

HOUSE FINANCE COMMITTEE

April 13, 2018

9:10 a.m.

9:10:22 AM

CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 9:10 a.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair
Representative Paul Seaton, Co-Chair
Representative Les Gara, Vice-Chair
Representative Jason Grenn
Representative David Guttenberg
Representative Scott Kawasaki
Representative Dan Ortiz
Representative Lance Pruitt
Representative Steve Thompson
Representative Cathy Tilton
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Edra Morledge, Staff, Senator Kevin Meyer; Sara Chambers, Deputy Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development; Brodie Anderson, Staff, Representative Neal Foster; Ken Alper, Director, Tax Division, Department of Revenue.

PRESENT VIA TELECONFERENCE

Mark Schiffman, Real Estate Valuation Association (EVAA), Minneapolis; David Derry, Chair, Board of Certified Real Estate Appraisers, Homer; Brandon S. Spanos, Deputy Director, Tax Division, Department of Revenue.

SUMMARY

HB 399 CORP. TAX: REMOVE EXEMPTIONS/CREDITS

CSHB 399(FIN) was REPORTED out of committee with a "do pass" recommendation and with a new fiscal impact note by the Department of Revenue.

CSSB 78 (FIN)

PERM FUND DIVIDEND CONTRIBUTIONS/LOTTERY

CSSB 78 (FIN) was SCHEDULED but not HEARD.

CSSB 155 (FIN)

REAL ESTATE APPRAISAL MNGMT. COMPANIES

HCSCSSB 155 (FIN) was REPORTED out of committee with a "do pass" recommendation and with a "no recommendation" recommendation and with a previously published fiscal impact note: FN2(CED).

Co-Chair Foster reviewed the agenda for the day.

#sb155

CS FOR SENATE BILL NO. 155(FIN)

"An Act relating to the registration and regulation of real estate appraisal management companies; relating to the establishment of fees by the Department of Commerce, Community, and Economic Development; relating to the Board of Certified Real Estate Appraisers; relating to real estate appraisers; and providing for an effective date."

9:11:17 AM

EDRA MORLEDGE, STAFF, SENATOR KEVIN MEYER, indicated that SB 155 related to the regulation of real estate appraisal management companies. She detailed that an Appraisal Management Company (AMC) was an independent entity through which mortgage lenders order residential real estate valuation services. The Senator discovered that the federal government required states that chose to regulate the sector of industry enact comprehensive AMC oversight and registration programs by the deadline of August 10, 2018. The companies fulfilled an administrative function in the appraisal process that included selecting an appraiser and

delivering the appraisal report to the lender. The bill accomplished 2 things. First the bill required that the Board of Certified Real Estate Appraisers manage AMCs according to the minimum standards of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Secondly, the bill established an annual registration fee to be collected and transmitted to the federal appraisal subcommittee to support the maintenance of the national registry. She reported that if the legislation was not adopted appraisal management companies would be prohibited to provide its services for federally regulated transactions in Alaska after the deadline. The issue could pose an economic hardship for Alaskans that wanted to purchase or sell a home. Lending institutions would likely choose AMCs that could deal with federally regulated transactions. The bill offered a broader set of options for appraisals in Alaska. Currently, Alaska was only one of four states that had not adopted the federal regulations and the other three states were in the process of doing so. The legislation established the regulatory framework and minimum standards for the Department of Commerce, Community and Economic Development (DCCED). She relayed that the minimum standards required that an AMC choose a certified real estate appraiser to interact with the board that complied with the uniform standards of professional appraisal practice and other professional and legal standards set by the state, and to obtain a surety bond of \$50 thousand. The department requested a one year waiver but was uncertain it would be granted. However, her understanding was that if the state was actively passing legislation the waiver would be approved. The bill established an effective date of January 1, 2019 and all AMCs were required to register by March 1, 2019.

[9:16:56 AM](#)

Representative Wilson asked what federal transactions the bill was speaking of. Ms. Morledge answered that federally related transactions were complex. She deferred to Mr. Schiffman (Mark Schiffman, Real Estate Valuation Association) for a complete answer. Representative Wilson clarified that she was thinking of Veteran Affairs (VA) loans.

[9:18:30 AM](#)

MARK SCHIFFMAN, REAL ESTATE VALUATION ASSOCIATION (EVAA), MINNEAPOLIS (via teleconference), explained that a federally related transaction made up about 10 percent of all transactions. A loan could change back and forth from being a federally related transaction or not. He concurred that the issue was complex. The bill was not related to VA transactions and dealt with traditional mortgage originations.

Representative Wilson asked whether the board was new or under the existing real estate appraiser board. Ms. Morledge answered that the bill applied to the existing board.

[9:20:35 AM](#)

SENATOR KEVIN MEYER thought Ms. Morledge's presentation was informative. He reemphasized the need to pass the bill before the deadline of August 10, 2018. He indicated that the bill would take effect on January 1, 2019 but was concerned with the date. He reported that the original bill had an effective date of August 10, 2018 but included a transition period for the regulatory process.

DAVID DERRY, CHAIR BOARD OF CERTIFIED REAL ESTATE APPRAISERS, HOMER (via teleconference), related that that Ms. Sara Chambers [Deputy Director, Division of Corporations, Business and Professional Licensing] deduced that the division would not likely be able to generate all the needed regulations even by January 2019. He believed that the regulation process could be completed within the one year waiver period that DCCED was requesting through the board's federal oversight entity.

[9:23:28 AM](#)

Representative Guttenberg asked about the purpose of the legislation. He asked for clarity regarding what the bill was asking the board to do. He also wondered what function AMCs performed. Ms. Morledge responded that AMCs had operated for decades. The idea behind the bill was consumer protection. She delineated that the Dodd-Frank Act through the federal appraisal subcommittee instituted rules of conduct that added an extra layer between lending institutions and consumers and required states to implement standards of conduct for AMCs. Any state where AMCs operated were required to adopt the federal standards of

conduct. The intention of the regulations was to protect consumers from allowing lending institutions to have undue influence over appraisals. Representative Guttenberg asked what actual functions the bill was requiring the board to perform. Ms. Morledge deferred to Mr. Derry.

[9:28:05 AM](#)

Mr. Derry ascertained that Representative Guttenberg's question related more to what AMCs do. He explained that the function of AMCs was to maintain a roster of appraisers and selected an appraiser to generate an appraisal report for a lender by request of the lender. The report was reviewed by the AMC then relayed to the lending institution that contracted its services. He delineated that not all lenders used AMCs. He noted that Northrim Bank and the First National Bank of Alaska did not use AMCs. Lower 48 state lenders such as Rocket Mortgage and Quicken Loans used AMCs because of their unfamiliarity with Alaskan appraisal services. The board supported AMC oversight to provide the maximum available mortgage credit to the Alaskan consumer. The use of an AMC meant the lender charged more for the cost of the loan. The cost could be paid by the lender or sometimes the appraiser offered their services to the AMC for a reduced fee.

[9:31:17 AM](#)

Representative Guttenberg believed that all costs were passed on to the buyer. He understood that an AMC was a referral service and the legislature was setting up a board of oversight. He asked how many AMCs operated in Alaska. He wanted to better understand the structure. Mr. Derry responded that no new board was being established; the function was being absorbed by the existing board. The issue evolved out of the subprime mortgage crisis of 2008. Alaska was largely insulated from the crisis. He noted that problems with the lending institutions trying to influence appraisers spurred the regulation. He announced that there were no Alaska based AMCs. He provided the high numbers of AMC's registered in several other states and stated that there were a significant number of AMCs nationwide; most were large corporate entities. AMC costs were competitive, and he did not anticipate an increase in mortgage costs in Alaska. He reminded the committee that the drop-dead date was August 10th, 2018 and AMCs were currently operating in Alaska.

[9:34:11 AM](#)

Mr. Schiffman interjected that one of the most important issue from the Dodd-Frank bill was the notion of appraiser independence; the buffer between the appraiser and the lender. The roll of the AMC was to provide and verify the layer of independence as a safeguard for the process. He noted that some lending institutions did not use AMCs but had to abide by the same standards of safeguarding appraisal independence. Representative Guttenberg clarified that the only reason the legislature was adopting the bill was to allow AMCs to operate in the state. Mr. Schiffman answered in the affirmative and observed that the AMCs were in the "odd position" to ask the state to regulate them. The association supported the legislation. He reminded the committee that the bill did not mandate use of AMCs. The disruption would occur if the state did not adopt the bill. Representative Guttenberg asked if AMCs could still provide services in Alaska without the legislation. Mr. Schiffman responded that they would be able to provide services for appraisals that did not involve federal transactions. Some lenders were using AMCs for all their transactions and were reticent to bifurcate their system. He reasoned that the real hardship fell on the lender.

[9:38:01 AM](#)

Representative Guttenberg was trying to understand what was broken in the Alaska real estate climate. He deduced that the legislation was necessary to allow AMCs to handle federal transactions but wondered what was currently "broken" in the Alaskan chain between the lenders, the appraisal, and the home buyer or seller. Mr. Schiffman responded that he was unsure that anything was broken in Alaska and did not believe that was the issue. The issue stemmed from the nationwide financial crisis in 2008 and the residual effect to manage AMCs. He offered that the issue was about uniformity and bringing Alaska into compliance with the federal regulation. Representative Guttenberg wondered whether someone from the Alaska Housing Finance Corporation (AHFC) was available to testify on the bill. Co-Chair Foster answered in the negative.

Mr. Schiffman appreciated SB 155 and supported the legislation.

[9:41:02 AM](#)

Mr. Derry commented that the board supported the legislation. He relayed that the board attempted to adopt similar legislation in 2009 but was unable to find a sponsor. The purpose in supporting the bill was to maximize the availability of credit for Alaskans. He stated that he was unable to determine whether AHFC fell under the legislation. The question of federally related transactions and what it entailed was "fuzzy." He offered that essentially lenders did not know at the beginning of a mortgage process whether it would end as a federally related transaction. The bill allowed the maximum availability of credit for Alaskans. He did not think anything was actually broken. He believed that by not adopting SB 155 some out of state lenders would choose not to operate in Alaska, which would limit the amount of available mortgage credit. The bill benefitted the Alaskan consumer.

[9:44:38 AM](#)

Representative Wilson wanted clarification that Alaska was not creating a new board and that the state was being mandated by the federal government to adopt the regulations or else Alaskan's mortgages would be affected. Senator Meyer responded in the affirmative. He added that by not passing the bill the state would have limited access to some federal loans.

[9:46:13 AM](#)

Representative Tilton asked whether the bill affected the process that the consumer had to engage in to obtain a mortgage. Senator Meyer responded that the bill would not impact the consumer other than they would have more protections. The bill allowed the bank to have access to more funds. Representative Tilton stated that a lending institution was not forced to use an AMC and could choose not to. Co-Chair Meyer responded that Representative Tilton was correct. Representative Tilton reported that the Dodd-Frank rules might undergo some changes and surmised that the changes wouldn't affect the bill because using AMCs was a voluntary act. Co-Chair Meyer responded that it was uncertain when or if the Dodd-Frank rules were changing and whether the changes would impact the bill. He deferred the answer to Mr. Schiffman.

Mr. Schiffman relayed that currently there were no proposals in Congress that would have an impact on the AMC regulations.

Representative Tilton referred to testimony that approximately 10 percent of mortgage loans would be affected. She asked if the issue was more about how loans were packaged and sold in the secondary market. Mr. Derry responded that the bill affected the origination process for a mortgage loan. The lender would go through the AMC for the appraisal that was sent back to the lender; after providing the loan to the consumer the lender sold the loan to the investor. He reiterated that a lending institution might be uncertain whether a loan would end up part of a federally related transaction or not as they worked through processing the loan and until the loan was final it could switch back and forth as different loan programs were considered. The bill would simplify the process.

[9:53:24 AM](#)

Mr. Schiffman added that one of the primary roles that the AMC provided the lender in addition to the appraisal was the quality control that the appraisal met the standards. The fact that that appraisal met the standards provided confidence in the secondary market when purchasing loans.

Representative Guttenberg asked that if the legislature did not pass the bill would more business be driven to Alaska banks. He wondered how the bill affected federal credit unions in Alaska. Mr. Derry responded that if AMC legislation was not enacted, it would not make it easier for Alaska banks to operate. However, passage broadened the home loan market for consumers. He reiterated that some Alaskan banks use AMCs and some did not. He reported that credit unions fell under the same regulation as the banks. He reported that the AlaskaUSA Credit Union did use AMCs. He informed the committee that banks that did not use AMCs set up their own internal organization that ensured the appraisal met the underwriting standards. He concluded that using AMCs was not necessary but restated that not passing the bill did not make it easier for banks to operate in the state and limited other lending sources.

[9:58:03 AM](#)

Co-Chair Foster OPENED public testimony.

Co-Chair Foster CLOSED public testimony.

Co-Chair Meyer thanked the committee for hearing the bill. He wanted to further address the impacts of not passing the bill. He pointed to the supportive letters in members packets from Wells Fargo, Alaska Chamber of Commerce, and Alaska Bankers Association (copy on file).

Co-Chair Foster indicated that there were no anticipated amendments.

10:00:13 AM

Co-Chair Seaton reviewed the previously published fiscal impact note from DCCED, FN2 (CED), appropriated to the Division of Corporations, Business and Professional Licensing in the amount of \$111.9 thousand in receipt services in FY 19 and \$97.5 thousand in the out years.

Representative Wilson asked if the fiscal note was paying for an additional staff specifically for the Certified Real Estate Appraisers Board. Co-Chair Meyer deferred to Ms. Chambers for an answer.

10:01:34 AM

SARA CHAMBERS, DEPUTY DIRECTOR, DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, concurred that the division was requesting an additional junior licensing examiner that helped process applications. She explained that the division was at maximum capacity and the position would be necessary due to the expansion of many licensing programs. The position would work on the appraiser program and help with other licensing programs that experienced diminished service levels because of insufficient staff. The division would employ positive time-keeping measures.

Co-Chair Seaton MOVED to report HCSCSSB 155 (FIN) out of Committee with individual recommendations and the accompanying fiscal note

Representative Guttenberg OBJECTED for discussion.

Representative Guttenberg spoke to his objection. He stated that there was no person or entity that represented a

neutral voice on behalf of consumers. He emphasized the lack of a consumer advocacy voice in the state.

Representative Guttenberg WITHDREW his OBJECTION.

Vice-Chair Gara added to Representative Guttenberg's point and observed that Alaska was the only state without a consumer protection agency. The state only had one and one half attorney positions in the Department of Law (DOL) that did their best to provide consumer protection but was a "fraction" of the prior amount. The only other agency that offered a consumer voice was the Regulatory Commission of Alaska. He advocated for more consumer protection in the state.

Vice-Chair Gara WITHDREW his OBJECTION

There being NO OBJECTION, it was so ordered.

HCSCSSB 155 (FIN) was REPORTED out of committee with a "do pass" recommendation and with a "no recommendation" recommendation and with a previously published fiscal impact note: FN2(CED).

[10:06:27 AM](#)

AT EASE

[10:07:44 AM](#)

RECONVENED

#hb399

HOUSE BILL NO. 399

"An Act disallowing a federal tax credit as a credit against the corporate net income tax; repealing a provision allowing the exclusion of certain royalties accrued or received from foreign corporations for purposes of the corporate net income tax; repealing the reduced rate for the alternative tax on capital gains for corporations; repealing an exemption from filing a return under the corporate net income tax for a corporation engaged in a contract under the Alaska Stranded Gas Development Act; and providing for an effective date."

[10:08:17 AM](#)

Co-Chair Foster reported that HB 399 was heard in committee on April 9, 2018.

BRODIE ANDERSON, STAFF, REPRESENTATIVE NEAL FOSTER, provided a brief summary of the bill. The bill eliminated the following indirect expenditures: federal tax credits, foreign royalty exclusions, reduced rate for capital gains, and credit associated with the Stranded Gas Act. The original version of the bill would have captured potential lost revenue in the amount of \$6.9 million but would change if a proposed amendment was adopted.

[10:09:58 AM](#)

Representative Wilson MOVED to ADOPT Amendment 1 (copy on file):

Page 1, line 1:

Delete "disallowing"
Insert "relating to the use ort

Page 1 , lines 9 - 13:

Delete all material and insert:

"* Section 1. AS 43.20.021 (d) is amended to read:

(d) Where a credit allowed under the Internal Revenue Code is also allowed in computing Alaska income tax, it is limited to 18 percent of the portion of the federal tax credit that was generated by business expenses incurred through activities conducted in the state [FOR CORPORATIONS OF THE AMOUNT OF CREDIT 12 DETERMINED FOR FEDERAL INCOME TAX PURPOSES WHICH IS ATTRIBUTABLE TO ALASKA]. This limitation does not apply to a special industrial incentive tax credit under AS 43.20.042."

Page 2, line 12:

Delete "43.20.021 (d), 43.20.036(a), 43.20.036(b), 43 920.042,"

Page 2, line 16:

Delete "AS 43.20.021
Insert "AS 43.20.021

Page 2, line 18:

Delete "and (d), 43.20.036(a) and (b), 43.20.042"

Vice-Chair Gara OBJECTED for discussion.

Representative Wilson spoke to her amendment. She thanked Co-Chair Foster for his assistance on the amendment. She favored eliminating credits but was opposed to eliminating federal credits that benefitted the state of Alaska.

Mr. Anderson responded that the amendment was a good compromise. He explained that the idea behind indirect expenditures was to identify and capture potential lost revenue by eliminating indirect expenditures. The amendment helped corporations keep money in the state.

Vice-Chair Gara did not understand the amendment and asked the Department of Revenue (DOR) to further explain the amendment.

[10:11:47 AM](#)

KEN ALPER, DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE, relayed that the intent of the amendment was that 18 percent of any credit that a company earned against its federal corporate income tax could be applied against Alaska corporate income tax. The bill eliminated the credit. He furthered that Representative Wilson's amendment allowed the credit if it was earned for an activity in Alaska but maintained the elimination if it was earned for activity in states other than Alaska.

BRANDON S. SPANOS, DEPUTY DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE (via teleconference), thought Mr. Alper had done a good job of explaining that any current company in Alaska that earned a federal credit for activity in any state could deduct 18 percent of the credit against their Alaskan corporate tax. The original bill eliminated the credit completely. The amendment allowed that portion of credit earned for activity in Alaska to be deducted. Essentially the amendment was "converting" any federal credit to an Alaska credit.

Vice-Chair Gara asked what the positive revenue impact to the state was from the amendment. Mr. Alper responded that the fiscal note showed a breakdown by component of revenue estimates from the bill on page 2. The department estimated the revenue gained at \$1.8 million for the tax component related to the amendment. Some fraction of the amount would be in lost revenue but felt that it would be a small

amount. The ratio of a company's Alaskan activity compared to their national activity was tiny. He estimated that the amendment would reduce the revenue impact by roughly \$200 thousand. Vice-Chair Gara asked whether the other revenue gains would remain the same. Mr. Alper responded in the affirmative.

[10:15:19 AM](#)

Mr. Spanos interjected that he had just talked with the corporate income tax supervisor and relayed that there would be an updated fiscal note forthcoming if the amendment passed. He countered that the impact could be as high as one-third of the \$1.8 million or up to \$600 thousand. He elaborated that the Enhanced Oil Recovery (EOR) tax credits for the oil and gas industry added to the deduction as the price of oil increased.

Representative Guttenberg inquired whether the credit would spur more activity in Alaska. Mr. Alper was unsure what federal corporate income tax credits existed. He indicated that to the extent companies were earning credits for activity in Alaska; the amendment did not add anything but did not take anything away either. The amendment would continue to earn the credit for the activity in the state but would not remove any incentives.

[10:18:00 AM](#)

Representative Wilson commented that the amendment was an incentive. She believed that the amendment would act as another incentive to do business in Alaska when compared to other states.

Vice-Chair Gara WITHDREW his OBJECTION.

There being NO OBJECTION, Amendment 1 was ADOPTED.

Co-Chair Seaton mentioned the reduced rate on capital gains represented the largest portion of revenue at \$3.4 million but might be reduced based on a change to the federal tax code for the alternative tax on capital gains. Mr. Anderson explained that the bill was drafted before the federal tax reform was passed that repealed the federal alternative tax on capital gains. The bill also had repealed the reduced rate on capital gains so the \$3.4 million in revenue gains

remained intact. He deferred to the department for further clarification.

Mr. Alper explained that the section in the state's corporate income tax statute that referred to a lower tax rate for capital gains was repealed in HB 399 and remained unchanged. He understood that the bill's original intent was to repeal the preferential rate on capital gains however, since the federal government's repeal, the bill was merely removing outdated language that referenced the federal alternative tax on capital gains. He believed that the language in the bill would clarify the issue. He stated that whether the language in the bill was currently necessary since the federal law changed was a "gray area."

Co-Chair Foster surmised that the \$3.4 million in revenue gains should remain in the bill. Mr. Alper responded in the affirmative.

[10:21:30 AM](#)

Vice-Chair Gara reviewed the fiscal note from the Department of Revenue. He noted that the zero fiscal note from DOR, FN1 (REV), was allocated to the Tax Division and estimated \$3.45 million in revenue for half of FY 19 and \$6.9 million in the out years. He noted that the amendment would change and show a slight decrease in revenue in an updated forthcoming fiscal note.

Co-Chair Seaton MOVED to report CSHB 399 (FIN) out of Committee with individual recommendations and the accompanying fiscal note.

CSHB 399(FIN) was REPORTED out of committee with a "do pass" recommendation and with a new fiscal impact note by the Department of Revenue.

Co-Chair Foster reviewed the schedule for the following meeting. [The meeting was recessed to the call of the chair but never reconvened.]

ADJOURNMENT

[10:23:49 AM](#)

The meeting was adjourned at 10:23 a.m.