

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

January 26, 2012

1:39 p.m.

MEMBERS PRESENT

Senator Dennis Egan, Chair
Senator Joe Paskvan, Vice Chair
Senator Linda Menard
Senator Bettye Davis
Senator Cathy Giessel

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 156

"An Act extending the time period for which the Alaska Railroad Corporation may lease land without reserving the right to terminate the lease."

- MOVED SB 156 OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 146(RES)

"An Act authorizing the transfer of land from the State of Alaska and the Alaska Railroad Corporation to property owners along the Eielson Spur Line; and providing for an effective date."

- MOVED CSHB 146(RES) OUT OF COMMITTEE

SENATE BILL NO. 157

"An Act allowing an insurer to cancel an insurance policy if property becomes unoccupied and the vacancy increases the hazard insured against."

- HEARD & HELD

SENATE BILL NO. 158

"An Act relating to the Real Estate Commission; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 156

SHORT TITLE: ALASKA RAILROAD LAND LEASES

SPONSOR(s): LABOR & COMMERCE

01/17/12 (S) READ THE FIRST TIME - REFERRALS
01/17/12 (S) L&C, CRA
01/24/12 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
01/24/12 (S) Heard & Held
01/24/12 (S) MINUTE(L&C)

BILL: HB 146

SHORT TITLE: LAND TRANSFER FROM STATE AND ALASKA RR

SPONSOR(s): REPRESENTATIVE(s) T.WILSON

02/09/11 (H) READ THE FIRST TIME - REFERRALS
02/09/11 (H) RES, FIN
03/21/11 (H) RES AT 1:00 PM BARNES 124
03/21/11 (H) Heard & Held
03/21/11 (H) MINUTE(RES)
03/28/11 (H) RES AT 1:00 PM BARNES 124
03/28/11 (H) Moved CSHB 146(RES) Out of Committee
03/28/11 (H) MINUTE(RES)
03/29/11 (H) RES RPT CS(RES) 8DP
03/29/11 (H) DP: GARDNER, FOSTER, MUNOZ, P.WILSON,
HERRON, DICK, FEIGE, SEATON
04/06/11 (H) FIN AT 1:30 PM HOUSE FINANCE 519
04/06/11 (H) Moved CSHB 146(FIN) Out of Committee
04/06/11 (H) MINUTE(FIN)
04/07/11 (H) FIN RPT CS(FIN) NT 10DP 1AM
04/07/11 (H) DP: FAIRCLOUGH, GUTTENBERG, GARA,
JOULE, HAWKER, COSTELLO, EDGMON,
DOOGAN,
04/07/11 (H) STOLTZE, THOMAS
04/07/11 (H) AM: T.WILSON
04/08/11 (H) RLS AT 5:00 PM CAPITOL 120
04/08/11 (H) Moved CSHB 146(RES) Out of Committee
04/08/11 (H) MINUTE(RLS)
04/11/11 (H) RLS RPT CS(RES) 1DP 6NR
04/11/11 (H) DP: AUSTERMAN
04/11/11 (H) NR: TUCK, GRUENBERG, OLSON, CHENAULT,
GATTO, JOHNSON
04/11/11 (H) TRANSMITTED TO (S)
04/11/11 (H) VERSION: CSHB 146(RES)
04/12/11 (S) READ THE FIRST TIME - REFERRALS
04/12/11 (S) L&C, FIN

01/24/12 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
01/24/12 (S) Heard & Held
01/24/12 (S) MINUTE(L&C)

BILL: SB 157

SHORT TITLE: CANCEL INSUR. ON CERTAIN VACANT PROPERTY
SPONSOR(s): LABOR & COMMERCE

01/17/12 (S) READ THE FIRST TIME - REFERRALS
01/17/12 (S) L&C, CRA
01/26/12 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 158

SHORT TITLE: REAL ESTATE SALES LICENSEES
SPONSOR(s): EGAN

01/17/12 (S) READ THE FIRST TIME - REFERRALS
01/17/12 (S) L&C, FIN
01/26/12 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

DANA OWEN

Staff to the Senate Labor and Commerce Committee
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Presented SB 157 and SB 158.

SHERIE PARKER

State Farm Insurance
Bloomington, Illinois

POSITION STATEMENT: Supported SB 157 and answered questions on it.

SHELDON WINTERS, lobbyist

State Farm Insurance

POSITION STATEMENT: Supported SB 157.

ERROL CHAMPION, President

Southeast Board of Realtors and
Director for the Alaska Association of Realtors
Juneau, AK

POSITION STATEMENT: Supported SB 158.

ACTION NARRATIVE

[1:39:53 PM](#)

CHAIR DENNIS EGAN called the Senate Labor and Commerce Standing Committee meeting to order at 1:39 p.m. Present at the call to order were Senators Paskvan, Giessel, Davis, Menard and Chair Egan.

SB 156-ALASKA RAILROAD LAND LEASES

[1:41:24 PM](#)

CHAIR EGAN announced SB 156 to be the first item up for consideration.

SENATOR PASKVAN moved to report SB 156 from committee with individual recommendations and attached fiscal note if any. There were no objections and it was so ordered.

HB 146-LAND TRANSFER FROM STATE AND ALASKA RR

[1:42:28 PM](#)

CHAIR EGAN announced HB 146 to be the next item up for consideration [CSHB 146(RES) was before the committee].

SENATOR PASKVAN moved to report HB 146 from committee with individual recommendations and attached fiscal note. There were no objections and therefore CSHB 146(RES) moved from committee.

SENATOR PASKVAN recognized Bonnie Wolstadt in the audience who had been working hard on this issue for many years.

[1:43:40 PM](#)

At ease from 1:43 to 1:44 PM.

SB 157-CANCEL INSUR. ON CERTAIN VACANT PROPERTY

[1:44:54 PM](#)

CHAIR EGAN announced SB 157 to be up for consideration.

SENATOR PASKVAN moved to bring SB 157, version 27-LS0928\B, before the committee for discussion.

CHAIR EGAN objected for discussion purposes.

DANA OWEN, staff to the Senate Labor and Commerce Committee, sponsor of SB 157, explained that they were approached by a local insurance agent with what he presented as a problem in the statutes and SB 157 attempts to correct that problem. It would allow insurance companies licensed in the State of Alaska to

cancel insurance on a property which has been abandoned; the technical term is "unoccupied or vacant." House vacancy increases the risk that was originally insured.

[1:47:14 PM](#)

SENATOR GIESSEL asked what the definition of "unoccupied" is. Her house could be construed as being unoccupied at times for weeks when she is in Juneau.

MR. OWEN replied he understood that it has to be more than just someone is not there. It has to mean there is substantial evidence that people are not going to return; the place has either begun to be run down in some significant way or the furniture has been moved out, something hasn't been attended to that should have been if someone had been there.

SENATOR GIESSEL said that sounds subjective and asked if the definition was written somewhere.

MR. OWEN replied he didn't know.

SENATOR MENARD echoed Senator Giessel's question. She is a widow working in Juneau for 90 days and has people looking after her house, but what if they are called away for an emergency and she wasn't notified. She wanted a clear definition of what "unoccupied" means and asked what the amount of loss the insurance company feels has taken place as the result of an occurrence.

MR. OWEN replied that the industry is looking at if the risk has increased from what was originally insured; it's not a matter of a loss they have incurred. If the company perceives the risk is larger than what the policy originally covered.

SENATOR MENARD wanted to really know why this is needed in Alaska and that it could be happening because of what is going on with foreclosures.

MR. OWEN said he received a phone call in last 18 hours from someone who is also concerned about that same thing.

SENATOR MENARD asked if they are talking about a primary residence.

MR. OWEN answered that he thought it applied to all property.

SENATOR PASKVAN said it could also apply to commercial property.

MR. OWEN agreed.

1:52:43 PM

SHERIE PARKER, State Farm Insurance, Bloomington, Illinois, clarified that SB 157 applies only to policies of personal insurance; it doesn't apply to commercial properties. She said it's important to remember that no one at State Farm wants to cancel a policy unless they have a legitimate reason. In this situation they are talking about an increased hazard or risk that wasn't part of the original risk that was insured. Originally these homes were occupied by owners whose circumstances have changed for some reason, therefore increasing the insurers' risk. In Alaska there is a one-year policy term, which is typically renewed unless there has been some change in the property characteristics. This recommended change is only related to mid-term cancellation.

She explained that sometimes State Farm feels they need to take action mid-term because something about the risk has changed drastically. As the statute is currently written they can't take action. Claims from these risks impact Alaskan customers because homes that are vacant, unoccupied and uncared for have a higher propensity for loss.

1:55:14 PM

The goal is to clarify language for carriers and for the Division of Insurance. The specific language for this bill is found in 12 other states. Most states are silent on this issue, and they can mid-term cancel without it. But 12 states, including Alaska, need further clarification. If they were to do a Notice of Cancellation to the insured, that would provide the owner opportunity to clarify the situation that has led State Farm to believe the home is abandoned or is not being cared for properly and to correct it.

1:57:01 PM

MS. PARKER said most carriers work with their agents to determine what is occurring at the property in question even before they would ever send out a cancellation letter. They are in the business of insuring property, but they don't want to be required to maintain insurance on a property that has increased risk of hazard which they didn't anticipate when they first insured it.

There is no legal definition for "vacant" but an understood definition in the industry is that vacant would be a property

that is substantially void of personal property; maybe a broom or an end table is left behind. An "unoccupied" home is where people are not occupying the dwelling, but personal property is still in it; for instance, senators traveling to the capital for session. It could also mean a seasonal secondary vacation type of a risk, because those homes during part of the year are unoccupied. However, the concern in the industry really isn't with those homes as much as it is with the homes that aren't being cared for. It's not a rash decision. They contact the agent and find out what is going on first.

[1:59:43 PM](#)

SENATOR DAVIS asked if they want to be able to cancel the insurance policy why this language is needed. Isn't there another way to handle it?

MS. PARKER replied that they have a vacancy endorsement providing limited coverage for vandalism and breakage of glass that is otherwise excluded, but it needs to be added by the customer. The cases she is addressing are homes that are vacant because an owner is no longer living on site. So they don't easily have a customer to go to ask if they want to add the vacancy endorsement; nor would they want to, because that is meant for a short term period while a customer is trying to sell that home. She said banks notify them when a home is unoccupied and they check on their properties.

SENATOR DAVIS asked if Legislative Legal had a definition for unoccupied.

CHAIR EGAN said Ms. Hall from the Division of Insurance was available to answer that shortly.

SENATOR PASKVAN said the sponsor statement uses "abandoned property" and bill talks about "un-occupancy or vacancy" and asked if she would have a problem with changing them to "abandonment."

MS. PARKER replied that they would consider it, but there are cases when the home is unoccupied and the owner is not taking the proper steps to make sure the house maintains heat if they are in a winter climate or that it is checked on periodically.

SENATOR PASKVAN said he assumed they are dealing with properties where the owner has paid the premium, and he was struggling with the concept of a fully paid premium; that was the deal that was

struck. Why should they allow insurance companies to change the bargain mid-term?

MS. PARKER replied because when the policy was written they expected the customer would not walk away from the home and that it wouldn't be vacant. An endorsement could be added if the home was going to be vacant for a period of time. They did enter into a contract when they wrote the policy, but the owner has a responsibility, too, to maintain their property in a way that doesn't add more risk. Sometimes they ask a person to replace their roof because it has reached the age of not being able to fully protect that house from water damage. This is a similar type of increased risk exposure, but they can't ask the person to move back in if that's not what they are going to do.

SENATOR PASKVAN asked if after the deal was struck if they suspected fraudulent intent they could retroactively cancel the policy.

MS. PARKER answered yes.

SENATOR PASKVAN said he was thinking in the context of how Alaska law looks at insurance contracts as contracts of adhesion: in other words, a take it or leave it basis, and they have total control at time of contracting for whatever term that might be. So, he was struggling with carriers wanting to get greater mid-term cancellation rights if the owner wants to keep a property insured and they aren't fraudulent or haven't misrepresented anything.

MS. PARKER replied in many cases the owner has left or they aren't taking care of the property. Cancellation is already allowable for physical changes in the insured property that result in it becoming uninsurable.

[2:08:21 PM](#)

SENATOR PASKVAN said it sounds like this is arising out of the collapse of the economic system in 2008 and that the banking industry has insurance requirements and asked what their view is.

MS. PARKER replied that hasn't been an issue in the other states she works with in the Pacific Northwest and according to colleagues working in other parts of the nation. When the mortgagee receives a separate notice as required by the policy contract with them, it doesn't have to state a reason. She

suspected they would place coverage of their own on that piece of property.

SENATOR PASKVAN asked if State Farm provides insurance coverage to banks for foreclosed property.

MS. PARKER replied no. If a customer shared that they were leaving their home, the agent would have a conversation with that customer about their new insurance needs, and their policy would be canceled in the normal course of business. They might not need a homeowner's policy, but they might need a rental policy. But here they are talking about the cases where the customer has walked away and is not caring for the property.

[2:11:58 PM](#)

SENATOR PASKVAN asked how financial institutions protect their interest without getting notice of cancellation.

MS. PARKER replied that notice happens automatically.

SENATOR PASKVAN asked who would come in during the process of foreclosure, if there was no fraud and they just lost their job. Who makes up the difference in the mortgage that would be covered by the insurance?

MS. PARKER replied the customer could tell them when they no longer have ownership.

[2:14:15 PM](#)

SENATOR MENARD said she has heard tragic stories in the Lower 48, but that is not the case here in Alaska, and she wanted respect for the person who owns the policy. What kind of steps do they take in notifying a customer? Do they have to send a certified letter? Are there three or four different methods they are going to try to get a hold of them?

MS. PARKER answered in any situation where they mid-term cancel a policy, they provide 30 days' notice plus mailing time to the last known address and it's certified. Additionally, they send 10 days advance notice to the agent before sending the notice to the customer to give them an opportunity to track down and reach out to that customer. In addition to that, before any notices are sent they have contacted the agent to try to discern what has occurred at that property and what the needs of that customer now are.

SENATOR MENARD asked how much the vacancy endorsement costs for a typical 2500 sq. ft. home.

MS. PARKER replied State Farm charges \$30/year for vandalism or malicious mischief and breakage of glass like a broken window. It's not meant to be for a long time, although some vacant homes are taking longer to sell.

SENATOR MENARD said \$30/year doesn't seem like a lot of money. Instead of changing the law, could they be encouraged to take out a vacancy endorsement?

MS. PARKER replied that their risk exposure isn't from the customer who asked for the endorsement, but from a customer who is no longer there. If the home burns down it's covered. Their increased exposure is loss from water damage because often water is not noticed until it is running out the door.

[2:20:42 PM](#)

SHELDON WINTERS, lobbyist, State Farm Insurance, said he has discussed this issue [SB 157] with the division since 2010. Home owner insurance policies in Alaska have a one-year term; after that term, insurance companies can renew the policy or not. Virtually every state in the country including Alaska allows for cancellation of an insurance policy before that one-year period if there are legitimate reasons for doing so, and it's called a mid-term cancellation. Alaska statute has five reasons; one of them is if there is a physical change in the insured property mid-term that results in the property becoming uninsurable.

He explained when someone purchases a homeowners product, there is a risk that is underwritten. It's assumed in that premium that the property will not be vacant and for the most part occupied and taken care of. It doesn't mean that when the owner goes on a three-week vacation it's viewed as unoccupied. The thrust of the bill is if after he has paid his premium and decides he doesn't like his job or the weather and decides to leave, there's no heat and the pipes freeze; that's the increased risk. Vacancy is not defined in statute, but in Webster's it means "you're gone."

MR. WINTERS said all insureds pay into a risk pool and it always depends on the accuracy of the underwriting. All home owners' insurance premiums are based on that home being occupied and being taken care of. Including these losses will increase the cost of insurance to everyone. He said, "It's universally accepted that insurers need to be able to cancel mid-term if the

risk changes significantly...and in the case when somebody leaves it vacant, as I've talked about, there's no doubt about it." Vandals are attracted to those places.

2:25:18 PM

He said the definition of vacancy is pretty clear cut; they're gone and not coming back. Unoccupied is a little bit different, because someone might leave a few things but they are basically gone as well. He didn't want to get into the definition of un-occupancy because it depends on the homeowner. It's not the intent to cancel a legislator's policy, but if they leave and turn the heat off and go to Costa Rica, that's the kind of situation they are talking about. He emphasized that carriers want to write that policy for people and the agents want the business. He would call the owner of a property and find out what's going on, and that would probably pass with underwriting.

SENATOR PASKVAN said if property is truly abandoned he can appreciate their concern. Some standard of outright abandonment or permanent un-occupancy or vacancy would help. Certainly if you're contacting a financial institution and you find out that an owner is not current with their mortgage, that tells him that they are treating their property in a certain way, but if they paid their mortgage and their insurance and they just are temporarily leaving it vacant, he didn't want to leave it to the discretion of their underwriting to rewrite the deal that was initially set.

MR. WINTERS said he thought they were on the same wave length; the real concern is vacant abandoned property, and they used "vacant" because that is what other states have used.

SENATOR GIESSEL asked how they decide and who decides. Do they drive around and look at the properties they insure and peer in the window?

MR. WINTERS replied that the agent drives by a house in a town like Juneau and sees that the driveway isn't plowed and the lights haven't been on, for instance. Maybe he hasn't paid his auto insurance - some sort of red flag.

2:31:01 PM

SENATOR GIESSEL said she was still not reassured.

CHAIR EGAN said he has owned real property since 1969 and not once has his agent tried to sell him a vacancy endorsement. How

do homeowners know they have to spend an additional fee because they are tired of shoveling snow and want to go to Palm Springs?

MR. WINTERS answered that endorsement is for when you are truly not occupying the home; when you go on vacation your home is not un-occupied.

CHAIR EGAN asked what the \$30 covers.

MR. WINTERS replied when the home is unoccupied for three or four months.

MS. PARKER said the endorsement is good in limited circumstances: first the home needs to be vacant, have no personal property and no one is living there. It just provides that limited coverage for vandalism or malicious mischief and broken glass. If the home is vacant without the endorsement those three things are not covered under the policy contract. It's not necessary when legislators are at the capital working.

SENATOR GIESSEL said the definition still feels like it only refers to vacancy and leaves the un-occupancy way out there. In her district she has multiple "snowbirds" who leave for six months and their driveways could look unplowed in one day with all the snow they get.

MR. WINTERS responded that it's one thing if the snowbird leaves for six months and shuts everything like the heat down. He agreed that some subjectivity is involved, but he believed the consumer wants the flexibility of not having a 30-day definition.

[2:36:40 PM](#)

CHAIR EGAN said abandoned, vacation and unoccupied are terms that have to be defined, because it's too subjective.

SENATOR MENARD asked who would make the claim if someone on the Hillside was gone for six months and paid the premium six months ahead, or if they were out of the country for six months.

MR. WINTERS replied maybe they paid a year in advance, but that premium is based on the home being occupied. If you go to the insurance agent and say by the way I'm going to be gone for a year...

SENATOR MENARD asked if it's her burden to let the insurer know.

MR. WINTERS said on the application it's going to be an "occupied home." If you decide to leave for a year, he didn't know if anyone would notice, but the agent could contact you and ask if the heat is on and that should suffice. But if he can't get ahold of you and no one is there, a notice of cancellation would be issued.

SENATOR MENARD said she would like "abandonment" instead of "vacancy."

CHAIR EGAN said he would hold SB 157 and would continue public testimony at another time.

SB 158-REAL ESTATE SALES LICENSEES

2:41:37 PM

CHAIR EGAN announced SB 158 to be up for consideration.

DANA OWEN, staff to the Senate Labor and Commerce Committee, sponsor of SB 158, said industry professionals wanted to achieve three things with this bill. First, there are provisions in statute for appointing a temporary overseer of a real estate license in the event that a person can't oversee the business, but there is one glaring exception. That is if the person is being punished through the legal system for some misconduct. No provisions exist for appointing someone to take over the business and manage it or close it down. The bill would put in that provision.

Second, they wanted to address a provision for assigning assistants to a licensee. At the time it was inserted it was understood that the assistant would be assigned to the licensee. People have taken that to mean that the assistant has a license that can go to anybody; in other words that person can work for multiple agents. The intent of the law as he understands it is to limit it to that one licensee. This bill would restore that idea.

Third, currently brokers are not allowed to donate a portion or all of their commission to a charity, and they want the ability to do that. This bill would also address that.

CHAIR EGAN objected for discussion.

SENATOR MENARD asked if they would play by the same IRS rules.

MR. OWEN answered yes.

2:44:47 PM

ERROL CHAMPION, President, Southeast Board of Realtors and Director for the Alaska Association of Realtors, thanked the chair for introducing SB 158. He said it resolves three areas identified by members of the Alaska Realtors Association. It clarifies statute providing the ability for the Alaska Real Estate Commission (ARAC) to designate a licensee to administer closing down a real estate brokerage for medical reasons or for violation of the law if one is not available up to the task. State law presently does not allow the ARAC the flexibility to assign this important task to the appropriate active licensee. He said this is important for the Bush because often no one else is in the office except the licensee. Currently, ARAC has to remove all the transactions and the control of the trust account perhaps to another city, which is awkward for everyone.

The second issue the bill clarifies is the intent that all licensed assistants have to be working for the brokerage where they are being compensated. You don't want compensation to go to a licensed assistant and then have them work for another broker because of violation of confidentiality; it's not a good business practice.

Third, this bill will allow a licensee to share a portion of their commission with a charity. Technically, only the broker can disburse funds out of the trust account.

He summarized that these three changes will help clarify the intent of the law and promote charitable giving.

CHAIR EGAN thanked Mr. Champion for his testimony and said SB 158 would be held for a future meeting.

2:51:39 PM

Finding no further business to come before the committee, Chair Egan adjourned the Senate Labor and Commerce Standing Committee meeting at 2:51 p.m.