show up at least two days prior to the sale to "cure a default". She recalled the time had been shortened from five to two days. She related her understanding that the primary reason for HB 108 is to protect the borrower. She expressed concern that if a borrower appeared at the bank the day before the foreclosure sale, the bank would not accept the payment and would continue with the foreclosure sale. Representative Holmes reiterated her concern over the two-day requirement in Section 4 of HB 108.

[4:19:03 PM](#)

MR. ROUTH agreed that the intent is to not have property in foreclosure. However, he stated what happens in general practice is that people will push the deadline. He emphasized his belief that banks will not ever refuse "any borrower handing them money." He said that turning away money is not in the bank's best interest. He related that the "two day provision" helps to avoid confusion. He related a scenario in which the

borrower rushes up at the wrong time, but the foreclosure has already happened. He related another scenario in which a borrower rushes up and has a check drawn on a Lower-48 bank. He mentioned a third scenario in which a borrower provides nickels and dimes and the bank needs a counting machine to count it. He said, "This just gives a little breathing room at the end so that it doesn't put the borrower in the position of missing the sale or being late, or put the trustee in the position of not knowing what to do because there's been an inappropriate tender of funds." He opined if those circumstances occurred, his office's response would try to postpone the sale to obtain the funds. He said, "I'm not in love with the 2 days. We proposed 5 days, initially. I'm okay with 2 days. I'm okay with one day. I'm okay with no days. It's trying to avoid the confusion which happens at the last minute, as much to protect the borrower as anybody else."

REPRESENTATIVE HOLMES stated that Mr. Routh's testimony was helpful.

[4:21:26 PM](#)

The committee took an at-ease from 4:21 p.m. to 4:22 p.m.

[4:22:15 PM](#)

CHAIR OLSON passed the gavel over to Representative Lynn.

[4:22:40 PM](#)

ROBERT SCHMIDT, Attorney, stated that he is an attorney with the firm of Groh Eggers LLC, but that he is appearing on behalf of himself. He opined that this bill is in substance very good. He related that HB 108 codifies the common law, and adds clarity to the foreclosure process and he encourages passage of HB 108. He offered that he has only one substantive issue with HB 108, which has already been brought up, which is the Internet publication issue. He expressed concern that passage of HB 108, as written, might only allow one website that complies with the provisions, which would be usa-foreclosure.com which is owned by Mr. Routh. He offered that the concept of additional publicity resulting in more borrowers, at a higher bid price, could provide the defaulted borrower with a higher sales price and protection against "clouding values in the neighborhood" is good. However, he reiterated his concern that as written other parties would not be able to compete.

MR. SCHMIDT opined that "Craig'slist" would not qualify because senior management offices are not in Alaska. He offered his belief that groheggers.com would not qualify for two reasons. First, the website does not receive 10,000 unique visits per month although his firm has advertised foreclosures for many years. Second, the purpose of his firm's website is not to advertise real property by foreclosure. He recalled earlier testimony by Mr. Routh, that a company whose website contained a section dedicated to foreclosures would be sufficient to meet the criteria for posting foreclosure notices. He pointed out the nearly universal practice of attorneys that conduct foreclosures in the state to publish their notices of default with the Alaska Journal of Commerce since it is the least expensive publication. He said, " When you publish your notice of default, you automatically have your notice of default published on their website." He encouraged the committee to take one of two steps. He referred to last year's House Bill 163. He related that the bill sections relating to Internet publication were removed. Alternately, he suggested that the committee could amend proposed AS 09.35.140 (c) and eliminate paragraphs (3),(5), and (6) so an Internet site would be available to any person and would be completely free for public viewing, and would have been in operation for more than a year.

[4:26:20 PM](#)

MR. SCHMIDT related his understanding that it would be informative to state which website would not qualify. He opined that besides his firm's website, bank websites or the state's website would not qualify since the primary reason is not to advertise real property under foreclosures. He reminded members that under the Alaska Housing Finance Corporation (AHFC) the state is a significant player in the mortgage market. He said he believes that HB 108 is an excellent bill, which will substantially improve the foreclosure process. He maintained his concern as well as those of some of his colleagues with the Internet publication requirements.

[4:28:08 PM](#)

REPRESENTATIVE LYNN closed public testimony for today on HB 108. He announced that public testimony could be reopened by Chair Olson at the next hearing of HB 108.

[4:28:32 PM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:28 p.m.