

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

April 9, 2010

3:35 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 159

"An Act increasing the maximum funeral expenses payable as a workers' compensation death benefit; and providing for an effective date."

- MOVED OUT OF COMMITTEE

HOUSE CONCURRENT RESOLUTION NO. 21

Creating and relating to the Economic Development Planning Commission.

- MOVED CSHCR 21(L&C) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 279(FIN)

"An Act relating to regulation of residential 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."

- MOVED HCS CSSB 279(L&C) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 159

SHORT TITLE: WORKERS' COMPENSATION FUNERAL EXPENSES

SPONSOR(s): SENATOR(s) PASKVAN

03/20/09 (S) READ THE FIRST TIME - REFERRALS
03/20/09 (S) L&C, FIN
04/02/09 (S) L&C AT 1:00 PM BUTROVICH 205
04/02/09 (S) Moved SB 159 Out of Committee
04/02/09 (S) MINUTE(L&C)
04/03/09 (S) L&C RPT 4DP 1NR
04/03/09 (S) DP: PASKVAN, MEYER, THOMAS, DAVIS
04/03/09 (S) NR: BUNDE
02/11/10 (S) FIN AT 9:15 AM SENATE FINANCE 532
02/11/10 (S) Bills Previously Heard/Scheduled
02/23/10 (S) FIN AT 2:30 PM SENATE FINANCE 532
02/23/10 (S) Moved SB 159 Out of Committee
02/23/10 (S) MINUTE(FIN)
02/24/10 (S) FIN RPT 6DP 1NR
02/24/10 (S) DP: HOFFMAN, STEDMAN, HUGGINS, THOMAS,
EGAN, ELLIS
02/24/10 (S) NR: OLSON
03/18/10 (S) TRANSMITTED TO (H)
03/18/10 (S) VERSION: SB 159
03/19/10 (H) READ THE FIRST TIME - REFERRALS
03/19/10 (H) L&C, FIN
04/07/10 (H) L&C AT 3:15 PM BARNES 124
04/07/10 (H) Heard & Held, Assigned to Subcommittee
04/07/10 (H) MINUTE(L&C)
04/09/10 (H) L&C AT 3:15 PM CAPITOL 106

BILL: HCR 21

SHORT TITLE: ECONOMIC DEVELOPMENT PLANNING COMMISSION

SPONSOR(s): COMMUNITY & REGIONAL AFFAIRS

02/23/10 (H) READ THE FIRST TIME - REFERRALS
02/23/10 (H) EDT, L&C
03/23/10 (H) EDT AT 5:15 PM CAPITOL 106
03/23/10 (H) Moved CSHCR 21(EDT) Out of Committee
03/23/10 (H) MINUTE(EDT)
03/25/10 (H) EDT RPT CS(EDT) 6DP
03/25/10 (H) DP: TUCK, NEUMAN, CHENAULT, CRAWFORD,
Joule, RAMRAS
03/25/10 (H) FIN REFERRAL ADDED AFTER L&C
04/02/10 (H) L&C AT 3:15 PM BARNES 124
04/02/10 (H) -- MEETING CANCELED --
04/05/10 (H) L&C AT 1:00 PM BARNES 124
04/05/10 (H) Heard & Held
04/05/10 (H) MINUTE(L&C)
04/09/10 (H) L&C AT 3:15 PM CAPITOL 106

BILL: SB 279

SHORT TITLE: MORTGAGE LENDING

SPONSOR(S): PASKVAN

02/15/10 (S) READ THE FIRST TIME - REFERRALS
02/15/10 (S) L&C, FIN
02/25/10 (S) L&C AT 2:00 PM BELTZ 105 (TSBldg)
02/25/10 (S) <Bill Hearing Canceled>
03/02/10 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/02/10 (S) Moved SB 279 Out of Committee
03/02/10 (S) MINUTE(L&C)
03/04/10 (S) L&C RPT 3DP
03/04/10 (S) DP: PASKVAN, MEYER, DAVIS
03/23/10 (S) FIN AT 1:30 PM SENATE FINANCE 532
03/23/10 (S) Heard & Held
03/23/10 (S) MINUTE(FIN)
03/29/10 (S) FIN RPT CS 4DP SAME TITLE
03/29/10 (S) DP: HOFFMAN, STEDMAN, THOMAS, EGAN
03/29/10 (S) FIN AT 9:00 AM SENATE FINANCE 532
03/29/10 (S) Moved CSSB 279(FIN) Out of Committee
03/29/10 (S) MINUTE(FIN)
04/02/10 (S) TRANSMITTED TO (H)
04/02/10 (S) VERSION: CSSB 279(FIN)
04/05/10 (H) READ THE FIRST TIME - REFERRALS
04/05/10 (H) L&C, FIN
04/09/10 (H) L&C AT 3:15 PM CAPITOL 106

WITNESS REGISTER

ROB EARL, Staff
Representative Bob Herron
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the sponsor,
Representative Bob Herron during the discussion of HCR 21.

ERIN HARRINGTON, Staff
Representative Alan Austerman
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified during the discussion of HCR 21.

REPRESENTATIVE ALAN AUSTERMAN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions during the discussion of HCR 21.

SENATOR PASKVAN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 279 as the prime sponsor of the bill.

LORI HOVANEC, Director
Division of Banking and Securities
Department of Commerce, Community, & Economic Development
(DCCED)

Anchorage, Alaska

POSITION STATEMENT: Answered questions during the discussion of SB 279.

CYNTHIA DRINKWATER
Assistant Attorney General
Commercial/Fair Business Section
Department of Law (DOL)
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion of SB 279.

ACTION NARRATIVE

[3:35:12 PM](#)

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 3:35 p.m. Representatives Olson, Neuman, T. Wilson, and Buch were present at the call to order. Representatives Lynn, Holmes, and Chenault arrived as the meeting was in progress.

SB 159-WORKERS' COMPENSATION FUNERAL EXPENSES

[3:35:36 PM](#)

CHAIR OLSON announced that the first order of business would be SENATE BILL NO. 159, "An Act increasing the maximum funeral expenses payable as a workers' compensation death benefit; and providing for an effective date."

[3:36:11 PM](#)

CHAIR OLSON, after first determining that no one else wished to testify, closed public hearing on SB 159.

The committee took an at-ease from 3:36 to 3:36 p.m.

[3:36:46 PM](#)

REPRESENTATIVE T. WILSON moved to report SB 159 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, SB 159 was reported from the House Labor and Commerce Standing Committee.

The committee took an at-ease from 3:37 p.m. to 3:38 p.m.

[3:38:26 PM](#)

HCR 21-ECONOMIC DEVELOPMENT PLANNING COMMISSION

[3:38:29 PM](#)

CHAIR OLSON announced that the next order of business would be HOUSE CONCURRENT RESOLUTION NO. 21, Creating and relating to the Economic Development Planning Commission. [Before the committee was CSHCR 21(EDT)].

ROB EARL, Staff, Representative Bob Herron, Alaska State Legislature, introduced himself.

ERIN HARRINGTON, Staff, Representative Alan Austerman, Alaska State Legislature, introduced herself.

[3:39:18 PM](#)

REPRESENTATIVE CHENAULT made a motion to adopt Amendment 1, labeled 26-LS1446\P.3, Cook, 4/5/10.

Page 2, line 8:

Delete "public member"

Insert "member of the House of Representatives"

Page 2, lines 9 - 11:

Delete all material.

Insert "Representatives;"

Page 2, lines 12 - 13:

Delete "who is not an officer of the state or employed by officers of the state,"

Page 2, line 13:
Delete "sector,"
Insert "sector"

Page 2, lines 15 - 17:
Delete all material and insert:
"(5) one member of the Senate appointed by
the President of the Senate;"

Page 2, line 21:
Delete "one public member"
Insert "two public members"

Page 2, line 24:
Delete "one public member"
Insert "two public members"

CHAIR OLSON objected for the purpose of discussion.

[3:39:45 PM](#)

MR. EARL explained that Amendment 1 would change the appointment authority for the legislative members of the commission. The President of the Senate and the Speaker of the House rather than the co-chairs of the Finance Committees would make the appointments. Thus, the resolution would maintain the same membership composition of six public members, including two legislators, two members of the executive branch, the committee's prior amendment on March 30th to include the president of the Alaska Partnership for Economic Development, or the president's designee, and one additional public appointment. Amendment 1 also would remove the requirement for four of the appointees to not be officers of the state or employed by officers of the state. This requirement was removed to provide the flexibility to select qualified candidates from the executive branch or the Governor's office if a potential candidate has the needed expertise.

[3:41:10 PM](#)

CHAIR OLSON removed his objection. There being no further objection, Amendment 1 was adopted.

[3:41:36 PM](#)

REPRESENTATIVE CHENAULT made a motion to adopt Conceptual Amendment 1, labeled, Conceptual Amendment to Amendment P.3, which read [original punctuation provided]:

INSERT at line 1:
P. 2, lines 4-7
Delete all material

INSERT at line 19:
P. 2, lines 18-19
Delete "who is not an officer of the state or employed by officers of the state"

CHAIR OLSON objected for purpose of discussion.

[3:41:56 PM](#)

MR. EARL restated Conceptual Amendment 1. He referred to page 2, lines 4-7. He stated that Conceptual Amendment 1 is essentially "clean up" language. The effect of Conceptual Amendment 1 is that the two legislators members would be appointed by presiding officers of the legislature. He referred to page 2, lines 18-19, to paragraph (6) and related that the language "...who is not an officer of the state or employed by officers of the state..." would also be deleted. This reference was inadvertently omitted from the list of the four public member appointees that should be allowed to be officers of the state.

CHAIR OLSON removed his objection. There being no further objection, Conceptual Amendment 1 was adopted.

[3:42:41 PM](#)

REPRESENTATIVE CHENAULT made motion to adopt Amendment 1, as amended by Conceptual Amendment 1.

CHAIR OLSON related that this would motion would combine Amendment 1 and the Conceptual Amendment 1, which were both adopted at today's hearing.

There being no objection, Amendment 1, as amended was adopted.

[3:45:09 PM](#)

CHAIR OLSON, after first determining that no one else wished to testify, closed the public hearing on HCR 21.

[3:45:33 PM](#)

REPRESENTATIVE T. WILSON asked whether the sponsor would object to removing the funding for the staff person from the fiscal note.

REPRESENTATIVE ALAN AUSTERMAN, Alaska State Legislature, said he thought that he could work with the Department of Commerce, Community, & Economic Development (DCCED) on the bill. He stated that he did not have a problem removing the staff person and the attached funding.

[3:46:00 PM](#)

REPRESENTATIVE T. WILSON offered that she did not object to the travel and per diem in the amount of \$22,000 included in the fiscal note.

[3:46:17 PM](#)

REPRESENTATIVE CHENAULT moved to report HCR 21, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHCR 21(L&C) was reported from the House Labor and Commerce Standing Committee.

SB 279-MORTGAGE LENDING

[3:48:47 PM](#)

CHAIR OLSON announced that the final order of business would be CS FOR SENATE BILL NO. 279(FIN), "An Act relating to regulation of residential 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." [Before the committee was CSSB 279(FIN).]

[3:48:54 PM](#)

SENATOR JOE PASKVAN, Alaska State Legislature, as prime sponsor of the bill, paraphrased from his sponsor statement, which read [original punctuation provided]:

Senate Bill 279, along with regulations promulgated when the bill becomes law, will bring Alaska's

mortgage lending law into compliance with the new federal law and national licensing system.

Alaska's current mortgage lending law, the Alaska Mortgage Lending Regulation Act ("AMLRA"), became effective July 1, 2008. The law requires that mortgage lenders, brokers, and originators apply for and obtain a mortgage license in order to do business in Alaska. The purpose of this law is to protect consumers and hinder predatory lending and fraudulent behavior.

On July 30, 2008, a new federal law called the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (the SAFE Act) became effective. The SAFE Act requires that all states (1) implement mortgage laws which conform to its requirements by July 30, 2009, and (2) join and use a national database called the National Mortgage Licensing System and Registry (Registry) to license mortgage loan originators. States may implement more comprehensive mortgage lending laws than are provided under the federal SAFE Act, which provides minimum standards and requirements.

Alaska was able to join and begin licensing through the Registry on August 1, 2009, as the result of the passage of HB 221 last legislative session, which authorized participation in the Registry, enabling the state to comply with that part of the SAFE Act.

Under the SAFE Act, a state which is unable to meet the July 30, 2009 compliance deadline and whose legislature meets annually, may apply for a one-year extension to the U.S. Department of Housing and Urban Development (HUD), the federal agency tasked with compliance oversight. Alaska requested an extension on August 25, 2009.

If a state does not comply with the federal law by the deadline, then HUD is required under the SAFE Act to license loan originators in the state. While a state may maintain authority under its existing law, the authority will be subordinate to HUD. This structure would increase the regulatory burden and cost on the industry. HUD is not required to coordinate with the states.

A few examples of revisions and requirements under the SAFE Act include (a) changing our current license renewal from a biennial to an annual renewal and (b) requiring 20 hours of pre-licensing education.

For consumers and state regulators, one of the primary advantages to joining the Registry is the sharing of information about mortgage lenders and loan originators among states, as well as the ability to conduct joint exams with other states for out-of-state mortgage lenders doing business in Alaska, including those which operate via the Internet. The Registry also increases and centralizes information available to state regulators, the industry and consumer about the mortgage lending companies and professionals. The use of a national licensing database is also beneficial to the mortgage lending industry, making it easier to track mortgage loan originators and creating a uniform, electronic application process for licensing.

[3:52:45 PM](#)

SENATOR PASKVAN briefly outlined the changes that were made to the original bill contained in the CSSB 279(FIN) currently before the committee. On page 6, lines 8-18, the license fees were changed from biennial fees to annual license fees, and on page 6, lines 23-27, the permit fees are designated to be set by regulation. On page 6, lines 28-31, and page 7, lines 1-19, the bill sets out the requirement for 20 hours of pre-licensing education. On page 10, lines 18-31, and page 11, line 1, the bill provides the division with the authority to issue a provisional license if the fingerprinting card is delayed due to any agency backlog.

SENATOR PASKVAN referred to page 12, line 20-27, to changes made to omit the reference to paper in the event that in the future the on-line registry data is adopted. On page 14, lines 8-14, would establish regulations and application for a mortgage licensee to register with his/her branch office. On page 15, lines 24-31 through page 17, line 2, the bill modifies the continuing education requirements from 24 hours every two years to 8 hours annually. On page 41, lines 14-18, this provision would allow fingerprint cards to be sent to the branch registry instead of submittal to the Department of Public Safety for submittal to the FBI for background checks. On page 42, lines 19-21, the bill would eliminate the small mortgage lender

originator exemption as well as repeal other statutes in AS 06.60.

SENATOR PASKVAN referred to the fiscal note. One additional occupational licensing position would be added at a cost of \$65,000, with an additional \$3,000 for costs associated with this position. He related that some increased travel will be necessary since out of state exams are required to license out of state mortgage lending companies. The annual membership fee for the American Association of Residential Mortgage Regulators (AAMR) is \$750 annually. The state background check fee of \$5,000 must be paid up-front and subsequent licensee reimbursement will be made. It is anticipated that the revenue will increase by including the loan modification servicing provisions and the change from biennial to annual licensing fees for licensees.

[3:54:18 PM](#)

CHAIR OLSON reported that this bill came to the committee last year and the committee passed out the time sensitive portion last session.

[3:55:49 PM](#)

REPRESENTATIVE T. WILSON asked whether the additional staff person would be paid from revenues generated by the program.

SENATOR PASKVAN explained that the revenue is anticipated to increase substantially. He suggested the department could more fully answer the question.

[3:56:21 PM](#)

REPRESENTATIVE CHENAULT made a motion to adopt Amendment 1, labeled 26-LS1295\P.1, Bannister, 4/9/10, which read as follows:

Page 1, following line 5:

Insert a new bill section to read:

"* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE INTENT FOR REPEAL OF
AS 45.50.471(b)(52). With regard to the repeal of
AS 45.50.471(b)(52) by sec. 86 of this Act, it is the
intent of the legislature that

(1) the repeal is to prevent liability
under AS 45.50.471 - 45.50.561 for conduct that

violates AS 06.60, as amended by this Act, but that does not affect borrowers or potential borrowers;

(2) a person, including existing licensees under sec. 87 of this Act, who is required to be licensed under AS 06.60, as amended by this Act, and who engages in conduct prohibited by AS 45.50.471 - 45.50.561 remain subject to the provisions of AS 45.50.471 - 45.50.561, including the provisions for private and class actions under AS 45.50.531; and

(3) the repeal not limit or prevent an action by the attorney general, or by another person or class of persons, based on AS 45.50.471."

Page 1, line 6:

Delete "**Section 1**"

Insert "**Sec. 2**"

Renumber the following bill sections accordingly.

Page 41, lines 20 - 21:

Delete "and 06.60.870"

Insert "06.60.870; and AS 45.50.471(b)(52)"

Page 42, line 2:

Delete "sec. 8"

Insert "sec. 9"

Page 42, line 11:

Delete "sec. 88"

Insert "sec. 89"

Page 42, line 12:

Delete "sec. 88"

Insert "sec. 89"

Page 42, line 13:

Delete "sec. 9"

Insert "sec. 10"

Page 42, line 14:

Delete "sec. 9"

Insert "sec. 10"

Page 42, line 15:

Delete "sec. 9"

Insert "sec. 10"

Page 42, line 16:
Delete "sec. 14"
Insert "sec. 15"

Page 42, line 17:
Delete "sec. 14"
Insert "sec. 15"

Page 42, line 19:
Delete "sec. 58"
Insert "sec. 59"

Page 42, line 20:
Delete "sec. 58"
Insert "sec. 59"

Page 42, line 22:
Delete "sec. 59"
Insert "sec. 60"

Page 42, line 23:
Delete "sec. 59"
Insert "sec. 60"

Page 43, line 2:
Delete "sec. 88"
Insert "sec. 89"

Page 43, line 3:
Delete "sec. 89"
Insert "sec. 90"

[3:56:36 PM](#)

CHAIR OLSON objected for the purpose of discussion.

SENATOR PASKVAN explained that a question arose as to whether a person could be subject to treble damages and potential liability from a technical violation such as a licensing matter. Amendment 1 would eliminate the licensee from being subject to AS 45.50.471(b)(2). The purpose of the intent language is to ensure that that the licensees understood they would still subject to other provisions in AS 45.50.471 - 45.50.561, including the provisions for private and class actions under AS 45.50.531. He characterized Amendment 1 as a reasonable compromise between industry and the administration.

[3:58:47 PM](#)

CHAIR OLSON removed his objection. There being no further objection, Amendment 1 was adopted.

REPRESENTATIVE BUCH asked to hear testimony from the department about the bill and on Amendment 1.

[4:00:01 PM](#)

LORI HOVANEC, Director, Division of Banking and Securities, Department of Commerce, Community, & Economic Development (DCCED), stated that the division does not have any objection to Amendment 1.

[4:00:43 PM](#)

CYNTHIA DRINKWATER, Assistant Attorney General, Commercial/Fair Business Section, Department of Law (DOL), stated that she did not have any comments on the bill but asked to speak about Amendment 1. One effect of Amendment 1 might be to create some ambiguity regarding the applicability of the Consumer Protection Act to violations of the Mortgage Lending Act. The legislative intent language states the private right of action remains and that the attorney general's authority remains. However, the concern is that the statute on its face will show the provision of the Consumer Protection Act under AS 45.54.471 (b) (52) was repealed. Thus, it could be reasonable to assume that the legislature intended to restrict the options for consumers, which is the opposite of the intent expressed today. This is less of an issue for the enforcement by the Attorney General's office since other provisions of AS 06.60 and in the Consumer Protection Act that make it clear the Attorney General does have consumer protection jurisdiction. Still, the legislative intent behind the repeal may not be apparent and there well could be confusion about consumer remedies under the act and in particular, private rights of action. She was not certain how the legislative intent would appear in the bound volume of the statutes. If the legislative intent is contained in the annotations it could reduce the confusion, but she was unsure whether the legislative intent would appear in the on-line version of the statutes that people increasingly use.

[4:03:12 PM](#)

CHAIR OLSON asked whether this is the first time the Attorney General's office has expressed concern on the bill.

MS. DRINKWATER clarified her concern is with Amendment 1 that was adopted and not the bill.

CHAIR OLSON acknowledged her concern.

[4:03:32 PM](#)

REPRESENTATIVE BUCH asked whether she had any recommendations to remedy the matter.

MS. DRINKWATER stated that she did not have any further comment or any concerns with the bill.

REPRESENTATIVE BUCH related that if the Department of Law was uncomfortable with the statute perhaps some adjustments could be made "down the road." He expressed interest in any specific language to amend the bill to remove the ambiguity; such an amendment could be presented in the next committee of referral.

MS. DRINKWATER suggested one alternative could be to consider an amendment to AS 45.50.471 (b)(52), that would address the concern rather than to rely on the legislative intent, which would be separate from the statute.

CHAIR OLSON inquired as to whether Ms. Drinkwater would be willing to work with the bill sponsor on suggested language for the next committee of referral.

MS. DRINKWATER agreed to do so.

CHAIR OLSON, after first determining that no one else wished to testify, closed the public hearing on SB 279.

[4:05:33 PM](#)

REPRESENTATIVE T. WILSON moved to report the CSSB 279(FIN), as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCS CSSB 279(L&C) was reported from the House Labor and Commerce Standing Committee.

[4:06:22 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:06 p.m.