

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 27, 2013

3:24 p.m.

MEMBERS PRESENT

Representative Lora Reinbold, Vice Chair
Representative Bob Herron
Representative Charisse Millett
Representative Dan Saddler
Representative Andy Josephson

MEMBERS ABSENT

Representative Kurt Olson, Chair
Representative Mike Chenault

OTHER LEGISLATORS PRESENT

Representative Les Gara

COMMITTEE CALENDAR

HOUSE BILL NO. 50

"An Act authorizing the Alaska Housing Finance Corporation to allow certain commercial uses in a multi-unit residential housing development owned or financed by the corporation and limiting the Alcoholic Beverage Control Board's issuance of certain licenses to premises in the residential housing development."

- MOVED HB 50 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 50

SHORT TITLE: MULTI-UNIT HOUSING: COMMERCIAL USE

SPONSOR(s): REPRESENTATIVE(s) COSTELLO

01/16/13	(H)	PREFILE RELEASED 1/11/13
01/16/13	(H)	READ THE FIRST TIME - REFERRALS
01/16/13	(H)	L&C, FIN
02/18/13	(H)	BILL REPRINTED 2/18/13
02/27/13	(H)	L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE MIA COSTELLO
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of HB 50.

JOSHUA WALTON, Staff
Representative Mia Costello
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the sponsor,
Representative Costello.

STACY SCHUBERT, Director
Governmental Affairs & Public Relations
Alaska Housing Finance Corporation (AHFC)
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the
discussion of HB 50.

ERIC HAVELOCK, Multi-family Underwriting Supervisor
Alaska Housing Finance Corporation (AHFC)
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the
discussion of HB 50.

SHIRLEY COTE, Executive Director
Alcoholic Beverage Control Board (ABC Board)
Department of Commerce, Community & Economic Development (DCCED)
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the
discussion of HB 50.

DANIEL R. FAUSKE, CEO/Executive Director
Alaska Housing Finance Corporation (AHFC)
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions during the
discussion of HB 50.

FRANCIS MARIN, Member
Park Place Condo Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 50.

ACTION NARRATIVE

[3:24:02 PM](#)

VICE CHAIR LORA REINBOLD called the House Labor and Commerce Standing Committee meeting to order at 3:24 p.m. Representatives Saddler, Josephson, Millett, and Reinbold were present at the call to order. Representative Herron arrived as the meeting was in progress.

HB 50-MULTI-UNIT HOUSING: COMMERCIAL USE

[3:24:59 PM](#)

VICE CHAIR REINBOLD announced that the only order of business would be HOUSE BILL NO. 50, "An Act authorizing the Alaska Housing Finance Corporation to allow certain commercial uses in a multi-unit residential housing development owned or financed by the corporation and limiting the Alcoholic Beverage Control Board's issuance of certain licenses to premises in the residential housing development." [The announcement was not captured on the recording due to brief technical difficulties.]

[3:27:52 PM](#)

REPRESENTATIVE MIA COSTELLO, Alaska State Legislature, stated that HB 50 will provide the Alaska Housing Finance Corporation (AHFC) housing that is owned or financed by the corporation. The bill will allow for multiuse opportunities within larger scale housing complexes. She said one of the reasons she is so intrigued by the bill - which was brought to her attention by AHFC and Representative Gara - is that it will provide for more opportunities for housing and vibrancy in neighborhoods. Instead of simply providing housing opportunities HB 50 would allow for commercial use within the property. She acknowledged that neighborhoods take on different characteristics depending on the part of the state in which they are located, and pointed out that this bill will provide more opportunities, such as shopping, commercial businesses, or child care, within those housing complexes. She expressed hope that the committee will like the bill since it can provide opportunities for housing throughout the state that will benefit Alaskans as a whole. She highlighted letters of support from Catholic Social Services, the Cook Inlet Housing Association, St. Vincent de Paul, and the Park Place Condominium Association.

[3:29:50 PM](#)

JOSHUA WALTON, Staff, Representative Mia Costello, Alaska State Legislature, on behalf of sponsor Representative Mia Costello, related that the substantive part of HB 50 adds paragraph (30) that authorizes the AHFC to permit certain commercial uses in multi-unit residential housing development owned or financed by the corporation. Currently, the AHFC is limited in the types of activities it can permit in the properties it finances to strictly residential use. This bill would allow AHFC to take advantage of a national trend in affordable housing models that include multi-unit property with some commercial space. Thus, allowing some commercial activity to occur on the premises. The first change embodied in HB 50 is to authorize that type of use and the remaining changes elaborate on what the specified uses may be.

[3:31:51 PM](#)

MR. WALTON turned to proposed Section 3 of the bill, which specifies that the AHFC may authorize commercial use in a multi-unit residential housing development owned or financed by the corporation if the commercial use doesn't fall among a list of prohibited categories and the total of the commercial uses doesn't occupy more than a percentage of the space in the development as determined by the AHFC's Board of Directors. Because of the residential focus, it's important that allowed businesses are family friendly, which is why the bill specifies that charitable gaming, adult entertainment, and bars would not be allowed. Under HB 50, restaurants that serve alcohol would potentially be permitted. Additionally, the bill would prohibit substance abuse treatment facilities and tobacco sales manufacturing facilities in this type of development.

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STACY SCHUBERT, Director, Governmental Affairs & Public Relations, Alaska Housing Finance Corporation (AHFC), Department of Revenue, read from a prepared statement. She related as a state agency the AHFC works in partnership with the private sector to lead the way in quality construction, including energy efficiency measures and home mortgage loans to qualified Alaskans. Due to the recession in the U.S. and low interest rates, many Alaskans have refinanced their mortgages. Through an operational improvement effort, AHFC has also considered ways to grow its asset base. The ability to finance commercial space alongside housing offers new opportunities to help meet

challenges facing Alaska's communities since land and its prices are at a premium in communities. From Anchorage to Juneau, Kodiak, Unalaska, Nome, Barrow, and points in between, accessing affordable housing continues to be a barrier for many Alaskans. She informed the committee of the monthly average two-bedroom unit rent adjusted for utilities for the following communities: Anchorage - \$1,265, Fairbanks - \$1,103, and Kenai - \$889. Additionally, as the number one provider of public housing in the state, the AHFC's waiting list currently has more than 4,000 families seeking financial assistance. The AHFC appreciates HB 50 being brought forward and if it becomes law will allow AHFC to finance commercial space as a component of the multi-family financing the agency currently offers.

[3:36:00 PM](#)

MS. SCHUBERT continued. She said that AHFC's multi-family loan program has historically performed well and remains an important tool for construction of new, safe, quality and affordable multi-unit housing. Further, HB 50 could strengthen AHFC's toolbox. The bill would not allow AHFC to finance a stand-alone retail store; however, if the retail store is within a residential building the store could augment the financial attractiveness of the residential building. She stated that the AHFC believes this bill is significant since there continues to be a tremendous need for more affordable housing statewide; consumer demand across the country is tending toward mixed use development with combined retail and commercial space; and the bill offers developers the opportunity for a single loan that may include housing in a thrift store, housing in a restaurant or coffee shop, or housing in support of senior services. Housing developers support the concept because they would no longer need to pencil out projects independently since revenues from the commercial space may now assist with affordability of the new residences or vice versa. Further, developers support the bill as their overall costs are reduced. This type of financing also would streamline the loan process, eliminating the need for separate loans, appraisals and similar costs. Finally, tenants benefit since they have amenities located where they live.

[3:37:29 PM](#)

MS. SCHUBERT explained that a developer who would like to access financing for multi-family project with commercial space would approach the AHFC's lending department and apply for the loan. As good stewards of the state's resources, projects would be

considered by the AHFC's Board of Directors on the basis of financial feasibility, subject to certain dollar thresholds. However, she emphasized that the AHFC does not consider itself to be in direct competition with other lending institutions, but will remain a trusted partner. The borrower would be free to shop for better terms at other institutions, in fact, those institutions may have the opportunity to come directly to AHFC and AHFC would purchase the loan. In conclusion, she noted that AHFC's profits have historically benefitted Alaskans in the form of dividends to the state totaling nearly \$2 billion since the 1990s.

[3:38:10 PM](#)

VICE CHAIR REINBOLD asked whether any lenders have weighed in on HB 50.

MS. SCHUBERT answered no; they have not weighed in on the bill. In further response, Ms. Schubert related that the AHFC does not believe the agency is in competition with lenders; instead the AHFC believes HB 50 will strengthen its partnerships since it offers to have institutions come to AHFC and sell a loan after it is originated, which generates revenue.

[3:39:01 PM](#)

REPRESENTATIVE JOSEPHSON referred to Section 3(a)(2) and inquired as to the percentage of space in the multi-unit housing that can be for commercial use.

MS. SCHUBERT answered that the AHFC has considered this. For example, the top part of a building might be residential and the bottom floor could be commercial, which might total 50 percent of the space. However, the AHFC would like the flexibility to have its board decide the percentage. She said the commercial space could range from 2 to 20 units, and therefore each project may be different.

[3:40:18 PM](#)

REPRESENTATIVE JOSEPHSON inquired as to the specific project details of the Inlet Towers, which he recalled has an elegant foyer and hotel, in Anchorage.

MS. SCHUBERT related that the facility was financed by AHFC and the former hotel has been turned into an apartment complex with a restaurant operating downstairs.

[3:41:49 PM](#)

REPRESENTATIVE SADDLER asked how much demand there is for multi-family housing plus commercial space.

MS. SCHUBERT answered that at this point, the AHFC has two projects pending that would like to proceed with housing and some component of commercial space in Juneau and Anchorage.

[3:42:18 PM](#)

REPRESENTATIVE SADDLER asked whether this represents a trend, noting Anchorage has been working toward that effort. He then asked whether the trend for moderate and low-income housing tends to favor more commercial space.

MS. SCHUBERT answered yes; nationally the trend is for mixed-use developments.

[3:42:46 PM](#)

REPRESENTATIVE SADDLER asked whether HB 50 is designed to favor new construction or repurposing existing structures.

MS. SCHUBERT responded that it is primarily focused on new construction, but deferred to other AHFC staff to more fully answer the question.

[3:43:07 PM](#)

ERIC HAVELOCK, Multi-family Underwriting Supervisor, Alaska Housing Finance Corporation (AHFC), Department of Revenue, in response to Representative Saddler, answered that the program is an open loan program such that AHFC relies on the private sector to bring forward projects that meet the requirements of the loan program so it would be suitable for all the purposes mentioned.

[3:43:49 PM](#)

REPRESENTATIVE HERRON asked for the catalyst or genesis of the bill.

MS. SCHUBERT answered that HB 50 is the product of a combination of things beginning with AHFC's operational improvement plan and consideration of new loan programs and products that may be attractive to Alaskans. Additionally, the Inlet Tower hotel in

Anchorage and its transition into an apartment building and the desire to have the ability to finance the restaurant that operates there. Furthermore, the national trend toward multi-use development was a consideration with HB 50.

[3:44:39 PM](#)

REPRESENTATIVE HERRON, referring to the prohibitions of certain uses of the commercial use space that AHFC finances, inquired as to why there is a prohibition of commercial space used for the manufacture, sale, transfer, or storage of cigarettes or tobacco products. Although he remarked that he doesn't support cigarettes, he said he found its inclusion in HB 50 interesting.

MS. SCHUBERT deferred to the bill sponsor's staff.

MR. WALTON answered that the prohibition speaks to the goal of providing residential housing with businesses that fit better with people living on the premises and being more family friendly. Thus, the sale of adult beverages and tobacco products are restricted and not sold on premises to avoid potential issues.

[3:46:32 PM](#)

REPRESENTATIVE MILLETT asked whether the bill would allow a restaurant with a liquor license and bar but a business could not sell tobacco.

MR. WALTON answered that is correct, adding that it is generally considered that the restaurant would serve a different purpose than a location that sells tobacco.

[3:47:04 PM](#)

REPRESENTATIVE MILLETT pointed out that the restaurant at the Inlet Towers has a bar section. She said prohibiting some vices but not others makes her uncomfortable with HB 50. She related that although she isn't a big tobacco supporter, she does support freedom and liberty. Representative Millett emphasized her support for HB 50, but considers the aforementioned as one of the downsides of the bill.

REPRESENTATIVE COSTELLO requested that the Alcoholic Beverage Control Board ("ABC Board") comment.

[3:48:16 PM](#)

SHIRLEY COTE, Director, Alcoholic Beverage Control Board ("ABC Board"), Department of Commerce, Community & Economic Development (DCCED), requested further clarification of the question. She related that when licensed premises are designated with a restaurant designation permit they are allowed to do some things other restaurants cannot do without that permit.

[3:49:22 PM](#)

REPRESENTATIVE MILLETT, noting that it is more of a philosophical question, asked whether it is appropriate to allow alcohol to be sold, but not tobacco. She questioned why the bill would allow the legal sale of alcohol, but not tobacco as it would seem to allow one vice over another. She cautioned that she is not promoting either alcohol or tobacco, but maintained that it seemed to be an odd addition to a bill that is trying to improve commerce.

MS. COTE related that restaurant eating place licenses allow for the sale of meals, beer, and wine, but not the sale of tobacco products or spirits.

REPRESENTATIVE COSTELLO answered the reason to prohibit the activity is that she envisioned there would be lots of children and so access to tobacco products was not something she wanted to make easy for young people to purchase.

[3:51:24 PM](#)

REPRESENTATIVE HERRON expressed concern that the proposed language restricting the sale of tobacco products would be placed in statute for these particular cases. He appreciated the cigarette prohibition; however, he suggested that the condominium [condo] association could make such a restriction/prohibition [without the statutory reference].

REPRESENTATIVE COSTELLO said she appreciates the business friendly free-market basis of members' questions and if it is the will of the committee to remove that section she would not object.

VICE CHAIR REINBOLD interjected that she likes the provision in the bill to restrict tobacco. She said, "I think it's very, very important to have it in there. There are a lot of studies done on second hand smoke." She acknowledged issues surrounding

alcohol, but highlighted that smoke penetrates the entire room, smoking creates fire hazards, and there is an emphasis to try to keep kids from smoking. Further, she related that Anchorage has a ban on smoking in restaurants. She found the inclusion to be 100 percent logical.

[3:54:28 PM](#)

REPRESENTATIVE SADDLER asked what type of business is considered an attractive business in this type of mixed use. He also asked which types of businesses do best in a mixed residential commercial unit.

MR. HAVELOCK answered that the types of businesses that are compatible with residential housing facilities are businesses that support the activities of the tenants such as a beauty salon or small convenience facility that allows residents to purchase items without leaving the building.

[3:55:56 PM](#)

REPRESENTATIVE SADDLER asked for the ratio of commercial to residential.

MR. HAVELOCK replied that the board would decide the ratio of commercial to residential on a case-by-case. He explained that the private sector comes to the AHFC with projects and the corporation determines how the project fits in terms of financing.

REPRESENTATIVE SADDLER questioned whether limiting the sale of certain products in a commercial area would make the financing less attractive.

MR. HAVELOCK answered that the AHFC would focus on the marketability of the rental units; essentially the AHFC wants to ensure that people want to live in the units since they will pay the rent and that is how the loan is repaid.

[3:57:09 PM](#)

REPRESENTATIVE SADDLER asked whether limiting range of commercial activities would make it less attractive for someone to rent the residential housing.

MR. HAVELOCK acknowledged it is a possibility. However, he explained that the AHFC would obtain a market study on the

proposal and a property appraisal, which it would rely upon to answer the question. In further response, Mr. Havelock specified that a market study would consider the compatibility of the proposed use with the proposed tenants.

[3:57:47 PM](#)

REPRESENTATIVE MILLETT asked whether AHFC prohibits smoking in private residences that AHFC finances.

MS. SCHUBERT answered no.

REPRESENTATIVE MILLETT expressed concern that if this language prohibiting lending to facilities that sell tobacco products is in statute for multi-use residential properties, it might create a trend or precedence that AHFC would limit lending to smoke-free facilities.

[3:58:47 PM](#)

DANIEL R. FAUSKE, CEO/Executive Director, Alaska Housing Finance Corporation (AHFC), Department of Revenue, said if public housing needs to be a smoke-free environment, then the federal government should mandate it. He emphasized he is not in support of smoking, but said: "It is at the end of the day - it someone's home and when you go into the front door, whether it is an apartment or not - and our board has taken it up a couple of times, too, as to what authority do we have to go into the living quarters of someone's individual home when they're paying the rent." Mr. Fauske acknowledged that smoking is a controversial issue and although the AHFC has also encountered problems with people's cooking habits, smoking has taken a priority. Currently, the AHFC and the board have been considering whether smoking will be allowed in any of the units the AHFC operates, or operates in conjunction with HUD. He characterized this as a murky area related to people's rights versus the rights of others in the building. He offered his belief that the AHFC is headed toward a non-smoking policy in publically-owned or public housing units. Granted, this isn't necessarily going to be public housing since it could be privately-owned units and the decisions may well be up to the developer or condo association, rental board, or tenants to make some of those decisions. He concluded that AHFC is a secondary lender and loans money based on its criteria and the AHFC does its best not to interfere with the private business's activities.

[4:00:59 PM](#)

REPRESENTATIVE MILLETT envisioned a nice cigar shop at the bottom of a condominium. She expressed concern that the legislature would make judgments on when and where people can buy products. She suggested if the legislature is going to prohibit [tobacco sales] that it should not be limited to multi-home dwellings. She said, "It just seems odd that we would just start down this trend now when we lend money to a private sector, that we're limiting their ability to have commerce on the premises. That's all."

REPRESENTATIVE SADDLER highlighted that the bill prohibits sales of tobacco and not smoking. He offered his belief that the more limitations on the conditions for financing the less attractive it would be. He suggested that is better left up to the condo association and the market.

VICE CHAIR REINBOLD said HB 50 pertains to families and housing units and she likes limiting sales of tobacco. She emphasized that using and selling are two totally different things.

[4:02:54 PM](#)

REPRESENTATIVE HERRON commented that he doesn't like cigarettes, but this proposed language would be placed in statute. He raised the issue of childhood obesity and whether the convenience store would be prohibited from selling candy bars. Thus, he expressed concern with the threshold being considered.

VICE CHAIR REINBOLD said that the difference between using candy and alcohol and cigarettes is that cigarettes affect everyone around the smoker. She indicated she would entertain an amendment.

[4:04:34 PM](#)

REPRESENTATIVE JOSEPHSON said he would like to see the bill move today. He suggested this is reflective of contemporary culture, such as the Seattle airport with its boutique wine sellers. He offered his belief that beer and wine are perceived in a different way than they once were. He said, "Tobacco is losing, frankly, the fight for acceptability and I don't have much hardship with this."

[4:05:27 PM](#)

REPRESENTATIVE MILLETT pointed out that the bill would restrict the sale of tobacco, and therefore would restrict commerce. She asked whether it would make it less attractive if a tenant could not have a cigar shop in the building. She pointed out the bill would restrict and set guidelines of legal products in a state-financed building. She reiterated her question whether this is a trend that legal commerce cannot happen - by prohibiting tobacco from being sold in state-financed buildings. After all, this is not about whether smoking is good or bad for kids, but whether the statute will disallow tobacco products to be sold in a multi-use dwelling financed by the state. She just wanted it to be clear and asked if tobacco is restricted today would alcohol - which is also legal - be restricted next week. She maintained that HB 50 is not about smoking, but would limit the sale of legal products in state-financed buildings.

[4:06:59 PM](#)

REPRESENTATIVE SADDLER referred to page 6, lines 9-16, to subsection (b) and asked for clarification on the type of activity and whether it represents the full range of prohibitions.

REPRESENTATIVE COSTELLO offered her belief that when the AHFC, a public corporation, is involved the state has the responsibility to address issues not normally addressed in the private sector. For example, residential and business zoning is currently defined and the state is now moving into mixed residential areas. Thus it is important to ask these questions, she said. She listed the restrictions, which include charitable gaming, adult entertainment, liquor stores, substance abuse centers, and the manufacture, sale, transfer, or storage of cigarettes or tobacco products. Naturally, when a bill is offered it is an idea that is brought forward and this bill has been brought forward with several members' views and the AHFC's views, she said. She suggested that it is now in the committee's purview to suggest any changes.

VICE CHAIR REINBOLD, with all due respect, said that the residential units will be rented and smoking is declining. In fact, smoking could even deter people from renting and the state needs to consider its return and profit. She made the distinction that what is under consideration is housing and not shopping centers.

[4:09:50 PM](#)

FRANCIS MARIN, Member, Park Place Condo Association, said the Park Place Condo Association has asked her to read a resolution the board passed in support of the bill, in particular, as it relates to the full service restaurant located at the Inlet Tower. She read [original punctuation provided]:

WHEREAS, Inlet Tower has made substantial improvement and renovations to its mixed use facilities including providing affordable and market housing with a convenient neighborhood restaurant;

WHEREAS, the adopted Anchorage 2020 Comprehensive Plan calls for a more progressive mixture of commercial and residential land uses to enhance the Municipality's downtown and adjacent neighborhoods,

WHEREAS, the adopted Anchorage 2020 Comprehensive plan also encourages more affordable residential housing options to insure a sustainable, vibrant and economically viable downtown core for the Municipal region;

WHEREAS, the existing restaurant in the Inlet Tower is a valuable community amenity which serves as a pleasant gathering place for neighborhood residents enhancing a sense of community,

WHEREA the Park Place Condominium Association is the closest neighbor to the Inlet Tower and is a 98 unit community of residents that greatly benefit from a renovated, well managed, secure and economically successful mixed use facility at Inlet Tower;

Now, THEREFORE BE IT RESOLVED the Park Place Condominium Association supports the mixed-use facilities offered at the Inlet Tower including the full-service restaurant with liquor license;

BE IT FURTHER RESOLVED, the Park Place Condominium Association requests any necessary assistance of the South Addition Community Council; Municipal Assemblyperson Patrick Flynn; State Representative Les Gara; State Senator Johnny Ellis; and AHFC CEO Dan [Fauske] to support the continuing development of the mixed-use project at Inlet Tower, including the operation of a full service restaurant.

Ratified at the regular December 19, 2012 meeting of the Park Place Condominium Association Board of Directors;

MS. MARIN thanked everyone for their time.

VICE CHAIR REINBOLD, after first determining no one else wished to testify, closed public testimony on HB 50.

[4:12:28 PM](#)

REPRESENTATIVE SADDLER remarked that as a result of the committee discussion he has some question about including paragraph (5), which would prohibit the manufacture, sale, transfer, or storage of cigarettes or tobacco use in these multi-use housing projects. He further questioned whether bingo or a pull-tab facility would be allowed in these multi-use residential housing. He said although he did not want to dilute or micro-manage this, he suggested more flexibility for the marketability of the financing.

[4:13:21 PM](#)

REPRESENTATIVE HERRON expressed concern about placing the cigarette prohibition in statute and suggested it may need to be thought about a little more; however, he said he is amenable to work with the sponsor that changes could happen in the next committee of referral. He also said he doesn't want to hold up the bill either.

[4:13:57 PM](#)

REPRESENTATIVE SADDLER moved to report HB 50 out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, HB 50 was reported from the House Labor and Commerce Standing Committee.

[4:14:31 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:14 p.m.