

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

March 30, 2009

3:16 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. 175

"An Act relating to insurance, including treating as confidential certain information submitted to the director of insurance by the National Association of Insurance Commissioners; clarifying conditions for the release of insurer deposits; defining travel insurance that may be sold under a travel insurance limited producer license; establishing criteria for licensing of nonresident independent adjusters as resident adjusters; exempting rewards under a wellness program from treatment as insurance discrimination or rebating; making certain insurance required of the Comprehensive Health Insurance Association permissive rather than mandatory; providing for the administration of loss reimbursement policies and payments to guaranty associations during insolvency proceedings; making certain provisions relating to statements on applications and guaranteed renewability for individual health insurance applicable to hospital and medical service corporations; making public certain forms and related documents filed for approval by a hospital or medical service corporation after the filing becomes effective; relating to deposits of self-funded multiple employer welfare arrangements; repealing reasons that the director of insurance may use to deny or revoke a license; and providing for an effective date."

- MOVED CSHB 175(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 145

"An Act relating to the regulation of residential real property mortgage lending, including the licensing of mortgage lenders, mortgage brokers, and mortgage loan originators and compliance with certain federal laws relating to residential mortgage lending; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 177

"An Act relating to marine products and motorized recreational products; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 175

SHORT TITLE: INSURANCE

SPONSOR(s): LABOR & COMMERCE

|          |     |                                 |
|----------|-----|---------------------------------|
| 03/09/09 | (H) | READ THE FIRST TIME - REFERRALS |
| 03/09/09 | (H) | L&C, FIN                        |
| 03/11/09 | (H) | L&C AT 3:15 PM BARNES 124       |
| 03/11/09 | (H) | Heard & Held                    |
| 03/11/09 | (H) | MINUTE(L&C)                     |
| 03/13/09 | (H) | L&C AT 3:15 PM BARNES 124       |
| 03/16/09 | (H) | L&C AT 3:15 PM BARNES 124       |
| 03/16/09 | (H) | Scheduled But Not Heard         |
| 03/20/09 | (H) | L&C AT 3:15 PM BARNES 124       |
| 03/20/09 | (H) | Heard & Held                    |
| 03/20/09 | (H) | MINUTE(L&C)                     |
| 03/30/09 | (H) | L&C AT 3:15 PM BARNES 124       |

BILL: HB 145

SHORT TITLE: MORTGAGE LENDING

SPONSOR(s): REPRESENTATIVE(s) LYNN

|          |     |                                 |
|----------|-----|---------------------------------|
| 02/23/09 | (H) | READ THE FIRST TIME - REFERRALS |
| 02/23/09 | (H) | L&C, FIN                        |
| 03/30/09 | (H) | L&C AT 3:15 PM BARNES 124       |

**WITNESS REGISTER**

LINDA HALL, Director  
Division of Insurance, Anchorage Office

Department of Community & Economic Development (DCCED)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the discussion of HB 175.

TYSON FICK, Legislative Liaison  
Office of the Commissioner  
Department of Commerce, Community, & Economic Development  
(DCCED)  
Juneau, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 145.

LORIE HOVANEC, Director  
Division of Banking and Securities (DBS)  
Department of Commerce, Community, & Economic Development  
(DCCED)  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of HB 145 and presented the committee substitute during the discussion of HB 145.

#### **ACTION NARRATIVE**

[3:16:46 PM](#)

**CHAIR KURT OLSON** called the House Labor and Commerce Standing Committee meeting to order at 3:16 p.m. Representatives Holmes, Lynn, Neuman, and Olson were present at the call to order. Representatives Buch, Chenault, and Coghill arrived as the meeting was in progress.

[3:17:03 PM](#)

CHAIR OLSON indicated the sponsor of HB 177 requested that the bill be removed from today's calendar.

HB 175-INSURANCE

[3:17:26 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 175, "An Act relating to insurance, including treating as confidential certain information submitted to the director of insurance by the National Association of Insurance Commissioners; clarifying conditions for the release of insurer deposits; defining travel insurance that may be sold under a travel insurance limited producer license; establishing criteria

for licensing of nonresident independent adjusters as resident adjusters; exempting rewards under a wellness program from treatment as insurance discrimination or rebating; making certain insurance required of the Comprehensive Health Insurance Association permissive rather than mandatory; providing for the administration of loss reimbursement policies and payments to guaranty associations during insolvency proceedings; making certain provisions relating to statements on applications and guaranteed renewability for individual health insurance applicable to hospital and medical service corporations; making public certain forms and related documents filed for approval by a hospital or medical service corporation after the filing becomes effective; relating to deposits of self-funded multiple employer welfare arrangements; repealing reasons that the director of insurance may use to deny or revoke a license; and providing for an effective date." [Before the committee was the Version S.]

[3:18:16 PM](#)

LINDA HALL, Director, Division of Insurance, Anchorage Office, Department of Community & Economic Development (DCCED), stated that the committee substitute Version S removes previous Sections 25 and 26 relating to insolvencies. She pointed out that Section 11 of the bill permits the Division of Insurance director to order a summary suspension of a license if the director finds that protection of the public requires emergency action and incorporates the finding in an order. She indicated that she asked for this authority in cases of extreme emergencies. She stated that is the only provision which represents a policy change.

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REPRESENTATIVE COGHILL indicated that he spent some time with the director of the Division of Insurance and agrees that additional statutory authority is needed. He stated that he tried to imagine a different director and circumstances in which someone might misuse this authority. He offered his belief that enough safeguards are in the bill to prevent misuse of authority.

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REPRESENTATIVE NEUMAN referred to the bill title and asked which information is confidential information.

MS. HALL referred to Section 1 of Version S. She stated AS 21.06.060 lists records that must be kept confidential. She indicated AS 21.06.060(f)(2) adds to the list proprietary information or records established by a showing satisfactory to the director. Thus, the new paragraph would allow confidentiality for proprietary or trade secrets. Additionally, a change was made to paragraph (4) that would remove the term "financial" from the analysis ratios and examinations. She explained that the division receives analysis ratios and examination synopses from the National Association Insurance Commissioners, which is other states' information. She mentioned the Division of Insurance has signed a confidentiality statement that it will not release other states' information. Thus, this change would allow the division to obtain market conduct information.

REPRESENTATIVE NEUMAN asked what the insurance term is for a record check examining home insurance claims.

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MS. HALL answered that Representative Neuman is referring to the [Comprehensive Loss Underwriting Exchange] C.L.U.E. report. She explained that would be considered personally identifiable consumer information. She offered her belief the division would not release to the public confidential consumer information that was collected in the course of conducting business. She related that those types of reports would generally be in the insurance company records and not in the division's records.

[3:24:07 PM](#)

REPRESENTATIVE NEUMAN asked whether the consumer's identity is protected.

MS. HALL answered that the division does not perform any profiling. She explained that the division would perform some rating underwriting through the use of credit scoring. However, the division does not receive detailed consumer information, which by statute is confidential. She related the division reviews standards. She stated that the rating and underwriting laws prohibit unfair discrimination.

[3:25:07 PM](#)

MS. HALL, in response to Representative Neuman, explained that the Division of Insurance does not collect personal information

so it would not have the ability to disseminate it. She added that under public records laws, the division does not have to collect and create reports that it does not already collect. She opined the division does not collect personal information.

CHAIR OLSON offered his belief that the problem was corrected last year and pertained to a different department that had been releasing confidential information.

[3:26:16 PM](#)

MS. HALL, in response to Representative Neuman, explained the only opposition received on HB 175 related to provisions that have been removed from the bill.

[3:26:54 PM](#)

REPRESENTATIVE BUCH commented that the committee held extensive discussions on HB 175 a month ago and his concerns have been addressed. He inquired as to whether any other issues have arisen that would need to be addressed before next session.

MS. HALL related her understanding that only three weeks remained of the legislative session. She answered she had no additional matters with respect to HB 175.

[3:28:14 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 175.

REPRESENTATIVE NEUMAN moved to report the CS for HB 175, Version 26-LS0579\S, Bailey, 3/16/09, out of committee with individual recommendations and the accompanying fiscal note. There being no objection, the CSHB 175(L&C) was reported from the House Labor and Commerce Standing Committee.

[3:29:23 PM](#)

The committee took an at-ease from 3:29 p.m. to 3:31 p.m.

HB 145-MORTGAGE LENDING

[3:31:18 PM](#)

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 145, "An Act relating to the regulation of

residential real property mortgage lending, including the licensing of mortgage lenders, mortgage brokers, and mortgage loan originators and compliance with certain federal laws relating to residential mortgage lending; and providing for an effective date."

[3:31:28 PM](#)

REPRESENTATIVE NEUMAN made a motion to adopt the committee substitute (CS) for HB 145, Version 26-LS0598\E, Bannister, 3/30/09, as the work draft.

CHAIR OLSON objected for the purposes of discussion. [Version E was before the committee.]

[3:32:09 PM](#)

TYSON FICK, Legislative Liaison, Office of the Commissioner, Department of Commerce, Community, & Economic Development (DCCED), stated that HB 145 makes many changes to mortgage lending statutes to bring the state into compliance with the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, also referred to as the SAFE Mortgage Licensing Act of 2008 (SAFE Act). This bill resulted from efforts by the sponsor, the Department of Law (DOL), the Division of Banking and Securities, Department of Commerce, Community, & Economic Development (DCCED), industry representatives, and the legislative drafters.

[3:33:11 PM](#)

LORIE HOVANEK, Director, Division of Banking and Securities (DBS), Department of Commerce, Community, & Economic Development (DCCED), offered the division's support for the committee substitute Version E. She explained that the committee substitute will bring current mortgage lending statutes in compliance with federal law. Congress passed a new law that required the division to revise its current statute. In the interim the DCCED added back into the bill what is necessary to grant authority for policy changes and to incorporate as much of the SAFE Act into law as possible. She highlighted the banking industry was concerned that the division might make changes by regulation instead of by statute. She offered the Division of Banking and Securities' support for the committee substitute, Version E.

[3:35:15 PM](#)

MS. HOVANEC emphasized the need for compliance with federal law by July 30, 2009. She explained that the federal law consists of two parts. First is to bring the statutes into compliance. Second is to join the national mortgage licensing database registry system, referred to as the National Mortgage Licensing System (NMLS). She further explained that states can join the NMLS prior to the effective date of their statute. She indicated that the NMLS is activated by groups of states. She noted that Alaska, along with six or seven other states will join the NMLS licensing system on August 1, 2009. She offered her belief if HB 145 does not pass that the division will need some authorization to join the NMLS. Additionally, under the federal statutes, the U.S. Department of Housing and Urban Development (HUD) will regulate mortgage licensing. She opined the DCCED does not wish to have that occur. She highlighted that the state could apply for an extension, but the HUD standards are not yet set up. She related her understanding that no states have applied for an extension. She hoped that the legislature could support HB 145. Further, two sections of the bill do not refer to mandated changes. She referred members to item 10 in members' packets, titled "Talking Points- Lorie Hovanec, Director, Division of Banking and Securities." She offered to discuss the talking points, but related her preference to have committee members digest the bill and discuss the points at a later date.

[3:38:36 PM](#)

CHAIR OLSON remarked that HB 145 has been expanded from 9 to 36 pages. He inquired as to whether she has prepared a sectional analysis for the bill.

MS. HOVANEC related that she received a copy of Version E about an hour ago so she has not had time to revise the sectional analysis to correspond to the committee substitute. She offered to provide a sectional analysis for the next meeting.

[3:39:24 PM](#)

REPRESENTATIVE HOLMES mentioned that she appreciates the forthcoming details. She said she did not see a fiscal note, but recalled reading the state would share implementation costs. She inquired as to the financial implications for the state.

MS. HOVANEC answered that the initial cost would likely be \$50,000, the minimum fee to join based on the number of

licensees. She explained that the state is just now licensing mortgage lender broker, and orginators. Thereafter, the licensing system is industry supported. She mentioned some initial training sessions may be necessary for staff to learn to operate the system, but by the third year the fiscal note is a zero fiscal note. She referred to a fiscal note from the DCCED, Banking and Securities approved by Commissioner Notti on 3/11/09.

[3:40:51 PM](#)

REPRESENTATIVE NEUMAN referred to page 3, lines 18-21, which read, "For the purpose of participating in the registry, the department may waive or modify, in whole or in part, by regulation or order, any or all of the requirements of this chapter ... " He opined this appears to be a blanket waiver.

MS. HOVANEC related her understanding the purpose is in the event of an unexpected change that the state can modify via regulation. She highlighted that this specific waiver language is derived from the model state language approved by HUD. She offered to review the intent of the provision. In response to Chair Olson, Ms. Hovanec agreed that this is the first time the language has been proposed to the legislature.

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REPRESENTATIVE BUCH asked for the reason for the federal changes incorporated in the SAFE Act.

MS. HOVANEC offered her belief that the federal law changed due to the mortgage lending issues and problems precipitated some of the financial crises. She expressed her understanding the former director, Mark Davis, related that the draft legislation included some items the federal government was considering such as pre-licensing, educational requirements, and background checks.

[3:43:59 PM](#)

REPRESENTATIVE BUCH offered his belief that this is a "work in progress" and some provisions may need to be adjusted.

MS. HOVANEC recalled a Congressional report that indicated the state and federal government will work together on credit transactions. She highlighted that the division has attempted to keep some of the statutory requirements for licensing in

regulation in anticipation of changes the division may need to adapt to next few years.

[3:45:12 PM](#)

CHAIR OLSON inquired as to who developed the model legislation and if it has been adopted by other states.

MS. HOVANEK answered yes, that as of a month ago, two other states have enacted their legislation, using a substantial portion of the model language. She explained that the model language was developed by the entities tasked under the SAFE Act with creating the NMLS registry. The Conference of State Bank Supervisors (CSBS), and [the American Association of Residential Mortgage Regulators] (AARMR) developed the system and to date over 20 governmental agencies are using the NMLS system. She offered to forward HB 145 to the CSBS for review.

[3:47:03 PM](#)

REPRESENTATIVE CHENAULT asked who is requesting HB 145. He opined one reason that some lending institutions are in the position they currently are in is the institutions moved away from good business practices by loaning money to people who were a credible risk. He further opined the federal government told them to lend money to anyone that wanted to buy a home. He expressed concern about the source of the changes, particularly if the federal government is the source of the bill. He said:

If it is the bankers whose job it is to turn a profit for their stockholders and their shareholders, then I feel a lot more comfort in that. But, I think the biggest reason we're in the position we are in is that we had the federal government determine what was best for the citizens of the U.S. and now we find what they promoted is definitely going to be with us for a long period of time, Mr. Chairman.

[3:48:24 PM](#)

REPRESENTATIVE NEUMAN pointed out the House Resources Standing Committee just passed three resolutions "that told the federal government to stay out of our business." He asked if the provisions requirements background checks and fingerprints, are subject to privacy clauses.

MS. HOVANEC offered to report back to the committee on confidentiality. She related that the provisions are similar to current statute. She stated that under the current statutes, fingerprint cards are submitted to the Department of Public Safety. While she said she was not certain, she offered her belief that the statutes contain provisions for some level of confidentiality. She stressed that the whole purpose of the NMLS and registry is to prevent someone who "may not be an upstanding member of the industry" from transacting business in one state from moving to another part of the country to start another operation. She opined that running background checks creates more transparency and better consumer protection.

[3:50:48 PM](#)

REPRESENTATIVE NEUMAN asked whether any "profiling" can happen as a result of the bill.

MS. HOVANEC answered that the background information is performed by the national licensing system, and is sent to the state to examiners in the Division of Banking and Securities who make the licensing determination. She mentioned that licensing examiners may also run their own check of records. She highlighted that the state licenses individuals.

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REPRESENTATIVE NEUMAN referred to page 5 and 6 of HB 145 which relates to examination fees that may be assessed. He inquired as to whether the fee has been determined.

MS. HOVANEC offered her belief that the division is not anticipating changing educational testing fees at this time.

[3:53:01 PM](#)

MS. HOVANEC, in response to Representative Neuman, stated that the state statute became effective on July 1, 2008. The SAFE Act became effective on July 30, 2008. She related that the DCCED has worked with the Department of Law since then to make some of the changes that would be required under the SAFE Act.

[3:54:18 PM](#)

MS. HOVANEC, in response to Chair Olson, stated the reason the longer bill was not previously submitted is due to the lag time in obtaining approval for the provisions in Version E. She

said, "Believe me, it certainly was not my preference. I've put in 70 hours just this past week and all weekend, so, my apologies."

[3:54:54 PM](#)

CHAIR OLSON indicated the committee did not even have 24 hours advance notice to review the committee substitute. He announced that HB 145, Version E, would be held over for further consideration.

[3:55:22 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 3:55 p.m.