

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

April 14, 2009

1:12 p.m.

MEMBERS PRESENT

Senator Joe Paskvan, Chair
Senator Joe Thomas, Vice Chair
Senator Bettye Davis
Senator Kevin Meyer
Senator Con Bunde

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 12

"An Act relating to limitations on mandatory overtime for registered nurses and licensed practical nurses in health care facilities; and providing for an effective date."

MOVED CSSB 12(L&C) OUT OF COMMITTEE

SENATE BILL NO. 126

"An Act amending the State Personnel Act to place in the exempt service the chief economist and state comptroller in the Department of Revenue and certain professional positions concerning oil and gas within the Department of Natural Resources; relating to reemployment of and benefits for or on behalf of reemployed retired teachers and public employees by providing for an effective date by amending the delayed effective date for secs. 3, 5, 9, and 12, ch. 57, SLA 2001 and sec. 19, ch. 50, SLA 2005; and providing for an effective date."

MOVED CSSB 126(STA) OUT OF COMMITTEE

HOUSE BILL NO. 93

"An Act relating to unwanted telephone solicitations on a cellular or mobile telephone and making those calls to cellular or mobile telephones registered with the national do not call registry violations of the Alaska Unfair Trade Practices and Consumer Protection Act."

MOVED HB 93 OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 101(JUD)

"An Act exempting the full value of life insurance and annuity contracts from levy to satisfy a debt, and amending the description of earnings, income, cash, and other assets relating to garnishment of life insurance proceeds payable upon the death of an insured."

MOVED CSHB 101(JUD) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 102(JUD)

"An Act relating to the Uniform Commercial Code, to the general provisions of the Uniform Commercial Code, to documents of title under the Uniform Commercial Code, to the Uniform Electronic Transactions Act, to lease-purchases of personal property, to the contractual duty to act fairly and in good faith, and to carrier, warehouse, and animal care liens; amending Rules 403 and 902, Alaska Rules of Evidence; and providing for an effective date."

MOVED CSHB 101(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 12

SHORT TITLE: LIMIT OVERTIME FOR REGISTERED NURSES

SPONSOR(s): DAVIS

01/21/09	(S)	PREFILE RELEASED 1/9/09
01/21/09	(S)	READ THE FIRST TIME - REFERRALS
01/21/09	(S)	HSS, L&C, FIN
03/09/09	(S)	HSS AT 1:30 PM BUTROVICH 205
03/09/09	(S)	Heard & Held
03/09/09	(S)	MINUTE(HSS)
03/25/09	(S)	HSS AT 1:30 PM BUTROVICH 205
03/25/09	(S)	Moved SB 12 Out of Committee
03/25/09	(S)	MINUTE(HSS)
03/27/09	(S)	HSS RPT 1DP 3NR
03/27/09	(S)	DP: DAVIS
03/27/09	(S)	NR: THOMAS, DYSON, PASKVAN
04/07/09	(S)	L&C AT 1:30 PM BELTZ 211
04/07/09	(S)	-- MEETING CANCELED --
04/09/09	(S)	L&C AT 1:00 PM BELTZ 211
04/09/09	(S)	Heard & Held
04/09/09	(S)	MINUTE(L&C)

BILL: SB 126

SHORT TITLE: REEMPLOYMENT OF RETIREES; EXEMPT SERVICE

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/27/09	(S)	READ THE FIRST TIME - REFERRALS
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02/27/09 (S) STA, L&C, FIN
03/24/09 (S) STA AT 9:00 AM BELTZ 211
03/24/09 (S) Heard & Held
03/24/09 (S) MINUTE(STA)
03/26/09 (S) STA AT 9:00 AM BELTZ 211
03/26/09 (S) Heard & Held
03/26/09 (S) MINUTE(STA)
03/31/09 (S) STA AT 9:00 AM BELTZ 211
03/31/09 (S) <Above Item Removed from Agenda>
03/31/09 (S) MINUTE(STA)
04/02/09 (S) STA AT 9:00 AM BELTZ 211
04/02/09 (S) Moved CSSB 126(STA) Out of Committee
04/02/09 (S) MINUTE(STA)
04/03/09 (S) STA RPT CS 5DP NEW TITLE
04/03/09 (S) DP: MENARD, KOOKESH, PASKVAN, FRENCH,
MEYER
04/07/09 (S) L&C AT 1:30 PM BELTZ 211
04/07/09 (S) -- MEETING CANCELED --
04/09/09 (S) L&C AT 1:00 PM BELTZ 211
04/09/09 (S) Scheduled But Not Heard

BILL: HB 93

SHORT TITLE: DO NOT CALL REGISTRY--MOBILE/CELL PHONES
SPONSOR(s): REPRESENTATIVE(s) CHENAULT

01/28/09 (H) READ THE FIRST TIME - REFERRALS
01/28/09 (H) L&C
02/16/09 (H) L&C RPT 5DP
02/16/09 (H) DP: LYNN, BUCH, NEUMAN, CHENAULT, OLSON
02/18/09 (H) TRANSMITTED TO (S)
02/18/09 (H) VERSION: HB 93
02/19/09 (S) READ THE FIRST TIME - REFERRALS
02/19/09 (S) L&C

BILL: HB 101

SHORT TITLE: EXEMPTIONS: LIFE INSURANCE; ANNUITIES
SPONSOR(s): REPRESENTATIVE(s) COGHILL

01/30/09 (H) READ THE FIRST TIME - REFERRALS
01/30/09 (H) L&C, JUD
02/20/09 (H) L&C RPT 3DP 3NR
02/20/09 (H) DP: LYNN, CHENAULT, COGHILL
02/20/09 (H) NR: BUCH, HOLMES, OLSON
03/23/09 (H) JUD RPT CS(JUD) NT 6DP
03/23/09 (H) DP: LYNN, GRUENBERG, COGHILL,
DAHLSTROM, GATTO, RAMRAS
04/03/09 (H) TRANSMITTED TO (S)

04/03/09 (H) VERSION: CSHB 101(JUD)
04/06/09 (S) READ THE FIRST TIME - REFERRALS
04/06/09 (S) L&C, JUD

BILL: HB 102

SHORT TITLE: UNIFORM COMMERCIAL CODE

SPONSOR(S): LABOR & COMMERCE

01/30/09 (H) READ THE FIRST TIME - REFERRALS
01/30/09 (H) L&C, JUD
02/16/09 (H) L&C RPT 5NR
02/16/09 (H) NR: LYNN, BUCH, NEUMAN, CHENAULT, OLSON
03/18/09 (H) JUD RPT CS(JUD) NT 3DP 4NR
03/18/09 (H) DP: GRUENBERG, HOLMES, RAMRAS
03/18/09 (H) NR: LYNN, COGHILL, GATTO, DAHLSTROM
03/23/09 (H) TRANSMITTED TO (S)
03/23/09 (H) VERSION: CSHB 102(JUD)
03/25/09 (S) READ THE FIRST TIME - REFERRALS
03/25/09 (S) L&C, JUD

WITNESS REGISTER

TOM OBERMEYER

Staff to Senator Davis
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Commented on SB 12 for the sponsor.

TOM WRIGHT

Staff to Representative Chenault
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Commented on HB 93 for the sponsor.

AMANDA MORTENSEN

Staff to Representative Coghill
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Commented on HB 101 for the sponsor.

LINDA HULBERT

New York Life Insurance

POSITION STATEMENT: Supported HB 101.

DENNIS BAILEY, Legal Counsel
Legislative Legal and Research Service
Legislative Affairs Agency

POSITION STATEMENT: Answered questions on HB 101.

ALLISON LEFINE

Staff to Representative Gruenberg, sponsor of HB 102
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Commented on HB 102 for the sponsor.

TERRY THURBON, Public Member
Alaska Uniform Law Commission

POSITION STATEMENT: Supported HB 102.

PROFESSOR BILL HENNINGS, Commissioner
Alabama Uniform Law Commission

POSITION STATEMENT: Answered questions on HB 102.

ACTION NARRATIVE

[1:12:54 PM](#)

CHAIR JOE PASKVAN called the Senate Labor and Commerce Standing Committee meeting to order at 1:12 p.m. Present at the call to order were Senators Bunde, Meyer, Thomas, Davis and Paskvan.

SB 12-LIMIT OVERTIME FOR REGISTERED NURSES

[1:14:30 PM](#)

CHAIR PASKVAN announced SB 12 to be up for consideration.

SENATOR THOMAS moved to adopt CSSB 12, labeled 26-LS0075\E, as the working document. There were no objections and it was so ordered.

TOM OBERMEYER, staff to Senator Davis, sponsor of SB 12, explained that the CS makes two changes, both exceptions to the overtime provisions of the bill. The first is on page 3, line 19 - page 4, line 3, that addresses the exception of the 16-hour shifts at psychiatric residential treatment hospitals, psychiatric treatment centers and secure residential psychiatric treatment centers. This accommodates the modified Baylor Plan that was described at the North Star Behavioral facilities. The second exception is on page 5, line 31 - page 6, line 4, that is new and includes provisions not applicable to nurses employed in federal or tribal facilities. In doing this, the drafter also deleted the word "federal" on page 6, lines 8 and 16, in the definition of "health care facility" because the drafter felt it would be better to have a separate provision exempting this

particular group rather than including it under the long-enumerated exceptions on page 2.

SENATOR BUNDE asked why he felt the need to explicitly exclude federal facilities. He thought federal law trumped state law in any case.

MR. OBERMEYER answered that last year this question was brought up by Native facilities, and he got opposing determinations. One determined that federal law preempts state law and the other side determined that since these facilities are licensed by the state that the provisions would apply to these facilities. Rather than get into an argument about it again this year, they decided to exempt them. Many of these facilities in the rural areas are already adequately run.

[1:19:51 PM](#)

SENATOR BUNDE asked if it wasn't because those nurses had different work schedules and had the nurses do less overtime.

MR. OBERMEYER replied no.

SENATOR MEYER asked him to explain the amendment pertaining to the Baylor Plan.

Mr. OBERMEYER went to page 3, line 19, that states that a nurse who is employed at a psychiatric treatment hospital that treats only adolescents and children, at residential psychiatric treatment center under AS 18.07. and AS 47.12 and in a secure residential psychiatric treatment center, if they voluntarily work a 16-hour shift for the period between 5 on Friday and 8 on Monday that immediately follows and receives pay and benefits for that work or equal or greater than the pay or benefits that nurse would receive for working 20 hours in the same position and during that period does not work a 16-hour shift consecutive with another shift of 8 hours or more without an intervening break of 8 hours. This was originally a 12-hour weekend plan by Baylor University and was changed to 16-hour shifts. These seem like extremely long hours, but these facilities don't necessarily require the acute care that would occur in many other facilities that require surgery and that kind of thing.

[1:21:54 PM](#)

He said the Nurses Association supported this provision.

SENATOR MEYER asked why the exemption is limited to psychiatric institutions. His concern is that this would prohibit other non-

psychiatric facilities like Providence from being able to have a Baylor Plan.

MR. OBERMEYER replied that he didn't think this would prohibit them from having a Baylor Plan; they already work three 12-shifts that are not considered overtime as a 40-hour work week. He said this exemption was designed for the North Star facilities in Anchorage.

SENATOR MEYER said he still thinks it would keep any other non-psychiatric hospitals from going to a 16-hour work day if they so desire.

SENATOR DAVIS said this provision was in the bill before and was accepted by all concerned including Providence.

[1:25:43 PM](#)

SENATOR THOMAS moved to report CSSB 12, version E, from committee with individual recommendations and attached fiscal note(s). There were no objections and CSSB 12(L&C) moved from committee.

At ease from 1:26 p.m. to 1:28 p.m.

SB 126-REEMPLOYMENT OF RETIREES; EXEMPT SERVICE

[1:28:34 PM](#)

CHAIR PASKVAN announced SB 126 to be up for consideration; CSSB 126 (STA) was before the committee. Finding no one who wanted to testify, he closed public testimony.

[1:29:37 PM](#)

SENATOR BUNDE moved to report CSSB 126(STA) from committee with individual recommendations and attached fiscal note(s).

SENATOR MEYER objected for review of the major changes.

CHAIR PASKVAN explained that a number of categories were eliminated and the waiting period was reduced from six months to 90 days.

SENATOR MEYER said the other change is moving the sunset from 4 years to 1 year.

CHAIR PASKVAN explained.

SENATOR MEYER removed his objection. Without further objections, CSSB 126(STA) moved from committee.

At ease from 1:33 p.m. to 1:34 p.m.

HB 93-DO NOT CALL REGISTRY--MOBILE/CELL PHONES

[1:34:48 PM](#)

CHAIR PASKVAN announced HB 93 to be up for consideration.

TOM WRIGHT, staff to Representative Chenault, sponsor of HB 93, said this adds mobile telephones to the definition of "telephone solicitation" in AS 45.54.075(g). This adds cell and mobile phones to the unlawful and unwanted telephone advertisements and solicitations section. There is a national do not call registry operated by the Federal Trade Commission since 2003; this service allows a consumer to register their telephone, cell or mobile phones to that list should a consumer wish to limit telemarketing calls. This bill makes statute compliant with federal law. At this time cell phone numbers are not available to the public, but several services, mostly in the Lower 48, are putting a directory together for their own use. So the state is trying to be proactive if that directory ever becomes public.

SENATOR THOMAS asked if he could put his home phone as well as his cell phone on this registry.

MR. WRIGHT replied yes.

[1:37:36 PM](#)

CHAIR PASKVAN closed public testimony.

SENATOR THOMAS moved to report HB 93 from committee with individual recommendations and attached fiscal note(s). There were no objections and it was so ordered.

At ease from 1:3:8 p.m. to 1:40 p.m.

CSHB 101(JUD)-EXEMPTIONS: LIFE INSURANCE; ANNUITIES

[1:40:17 PM](#)

CHAIR PASKVAN announced CSHB 101(JUD) to be up for consideration.

AMANDA MORTENSEN, staff to Representative Coghill, sponsor of HB 101, explained that it exempts the full value of life insurance and annuities from being attached by creditors in the case of

liabilities. It would protect families and their ability to plan for their future. For example, if person A were to hit person B with a car, person B could sue for the assets of person A. This bill would protect person A's life insurance and annuity contracts so that their family could still survive on their own. It does not prevent person B from being able to garnish person A's other assets in order to fulfill the settlement. It also protects the death benefit of a spouse or dependent of the debtor in the case that the person is not yet deceased.

Currently retirement plans are creditor protected under federal laws. This bill would help if an employee worked for an employer who did not offer a retirement plan. The employee could use an annuity as a retirement plan and provide themselves and their families with better financial security. With the uncertainty of the social security system, Alaskan families need to be able to legitimately plan for their future. This bill falls under Title 38, the Alaska Exemptions Act; it then falls under section 15, property exempt without limitation.

She explained that section 1 adds unmaturred life insurance and annuity contracts owned by the individual to the list of property exempt without limitation. Section 2 removes the words "or payable" in order to clarify a potential ambiguity regarding trying to garnish a death benefit on an individual who has not passed away yet. Section 3 is repealed because there is no longer any reason to have a section dedicated to the exemption of unmaturred life insurance and annuity contracts since they now fall under the category of "property exempt without limitation" in AS 09.38.015. Section 4 is an applicability section that seeks that this will only apply to a debt that is created on or after the effective date of this act. As of May 2007, 10 states exempt life insurance and annuities 100 percent from creditors.

SENATOR BUNDE asked if this would encourage people to be irresponsible.

MS. MORTENSEN replied the intent here is not to allow people hide money or to be deceitful. In Florida where life insurance and annuities are protected, there have actually been court cases brought against individuals who have been trying to hide money or avoid paying and they have lost.

[1:44:10 PM](#)

SENATOR BUNDE asked if she had thought about limiting the protection to \$40,000 or \$50,000 to provide some basic coverage

for survivors if someone has \$2,000,000 in life insurance, for instance.

MS. MORTENSEN replied they just trying to provide for Alaskan families, not someone who is careless.

[1:45:54 PM](#)

LINDA HULBERT, said she has lived in Fairbanks for the last 40 years and has spent 20 years in adult education in employment training. For the last 19 years she has been with New York Life Insurance and supported HB 101. She helps families plan for the future and it is becoming more important given today's marketplace and what is happening. Many employers have stopped their contributions to 401Ks and defined benefit plans are not readily available any more. People have to assume individual responsibility for their retirements; they also need to assume responsibility to plan for their families so if something unfortunate happens to them they have the opportunity to continue having a life; life insurance is one of the ways to do it and annuities is another.

Ten other states make this planning opportunity available. In Alaska it can be used as a planning tool, but it has many limitations.

Regarding Senator Bunde's concern, Ms. Hulbert said, most people who have multimillion-dollar life insurance policies in Alaska have term policies that don't have a cash value. People who normally have large insurance policies with cash value also have numerous other assets. The asset in life insurance is primarily aimed at protecting their family and children for the future. So, it is very unlikely to play a part in the situation.

If anyone would use a life insurance policy or annuity as a fraudulent transaction to avoid an obligation, it would be void, and they would not have creditor protection. Also an individual can collaterally assign a life insurance policy, and then that would make the cash value and death benefit available to the creditor. In order to help people plan, she feels this is sound public policy. People with a lot of money have other options for protecting it like setting up a trust.

SENATOR BUNDE asked if she was referring to someone who has a bad debt and someone is trying to collect from their whole life and any cash value that might have accrued before they passed away.

MS. HULBERT answered yes. A creditor could attach a death benefit.

SENATOR BUNDE asked how often someone has had the cash value of their life insurance attached to pay a bad debt.

MS. HULBERT replied that she had no personal knowledge of it happening, but it could. It's especially important in retirement situations where a person retired from a union and they get a life insurance policy to protect their spouse and maximize their pension. It would be disastrous for the spouse to lose that life insurance, because their spouse then loses his retirement.

[1:51:35 PM](#)

DENNIS BAILEY, Legal Counsel, Legislative Legal and Research Service, Legislative Affairs Agency, said he had no comments and was available for questions.

[1:52:20 PM](#)

CHAIR PASKVAN closed public testimony.

SENATOR BUNDE said this seems like a solution in search of a problem, and that he harbors the fear that people don't need this protection at this point.

SENATOR MEYER said he likes the bill, but he didn't know why it was needed. Can hospitals collect their costs from the life insurance policy?

[1:54:15 PM](#)

MS. HULBERT responded that most life insurance policies in Alaska have a "living benefits rider." If an individual who is terminally ill adds a living benefits rider, they have access to the death benefits of their policy early if, for instance, someone needed medical care at the end of life. It depends on who the beneficiary is. If somebody does die, frequently the beneficiary is the estate of the insured, then the money would go into the estate and be subject to the claims of any creditors to the estate. If the beneficiary were an individual, the benefits of that policy would be after submission of a death certificate and would go directly to that spouse and children. If estate taxes were due, those heirs could be requested to utilize that policy to pay for estate taxes, but in general, the benefit of the policy is paid directly from the insurance company to the main beneficiary. That is why it's so important to check your named beneficiaries occasionally.

CHAIR PASKVAN recapped that Ms. Hulbert had pointed out the benefit of naming a specific person as opposed to the estate, so it would pass outside of probate.

SENATOR MEYER said putting it in a trust could run into problems, too.

[1:57:24 PM](#)

SENATOR THOMAS asked Ms. Hulbert if someone had an accident and rushed out to buy a policy, would they be protected by this language. Would they be seen as trying to hide assets?

MS. HULBERT replied this can't be used to fraudulently hide money or fraudulently transfer it. Any knowledge or indication there was a creditor issue, would void any transfer. This only protects legitimate planning processes of people who set things in motion to protect their families and their retirement.

[1:58:30 PM](#)

SENATOR BUNDE said he is still concerned and went back to Senator Meyer's example of someone who racked up a great deal of medical expense and passed away - this bill would not allow the cost of that medical care to be attached from their life insurance.

[1:59:18 PM](#)

MS. HULBERT responded that this bill doesn't affect access to the death benefit. If somebody dies right now and their named beneficiary is alive, the money goes directly to that named beneficiary.

SENATOR BUNDE asked if this is trying to protect the cash value of a policy after someone passes away.

MS. HULBERT replied that is primarily what it does. Because if you take away the cash value, the death benefit no longer exists.

[2:01:04 PM](#)

MR. BAILEY explained that the bill addresses the unmatured value of the life insurance or annuity contract. So it is correct that it does not affect the death benefit. However, there are a variety of situations where the death benefit may go to someone other than the estate and would not be available for collection by an injured person in an accident.

[2:02:07 PM](#)

SENATOR MEYER moved to report CSHB 101(JUD) from committee with individual recommendations and attached fiscal note(s). There were no objections and it was so ordered.

At ease from 2:02 p.m. to 2:04 p.m.

CSHB 102(JUD)-UNIFORM COMMERCIAL CODE

2:04:18 PM

CHAIR PASKVAN announced CSHB 102(JUD) to be up for consideration.

ALLISON LEFINE, staff to Representative Gruenberg, sponsor of HB 102, said it amends Alaska statutes to reflect the recent revisions to Articles 1 and 7 of the Uniform Commercial Code (UCC). The bill has two non-UCC provisions as well.

TERRY THURBON, Public Member, Alaska Uniform Law Commission, said updating the UCC is a priority this year in large part because it is cleanup legislation to get Alaska up to date with electronic documents of title with respect to bills of lading and warehouse receipts for the transportation industry. It updates a few other general provisions as well.

She said it seems like an overwhelmingly large bill at 60-plus pages, but the Uniform Commercial Code parts, sections 8 and 4, are the only ones she is speaking to. Those provisions are by and large changes in terminology to make the code consistent with a handful of substantive changes that are made. It is divided up into two parts, Article 1, which is general provisions, and covers things like definitions and obligations of good faith, and then Article 7, which has the warehouse receipts, bills of lading and documents of title provisions.

2:08:34 PM

MS. THURBON said the revisions in general deal almost entirely with bringing us into the electronic age for shipping and transportation, and how title is transferred amongst parties (Article 7). Some of those provisions were originally developed in the early 1900s and the last update was in 1951. In 2003 the Uniform Law Commission came up with these revisions. Thirty-two states have already adopted these provisions and three other states besides Alaska have introduced legislation this year.

The general provisions starting in section 8 of the bill regarding Article 1 are peppered throughout Title 45 and are mainly conforming terminology and amendments, but there are

about half dozen substantively important things those do to the UCC.

MS. THURBON said some of the changes clarified scope of coverage to make it clear that these provisions are applicable only to UCC-covered transactions. The statute of frauds requirement which governs when an agreement has to be in writing was a little fuzzy and appeared to apply to transactions outside of the UCC; so that was fixed. The rules on choice of law were clarified so that the parties in agreement can choose the law of whichever jurisdiction they want to apply - with some limitations meant to protect consumers so that they can have the protection of their own state's laws.

[2:12:13 PM](#)

Another substantive change clarified the definition of "good faith" in the context of UCC to mean honesty and fact and the observance of reasonable commercial standards for fair dealing. It clarifies use of evidence of course of performance of a contractual arrangement in addition to the uses of trade and of dealings. The bottom line is that these changes bring Alaska into the fold of the critical mass of nearly all of the states that are using the same version of the UCC in these two areas.

[2:13:26 PM](#)

PROFESSOR BILL HENNINGS, Alabama Uniform Law Commissioner, said he was executive director of the Uniform Law Commission from 2001-2007, which is when these two acts were finally produced. He teaches in the area of the UCC and works with these provisions every day.

PROFESSOR HENNINGS said that over the last 20 years, the UCC has been updated to accommodate electronic transactions. Articles 1 and 7 were the last to be revised, and they found industry was already far ahead of them in terms of using electronic documents, but industry wanted legal provisions that would put them on solid ground to make certain their documents were entirely effective. He said that Article 7 had not been thoroughly revised, but the electronic documents sections were dealt with almost exclusively.

[2:16:24 PM](#)

Article 1 is general provisions applicable to all the other articles, Professor Hennings explained. After 20 years of revisions there was sort of a disconnect between the other articles mostly in terms of definitions. So the revision of

Article 1 is designed to clean everything up and pull the UCC together.

[2:17:16 PM](#)

SENATOR THOMAS said one area talks about proceeds from goods and possessions being sold. Does someone determine the value of those goods so that if \$1,000 is owed and the carrier decides to dispose of \$10,000 worth of furniture just to get their \$1,000 is there some claim that causes it to be a fair disposal?

PROFESSOR HENNINGS replied that no specific procedure is set up requiring commercially reasonable sales like those in Article 7 foreclosures, but the general standards of the UCC, which are good faith and commercial reasonableness are applied. Good faith is honesty; and commercial reasonableness means that you have to comport with standards of fairness that are consistent with other similar entities would do in the commercial world. He has no doubt that a court could regulate that kind of conduct and treat a sale for a ridiculously small amount as something in the nature of a conversion. However, there is no broad structure for that in Article 7, unless he has forgotten it.

[2:19:58 PM](#)

CHAIR PASKVAN closed public testimony. He added that bringing Alaska up to the 21st Century is a good thing.

SENATOR THOMAS moved to report CSHB 102(JUD), version S, from committee with individual recommendations and attached fiscal note(s). There were no objections and it was so ordered.

At ease at 2:21 p.m.

[2:21:32 PM](#)

Finding no further business to come before the committee, Chair Paskvan adjourned the meeting at 2:21 p.m..