

**ALASKA STATE LEGISLATURE  
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

January 29, 2018

3:21 p.m.

**MEMBERS PRESENT**

Representative Sam Kito, Chair  
Representative Adam Wool, Vice Chair  
Representative Andy Josephson  
Representative Louise Stutes  
Representative Chris Birch  
Representative Gary Knopp  
Representative Colleen Sullivan-Leonard

**MEMBERS ABSENT**

Representative Mike Chenault (alternate)  
Representative Bryce Edgmon (alternate)

**COMMITTEE CALENDAR**

HOUSE BILL NO. 278

"An Act extending the termination date of the Board of Certified Real Estate Appraisers; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 279

"An Act extending the termination date of the Real Estate Commission; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 280

"An Act extending the termination date of the Board of Marital and Family Therapy; and providing for an effective date."

- HEARD & HELD

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**PREVIOUS COMMITTEE ACTION**

BILL: HB 278

SHORT TITLE: EXTEND: CERT. REAL ESTATE APPRAISERS BOARD

SPONSOR(S): REPRESENTATIVE(S) JOSEPHSON

01/16/18            (H)            READ THE FIRST TIME - REFERRALS

01/16/18 (H) L&C, FIN  
01/29/18 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 279

SHORT TITLE: EXTEND: REAL ESTATE COMMISSION  
SPONSOR(s): REPRESENTATIVE(s) JOSEPHSON

01/16/18 (H) READ THE FIRST TIME - REFERRALS  
01/16/18 (H) L&C, FIN  
01/29/18 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 280

SHORT TITLE: EXTEND: BOARD OF MARITAL & FAMILY THERAPY  
SPONSOR(s): REPRESENTATIVE(s) JOSEPHSON

01/16/18 (H) READ THE FIRST TIME - REFERRALS  
01/16/18 (H) L&C, FIN  
01/29/18 (H) L&C AT 3:15 PM BARNES 124

**WITNESS REGISTER**

MEGAN HOLLAND, Staff  
Representative Andy Josephson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 278 on behalf of  
Representative Josephson, prime sponsor.

KRIS CURTIS, Legislative Auditor  
Legislative Audit Division  
Legislative Agencies and Offices  
Juneau, Alaska

**POSITION STATEMENT:** Presented audit findings and  
recommendations and answered questions during the discussion of  
HB 278.

DAVID DERRY, Chair  
Board of Certified Real Estate Appraisers  
Kenai, Alaska

**POSITION STATEMENT:** Testified in support of HB 278.

WILLIAM "BILL" BARNES, President  
Appraisal Institute, Alaska Chapter  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 278.

MEGAN HOLLAND, Staff

Representative Andy Josephson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 279 on behalf of the prime sponsor, Representative Josephson.

KRIS CURTIS, Legislative Auditor  
Legislative Audit Division  
Legislative Agencies and Offices  
Juneau, Alaska

**POSITION STATEMENT:** Presented audit findings and recommendations and answered questions during the discussion of HB 279.

TRACI BARICKMAN, Chair  
Real Estate Commission  
Sutton, Alaska

**POSITION STATEMENT:** Testified in support of HB 279.

MARK MASLEY, President-Elect  
Alaska Association of Realtors  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 279.

MEGAN HOLLAND, Staff  
Representative Andy Josephson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 280 on behalf of Representative Josephson, prime sponsor.

KRIS CURTIS, Legislative Auditor  
Legislative Audit Division  
Legislative Agencies and Offices  
Juneau, Alaska

**POSITION STATEMENT:** Presented audit findings and recommendations during the discussion of HB 280.

NICOLE JENKINS, Member  
Board of Marital and Family Therapy  
Division of Corporations, Business and Professional Licensing  
Department of Commerce, Community, and Economic Development  
Palmer, Alaska

**POSITION STATEMENT:** Testified in support of HB 280.

#### **ACTION NARRATIVE**

[3:22:54 PM](#)

**CHAIR SAM KITO** called the House Labor and Commerce Standing Committee meeting to order at 3:22 p.m. Representatives Knopp, Sullivan-Leonard, Stutes, Josephson, Wool, Birch, and Kito were present at the call to order.

**HB 278-EXTEND:CERT. REAL ESTATE APPRAISERS BOARD**

[3:24:20 PM](#)

CHAIR KITO announced the first order of business would be HOUSE BILL NO. 278, "An Act extending the termination date of the Board of Certified Real Estate Appraisers; and providing for an effective date."

[3:24:41 PM](#)

MEGAN HOLLAND, Staff, Representative Andy Josephson, Alaska State Legislature, presented HB 278 on behalf of Rep. Josephson, prime sponsor. She stated that the proposed bill would extend the termination date for the Certified Real Estate Appraisers Board by eight years. She stated the extension was recommended by the Legislative Budget and Audit Division (LB&A). After the housing market crash in the 2000s, there was a federal mandate to regulate real estate appraisers. The state board serves to fulfill that federal requirement. She stated the board is responsible for licensing, license enforcement, training, and regulating real estate appraisers. The board currently manages 261 licensees.

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KRIS CURTIS, Legislative Auditor, Legislative Audit Division, Legislative Agencies and Offices, reported on HB 278. She reminded that the purpose of the sunset audit was to determine whether the board was serving the public interest and should be extended.

MS. CURTIS gave background information, explaining that a regulatory oversight structure for the appraisal industry had been established by the federal government. The framework includes private entities that set appraisal standards and qualification criteria for licensing; the state licensing boards that certify; and federal entities that regulate the industry. The federal appraisal subcommittee is responsible for monitoring the state licensing boards and ensuring they keep in line with

standards. She highlighted that the board is subject to external oversight outside of the sunset process, which factored into the division's recommended term of extension. The federal oversight includes on site compliance reviews of the board as well as the Division of Corporations, Business and Professional Licensing (DCBPL). She stated the conclusion that the board was serving the public interest by efficiently licensing and regulating certificate holders and licensees.

MS. CURTIS read from a document entitled, "A Sunset Review of the Department of Commerce, Community, and Economic Development, Board of Certified Real Estate Appraisers (board)" [included in the committee packet], as follows:

Overall, the audit concludes the board is serving the public's interest by certifying and licensing real estate appraisers. The board monitored certificate holders and licensees and worked to ensure only qualified individuals were issued certificates and licenses in Alaska. Furthermore, the board developed and adopted regulations to comply with federal requirements, improve the real estate appraisal industry, and better protect the public.

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MS. CURTIS gave the audit's two recommendations. The first recommendation was that the DCBPL director continue to improve administrative support to the board. She pointed to page 16 of the audit document as follows:

The audit found inadequate board support by DCBPL staff in the following areas:

1. Due to general oversight, three certificate holders were incorrectly reported in the Appraisal Subcommittee (ASC) national registry, which is required by federal and state laws. Upon identification by auditors, the errors were promptly corrected by DCBPL staff. Incorrect status in the registry may result in financial institutions rejecting qualified appraisers or selecting unqualified appraisers. Additionally, noncompliance with federal requirements puts the board at risk of more frequent ASC reviews that may increase board administrative costs.

2. Auditors reviewed five investigative cases over 180 days old, and identified three cases with periods of inactivity without justification ranging from 130 to 203 days. Management reported that investigators have varying caseloads, priorities, and case management and investigative skills that affected timeline goals. Alaska Statute 08.01.050(a)(19) requires the department to provide inspection, enforcement, and investigative services to the boards. Cases that are not actively investigated increase the risk of incompetent or unlawful licensees providing services to consumers.

3. Due to staff turnover, DCBPL management could not provide evidence that three of 11 board meetings held between July 1, 2014, and March 31, 2017, were public noticed. Alaska Statute 44.62.310(e) requires board meetings be publicly noticed and AS 08.01.050(a)(6) requires the department to provide administrative and budgetary services to the board, which includes noticing board meetings. Failure to publish meeting dates may limit public participation in board proceedings.

MS. CURTIS stated the second recommendation was that the director work with the board to reduce fees to address the surplus of over \$165,000 at the end of March [2017]. The board had requested a fee analysis, but it was not carried out. The licensees paid a higher than justified fee as a result.

MS. CURTIS listed the audit findings in the analysis. The report noted that the board planned to move forward with the regulation of appraisal management companies (AMC), expanding the board's duties for the future. The division was recommending an eight-year extension in recognition that the board is subject to external oversight by the federal appraisal subcommittee. These reviews are done on site at least every other year.

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MS. CURTIS turned to the responses to the audit. She stated that the department did concur with the findings and recommendations. The board chair noted in his response that they had received an attorney general's opinion that concluded

that a statutory change would be needed in order to regulate AMCs. She underlined that the division did not agree with that interpretation and offered additional comments outlining specific federal and state laws that allow the regulation of AMCs.

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REPRESENTATIVE JOSEPHSON cited a letter from LB&A that describes the state's authority to regulate AMCs. He asked whether, if there were clearer express authority, there would be any harm in it.

MS. CURTIS stated that there is no harm in clarifying the statutes.

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REPRESENTATIVE SULLIVAN-LEONARD asked whether, since the Certified Real Estate Appraisers Board had excess funding, it would consider refunding some of the appraisers' money that they [paid in fees] the past years.

MS. CURTIS deferred to the department.

REPRESENTATIVE SULLIVAN-LEONARD queried whether the Certified Real Estate Appraisers Board "is charging so much and all of a sudden there was such a surplus, maybe there could be consideration, especially if there's a particular complaint from appraisers that they are paying a significant amount of money."

MS. CURTIS answered that most of the 11 boards they had audited in the current year have maintained a surplus. The DCCED response to LB&A is that maintaining a surplus of a year's expenses will help prevent the spiking of fees. She added that technically the statutes do not provide for that and instead say that fees should be set to cover the cost of the occupation.

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CHAIR KITO stated that "if the department is doing that, it doesn't seem like they have the statutory authority to be able to do that. Whether or not it's a good idea, it seems like it would require some legislative action."

[3:33:08 PM](#)

REPRESENTATIVE KNOPP asked Ms. Curtis to confirm the fund balance of \$165,000.

MS. CURTIS confirmed that at the end of March 2017 the board had a balance of \$165,609.

REPRESENTATIVE KNOPP referred to a letter he received in the prior year from board member David Derry indicating that the board had a balance of around \$415,000. He asked about the discrepancy between the board numbers and the audit numbers.

MS. CURTIS answered that the numbers were as of March. She said she guessed the renewal period was at the end of summer, as FY 15 revenues were \$279,000 through March 31, and in [FY] 17 it was \$35,000. She stated at the end of fiscal year 2017 (FY 17) it could be a much higher amount. She suggested the department may have current surplus amounts.

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REPRESENTATIVE KNOPP asked if the board had reduced its fees.

MS. CURTIS stated she did not have an answer. She reiterated the report was dated Summer 2017.

REPRESENTATIVE WOOL pointed out that the FY 14 revenues were \$57,050, then went up to \$279,000 and back down to \$49,000. He asked whether that was because the board had raised its rates and lowered them back down again.

MS. CURTIS answered that every board had biennial licensing meaning that every other year the members pay a renewal fee. She added that in the off years there would also be revenue from new applicants, so the boards did have revenue in the off year but most revenue would be seen every other year.

REPRESENTATIVE WOOL surmised that in 2017 the revenue would jump up again. He cited the audit and suggested the board had extra cash and an adjustment of rate "could be tapered out over a while."

[3:36:22 PM](#)

DAVID DERRY, Chair, Board of Certified Real Estate Appraisers, testified in support of HB 278. He pointed to his letter on page 29 of the audit that addressed the recommendations by the legislative audit committee. He spoke to recommendation number

2 about reducing fees. He explained the board was on a 2-year cycle for registering appraisers and recertification fees and was not able to get the fees reduced in 2017. He added that based on the accounting dated on November 3, 2017, the fund balance for the board in the first quarter of FY 18 was \$378,297. The surplus was due to not adjusting fees.

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MR. DERRY clarified that the fees, as high as they were, carried over from a court action that had occurred several years previously due to legal action brought against one of the certified appraisers, which ended up going to the Alaska Supreme Court. That had resulted in increased fees for all certified appraisers for the state to pay for that cost. The costs were paid but unfortunately the fees were not analyzed and adjusted. The board had a meeting in September 2017 at which the board, with the director of the division, was able to adjust fees. The fees effective for the 2019 recertifications would be reduced to \$350. That had been conveyed to the board.

MR. DERRY added that regarding the refunds, the board had been told by the division that under state statutes it could not extend the refund to anyone, so the balance surplus would carry forward until it was used up.

MR. DERRY addressed the issue of AMC regulations. Although the audit staff and some members of the board thought it did have the authority "to do AMC legislation," the board had been told by the Attorney General's office that it did not. The board was currently working with Representative Josephson and Senator Meyer on AMC legislation and hoped to get it through during the current legislative session.

[3:40:18 PM](#)

REPRESENTATIVE STUTES asked if [the board] had a full complement.

MR. DERRY answered in the affirmative.

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REPRESENTATIVE WOOL drew attention to the form before the committee and stated it did not list total revenue in 2017 because the date of the audit was March 31. He added in 2015

that figure was \$279,000. He asked if Mr. Derry had a number for the 2017 revenue.

MR. DERRY answered that the accounting dated November 3, 2017, showed total revenue for FY 17 as \$278,417.

[3:41:34 PM](#)

WILLIAM "BILL" BARNES, President, Appraisal Institute, Alaska Chapter, testified in support of HB 278. He gave a brief history of the Appraisal Institute (AI), founded in 1932 during the depths of the Depression to enact appraisal standards and ethics. He noted it was the largest and oldest appraisal institute in the United States and was also located in 60 countries, with 90 chapters. Alaska had 111 members of the 261 certified appraisers, for 43 percent capture rate of membership. He continued that the AI writes almost all the [appraiser] textbooks. He stated the AI believes that the board of appraisal in the state of Alaska is serving the public interest as intended and had been since 1991. The institute recommends that HB 278 pass as intended and extend the board of appraisers for another eight years.

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CHAIR KITO opened public testimony HB 278. After ascertaining that no one wished to testify, advised that public testimony would remain open.

CHAIR KITO held HB 278 over.

**HB 279-EXTEND: REAL ESTATE COMMISSION**

[3:43:49 PM](#)

CHAIR KITO announced that the next order of business would be HOUSE BILL NO. 279, "An Act extending the termination date of the Real Estate Commission; and providing for an effective date."

[3:44:02 PM](#)

MEGAN HOLLAND, Staff, Representative Andy Josephson, Alaska State Legislature, on behalf of the sponsor presented HB 279, extending the termination date of the Real Estate Commission. She explained that the Alaska Real Estate Commission oversees brokers, associate brokers, and sales licensees and is

responsible for regulating supervisors and licensees and enforcing their requirements for the investigation of units. The commission currently has 567 licensees across the state. It had received a full 8-year recommendation from LB&A.

3:45:30 PM

KRIS CURTIS, Legislative Auditor, Legislative Audit Division, Legislative Agencies and Offices, reported on HB 279. The audit was dated June 2017 and concluded that the Real Estate Commission did serve the public interest by effectively licensing and regulating real estate licensees and real estate offices. The commission ensured that only qualified individuals practiced and developed and adopted regulations to improve the industry and better protect the public. Legislative Audit recommended an 8-year extension. The audit period was less than two years because the prior sunset audit was dated July 2015 and had concluded that the commission was not serving the public's interest by failing to procure a master Errors and Omissions (E&O) insurance policy. Ms. Curtis said a 2008 law required that the commission move to maintain a master policy and make it available to licensees. The licensees were then required by statute to either obtain their own independent policy or use the master policy provided by the division. The prior sunset audit found there were no clear explanations why the division and the commission had not been able to obtain a policy. After the audit, the commission was extended only two years and the statutes were changed. The previous statute stated that if there were no master policy, then all licensees were exempted from having to obtain E&O insurance. There was a bit of a loophole in the statute, so if a master policy was not obtained, then no one would have to have insurance. Now all licensees had to have insurance regardless of whether there was a master policy available. In the present audit, LB&A had found that the commission had actively worked with the division to change regulations to help facilitate a successful procurement of a master E&O insurance policy. They were successful, and a contract was signed in 2017.

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MS. CURTIS stated the legislative audit had one recommendation. In the prior sunset audit, LB&A had looked at 36 investigative cases and found that 29 of them had extended periods of inactivity from 124 days to four and a half years. The present audit had looked at the current year and tested 7 cases. They had found 3 of them had unjustified periods of inactivity and

those periods ranged from 72 to 194 days. The audit recommended DCBPL's chief investigator improve oversight to ensure cases were investigated timely. The department, the commission, and the governor's office all concurred with the audit findings and recommendations.

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TRACI BARICKMAN, Chair, Real Estate Commission, spoke in support of HB 279. She said she had been a licensed professional for about 25 years and over half of those years as a broker and as a trainer. She testified as follows:

The real estate commission operates well within its means, maintaining a cumulative surplus for four years. Licensing fees adequately cover the operational cost of the real estate commission and therefore place no burden on the state's budget. As a commissioner, I work with the state's investigator to review complaints that come into the commission as a result of a real estate transaction or a licensee's interaction with a member of the public. Most complaints that are filed have a legitimate foundation and, in many cases, licensees are disciplined through education, fines, and sometimes through suspension or revocation of their license. But without this process, the only resources for the public would be litigation.

In some cases where a licensee violated the law a consumer may not have the resources or the desire to take their complaints to court and therefore would allow improper illegal actions of a licensee to continue. This would not be in the public's best interest. Additionally, by modifying and adopting regulations, real estate commission constantly improves our industry practices and standards. It takes consistent work by the real estate commission to keep regulations on track with the constantly changing real estate industry. This is necessary to keep Alaskans safe from financial losses associated with their real estate transactions.

As stated, the recent sunset review concluded that the commission is serving in the public's best interest. The review unconditionally recommends that the commission extend its expiration date to June 30, 2026, with the recommendation that the chief investigator continue to improve oversight to ensure investigations are completed timely. This has been an ongoing process and they are

working on it. Real estate professionals have access to our consumers' homes. To terminate the commission would be taking away an important guardian for consumer protection. That protection is Alaskan consumer protection.

[3:52:07 PM](#)

CHAIR KITO remarked the continuing surplus was "fairly high" and asked whether there was a plan to address reducing fees or reducing surplus for the board for future years.

MS. BARICKMAN answered that the commission had been able to reduce licensing fees as a result of that surplus.

[3:52:52 PM](#)

MARK MASLEY, President-Elect, Alaska Association of Realtors, testified in support of HB 279. He stated he had been a licensed realtor professional in the state since 2001.

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CHAIR KITO opened public testimony on HB 279. Upon ascertaining that no one wished to testify, he stated he would leave public testimony open.

[3:54:00 PM](#)

CHAIR KITO held over HB 279.

**HB 280-EXTEND: BOARD OF MARITAL & FAMILY THERAPY**

[3:54:06 PM](#)

CHAIR KITO announced that the final order of business would be HOUSE BILL NO. 280, "An Act extending the termination date of the Board of Marital and Family Therapy; and providing for an effective date."

[3:54:21 PM](#)

MEGAN HOLLAND, Staff, Representative Andy Josephson, Alaska State Legislature, on behalf of the sponsor presented HB 280, extending the termination date for the Board of Marital & Family Therapy. She explained that the board regulates, licenses, and trains marital and family therapists. It establishes and

enforces training, education and continuing education requirements for its 85 licensees across the state. The board had received a full 8-year extension through LB&A.

[3:55:30 PM](#)

KRIS CURTIS, Legislative Auditor, Legislative Audit Division, Legislative Agencies and Offices, reported on HB 280. She spoke to the May 2017 audit report conclusions that the board was serving the public interest, effectively licensing and regulating marital and family therapists and marital and family supervisors. The board monitors licensees and works to ensure only qualified individuals practice. Additionally, the audit found that the board had actively developed and adopted regulations to improve the profession. Legislative Audit recommended an 8-year extension. There were no recommendations made as part of the audit. At 85 licensees as of January 31, 2017, it was one of the smaller boards.

MS. CURTIS indicated the board had a surplus of just over [\$]68,000 as of March 31 and had been operating with the surplus over the past several years, which had not always been the case for this board. The Office of the Governor, the department, and the board all concurred with the conclusions and were all in favor of an 8-year extension.

[3:57:22 PM](#)

NICOLE JENKINS, Member, Board of Marital and Family Therapy, Boards and Commissions, testified in support of HB 280. She stated the board had operated under a deficit budget for more than a decade due to the high cost of a disciplinary investigation of a license. The board had paid off the debt by raising licensing fees and was continuing to encourage the use of any surplus to reduce fees for its licensees. The Board of Marital and Family Therapy served to protect the public interest of Alaskans by overseeing the licensing of marital and family therapists and ensuring that Alaskans received safe and ethical care.

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REPRESENTATIVE WOOL mentioned an investigative action that made the board "run in the red." He asked whether the board had enough surplus to cover a similar circumstance.

MS. JENKINS replied in the affirmative. One of the last sunset audit recommendations in 2014 was to improve the investigative management system to address any costs that may be incurred. The board had complied.

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CHAIR KITO opened public testimony on HB 280 and ascertained that no one wished to testify.

CHAIR KITO held over HB 280.

[4:00:11 PM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:00 p.m.