

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

April 17, 2014

9:08 a.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Lora Reinbold, Vice Chair
Representative Mike Chenault
Representative Bob Herron
Representative Andy Josephson

MEMBERS ABSENT

Representative Charisse Millett
Representative Dan Saddler
Representative Craig Johnson

COMMITTEE CALENDAR

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 214(L&C) AM
"An Act relating to independent portable electronics adjuster
licensing."

- MOVED CSSB 214(L&C) AM OUT OF COMMITTEE

SENATE BILL NO. 193

"An Act relating to bonds required for contractors."

- MOVED SB 193 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 214

SHORT TITLE: PORTABLE ELECTRONICS INSURANCE ADJUSTERS

SPONSOR(S): LABOR & COMMERCE

03/21/14	(S)	READ THE FIRST TIME - REFERRALS
03/21/14	(S)	L&C
04/01/14	(S)	L&C AT 3:30 PM BELTZ 105 (TSBldg)
04/01/14	(S)	Heard & Held
04/01/14	(S)	MINUTE(L&C)
04/08/14	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
04/08/14	(S)	Moved CSSB 214(L&C) Out of Committee
04/08/14	(S)	MINUTE(L&C)
04/09/14	(S)	L&C RPT CS 3DP NEW TITLE

04/09/14 (S) DP: DUNLEAVY, STEDMAN, MICCICHE
04/14/14 (S) TRANSMITTED TO (H)
04/14/14 (S) VERSION: CSSB 214(L&C) AM
04/15/14 (H) READ THE FIRST TIME - REFERRALS
04/15/14 (H) L&C
04/17/14 (H) L&C AT 9:00 AM BARNES 124

BILL: SB 193

SHORT TITLE: CONTRACTORS: BONDS; LICENSING

SPONSOR(s): MICCICHE

02/21/14 (S) READ THE FIRST TIME - REFERRALS
02/21/14 (S) L&C
02/27/14 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/27/14 (S) -- MEETING CANCELED --
03/04/14 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/04/14 (S) Scheduled But Not Heard
03/11/14 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/11/14 (S) -- MEETING CANCELED --
03/13/14 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/13/14 (S) Scheduled But Not Heard
03/18/14 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/18/14 (S) -- MEETING CANCELED --
03/20/14 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/20/14 (S) Heard & Held
03/20/14 (S) MINUTE(L&C)
04/10/14 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
04/10/14 (S) Moved SB 193 Out of Committee
04/10/14 (S) MINUTE(L&C)
04/11/14 (S) L&C RPT 1DP 1NR 1AM
04/11/14 (S) DP: MICCICHE
04/11/14 (S) NR: STEDMAN
04/11/14 (S) AM: DUNLEAVY
04/11/14 (S) FIN REFERRAL ADDED AFTER L&C
04/12/14 (S) FIN RPT 5DP 1NR 1AM
04/12/14 (S) DP: KELLY, MEYER, FAIRCLOUGH, BISHOP,
HOFFMAN
04/12/14 (S) NR: OLSON
04/12/14 (S) AM: DUNLEAVY
04/12/14 (S) FIN AT 10:00 AM SENATE FINANCE 532
04/12/14 (S) Moved SB 193 Out of Committee
04/12/14 (S) MINUTE(FIN)
04/15/14 (S) TRANSMITTED TO (H)
04/15/14 (S) VERSION: SB 193
04/16/14 (H) READ THE FIRST TIME - REFERRALS
04/16/14 (H) L&C, FIN
04/17/14 (H) L&C AT 9:00 AM BARNES 124

WITNESS REGISTER

STEVEN RICCI, Staff
Senator Mike Dunleavy
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the sponsor of SB 214, Senate Labor & Commerce Committee, Senator Dunleavy, Chair.

MARTIN HESTER, Deputy Director
Division of Insurance (DOI); Juneau Office
Department of Commerce, Community & Economic Development (DCCED)
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding SB 214.

STEVEN MCDANIEL, Attorney
Meenan P.A.
Tallahassee, Florida

POSITION STATEMENT: Answered questions regarding SB 214.

SENATOR PETER MICCICHE
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as prime sponsor of SB 193.

LORI WING-HEIER, Director
Division of Insurance (DOI); Anchorage Office
Department of Commerce, Community & Economic Development (DCCED)
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding SB 193.

JOHN MACKINNON, Executive Director
Associated General Contractors (AGC)
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of SB 193.

ACTION NARRATIVE

[9:08:14 AM](#)

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 9:08 a.m. Representatives Chenault, Reinbold, Josephson, Saddler, and Olson were present at the call to order. Representative Herron arrived as the meeting was in progress.

SB 214-PORTABLE ELECTRONICS INSURANCE ADJUSTERS

[9:08:23 AM](#)

CHAIR OLSON announced that the first order of business would be CS FOR SENATE BILL NO. 214(L&C) am, "An Act relating to independent portable electronics adjuster licensing."

[9:08:48 AM](#)

STEVEN RICCI, Staff, Senator Mike Dunleavy, Alaska State Legislature, on behalf of the sponsor, the Senate Labor & Commerce Committee, stated that SB 214 is "part b" of SB 52, a bill the committee heard last year that pertains to portable electronic insurance and relates to the adjusting aspect. Essentially, if someone sends in a portable electronic device with hopes of making an insurance claim, the device is broken and it will be replaced or not. He explained that there isn't a judgment call on the value of the damage so individuals dealing with the claims are largely performing clerical functions and not adjusting. This bill, SB 214, would allow 25 members performing [this type of] clerical to work under one registered insurance adjuster. Some provisions in the bill pertain to non-resident licensure of these adjusters, typically working for large telephone, Internet, or mail-based nation-wide companies. He characterized this as a technical cleanup to allow these clerical staff to be licensed in the state while holding out-of-state licenses. He deferred to the Division of Insurance to answer any technical aspects.

[9:10:57 AM](#)

CHAIR OLSON asked whether the bill has one zero fiscal note.

MR. RICCI answered yes.

[9:11:41 AM](#)

MARTY HESTER, Deputy Director, Division of Insurance (DOI), Department of Commerce, Community & Economic Development (DCCED), stated that the division believes that this bill will still provide consumer protection while making it easier for the industry to adjust claims. He has reached out to other states that have enacted similar legislation and none have encountered any issues with the portable electronic adjuster legislation.

[9:13:05 AM](#)

CHAIR OLSON asked whether any problems have arisen with this type of coverage.

STEVEN MCDANIEL, Attorney, Meenan P.A., stated that Meenan P.A. is outside counsel for Asurion. He said this issue is simple, which is why he thinks the division is comfortable with the 25 to 1 ratio. He agreed that the phones either work or they don't so this differs from a homeowner's claim in which the value is adjusted and repairs are being made to a home or an automobile. He characterized the process, such that phones are typically shipped out within one or two days of the claim being processed. He reiterated that the claim is very simple.

CHAIR OLSON, after first determining that no one wished to testify, closed public testimony on SB 214.

[9:14:04 AM](#)

REPRESENTATIVE REINBOLD moved to report CSSB 214(L&C) AM out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSSB 214(L&C) AM was reported from the House Labor and Commerce Standing Committee.

[9:14:24 AM](#)

The committee took an at-ease from 9:14 a.m. to 9:16 a.m.

SB 193-CONTRACTORS: BONDS; LICENSING

[9:16:26 AM](#)

CHAIR OLSON announced that the final order of business would be SENATE BILL NO. 193, "An Act relating to bonds required for contractors."

[9:16:29 AM](#)

SENATOR PETER MICCICHE, Alaska State Legislature, speaking as sponsor, stated that SB 193 is about updating the level of protection associated with surety bonds, noting that surety amounts have not been updated since 1982. The current bonding rates are \$10,000 for general contractors and \$5,000 for specialty contractors. This bill would increase the rate for general contractors to \$25,000, new residential-only endorsement to \$20,000, and mechanical and specialty contractor bonds to \$10,000, and it will bring down bonding rates for a handyman to

\$5,000. This bill does not have any fiscal impact and is a key piece of legislation for many reputable contractors in Alaska.

[9:17:49 AM](#)

REPRESENTATIVE CHENAULT related his understanding that the fiscal note is indeterminate since the department doesn't know the cost or revenues associated with the bill because the potential number of handyman contractors is unknown. He further assumed costs will be on the positive side rather than the negative side. He noted that the DCCED's fiscal note was changed and he was unsure why, but he offered to review it.

[9:18:41 AM](#)

REPRESENTATIVE JOSEPHSON asked whether the bond requirement relative to "handyman" contractors is exempted.

SENATOR MICCICHE answered that "handymen" are exempted so long as they don't perform jobs above \$2,500. The bill does not change the definition of a contractor, but will cover "handyman" contractors who perform work in excess of \$2,500. He said, "If they're a contractor, they're a contractor; if they're not, they're not." If the handyman's work fits into the definition and he/she performs work over \$2,500 on a job, it will fall under the bond requirement. The cost of bonding and typical costs for a \$5,000 bond ranges from \$125-\$250 per year. The most expensive cost for contractors is the cost of insurance.

[9:19:46 AM](#)

REPRESENTATIVE JOSEPHSON asked for further clarification. He related a scenario in which a "handyman" charges a homeowner \$2,400. He asked whether the "handyman" would be exempted from bond requirements.

SENATOR MICCICHE answered that if most of the work performed falls below the [\$2,500] level, the party may not be a contractor. Previously, anyone who advertised was considered a contractor. He reiterated that this bill doesn't change this for a contractor, but will allow for a "handyman" category and save them about \$250 per year.

[9:20:45 AM](#)

REPRESENTATIVE JOSEPHSON wondered if someone could "stack" this by doing a project and come back and still enjoy some exemption.

SENATOR MICCICHE stated that people still have the opportunity to hire folks that are not operating legally. He suggested that people who wish to "play the system" will do so, but if they are typically doing work above that level, the person is considered a contractor and requires a bond. He suggested that any Alaskans should choose to have the work done on their homes be done by insured, bonded and licensed professionals, since the cost is low; in fact, reputable contractors don't even consider it. It is the cost of doing business and protects consumers and homeowners against things that can go wrong on the job.

[9:22:03 AM](#)

CHAIR OLSON explained that typically the licensed and insured contractors are the ones who will report uninsured contractors. It is "self-policing," as uninsured contractors could consistently "low bid" if they are not paying any overhead.

[9:22:33 AM](#)

REPRESENTATIVE HERRON asked for the reason a public adjuster would not be needed under this bill.

SENATOR MICCICHE asked for clarification on the term adjuster.

REPRESENTATIVE HERRON answered that the public adjuster could work for the party and represents the person against the insurance company.

The committee took an at-ease from 9:23 a.m. to 9:25 a.m.

[9:25:13 AM](#)

REPRESENTATIVE HERRON asked for the reason a public adjuster would not be needed under this bill.

SENATOR MICCICHE answered that this bill is for licensed bonds and not for a bid-in-performance bond. The bill does not change the bond system and the party would choose an adjuster. He reiterated that this is not part of the bill since this bill just updates the levels of protection offered to consumers.

[9:25:44 AM](#)

REPRESENTATIVE HERRON remarked that if a party is in a dispute with an insurance company it has been his experience that sometimes an independent adjuster is not the best advocate.

CHAIR OLSON agreed that an independent adjuster could work for the public and the insurance industry.

REPRESENTATIVE JOSEPHSON said at one point in time bonds would be held by the department for up to three years, even after cessation of the practice or business. He asked whether that is still the case.

[9:27:12 AM](#)

LORI WING-HEIER, Director, Division of Insurance (DOI), DCCED, highlighted the distinction between a licensing bond, which allows the contractor to bid work and perform what the client might request and a bid and performance bond that identifies that the contractor has the wherewithal to order the materials, make payroll, and to complete the project. She explained that the performance bonds are bid on the value of the project. She said this bill does not address bid and performance bonds. She related her understanding that Representative Josephson was asking whether the bid and performance bond is held for a period of time after the job is completed to make sure that warranty items and punch list items are completed. She acknowledged that she thought that period was for three years.

[9:28:17 AM](#)

JOHN MACKINNON, Executive Director, Associated General Contractors (AGC), testified on behalf of the AGC, representing over 650 Alaska businesses and construction industry. He testified in support of SB 193. He explained that the AGC began working on this issue several years ago by engaging with other trade associations, such as the National Electric Contractor's Association (NECA), Alaska Mechanical Contractors Association (AMCA), Associated Builders and Contractors, Inc. (ABC), Alaska State Homebuilding Association (ASHBA), and state and local home builders associations to agree on bond limits and reasonable, affordable costs. He acknowledged that some associations wanted higher limits than those in the bill; however, these groups agreed on what closely approximated the 1982 levels would be if those amounts were adjusted for inflation. He said that SB 193 is about increasing the license bond amounts for contractors. It is not about limiting competition, but is about making competition fair. He offered his belief that this bill is an

important and critical part of Alaska consumer protection laws. When a contractor works for a client or when a contractor purchases materials for a project, the best way for an aggrieved person to recover is to go after the licensed bond. Another alternative is to put a lien on the property and when a vendor must put a lien on property, it often involves an innocent property owner. He reiterated that the licensed bond offers the best protection since it is directed at a person who is not paying the bills. He said he was amazed at the number of vendors, equipment rental companies, and material suppliers that have called in expressing strong support for this bill. These vendors believe it is an important part of their ability to extend credit to people in the construction industry.

[9:31:40 AM](#)

CHAIR OLSON pointed out that the committee has distributed zero fiscal notes for DCCED and the Department of Labor & Workforce Development.

REPRESENTATIVE CHENAULT pointed out on page 2 of the fiscal note from [Corporations, Business and Professional Licensing] that the division does not anticipate any fiscal impact from this legislation. He read, "It will likely increase the number of licensees, but any additional workload would be absorbed by existing staff." Additionally, page 2 of the DLWD fiscal note reads: "The department does not anticipate a significant fiscal impact as a result of the changes associated with the proposed legislation." He offered his support for the bill; however, he cautioned that even though the two fiscal notes are zero fiscal notes, there will be costs associated with this. In fact, he wouldn't be surprised if at some point the departments will request additional funding to maintain their ongoing work.

[9:33:10 AM](#)

CHAIR OLSON asked whether they were overstaffed.

REPRESENTATIVE CHENAULT answered that he didn't think so at this time, but he wasn't sure what the impacts of the bill will be.

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on SB 193.

[9:34:15 AM](#)

REPRESENTATIVE REINBOLD moved to report SB 193 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, SB 193 was reported from the House Labor and Commerce Standing Committee.

[9:34:33 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 9:34 a.m.