

SENATE FINANCE COMMITTEE  
February 21, 2018  
9:16 a.m.

9:16:30 AM

CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 9:16 a.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair  
Senator Anna MacKinnon, Co-Chair  
Senator Click Bishop, Vice-Chair  
Senator Peter Micciche  
Senator Donny Olson  
Senator Gary Stevens  
Senator Natasha von Imhof

MEMBERS ABSENT

None

ALSO PRESENT

Senator Kevin Meyer, Sponsor; Edra Morledge, Staff, Senator Kevin Meyer; Sara Chambers, Deputy Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development; Lori Wing-Heier, Director, Division of Insurance, Department of Commerce, Community and Economic Development; Kristie Babcock, Agent, State Farm Insurance.

PRESENT VIA TELECONFERENCE

Mark Schiffman, Executive Director, Real Estate Evaluation Advocacy Association, (REEVA), Minneapolis; William Scoggin, Real Estate Evaluation Advocacy Association, North Carolina; David Derry, Chair, Certified Real Estate Appraisers, Kenai; George Pierce, Self, Kasilof; Ted Moninski, Self, Anchorage; Gary Strannigan, Liberty Mutual Insurance Company, Seattle.

SUMMARY

SB 155 REAL ESTATE APPRAISAL MNGMT. COMPANIES

SB 155 was HEARD and HELD in committee for further consideration.

HB 195 INSURER'S USE OF CREDIT HISTORY/SCORES

HB 195 was HEARD and HELD in committee for further consideration.

#sb155

SENATE BILL NO. 155

"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; and relating to real estate appraisers."

[9:18:14 AM](#)

SENATOR KEVIN MEYER, SPONSOR, explained the legislation:

An Appraisal Management Company, or AMC, is an independent entity through which mortgage lenders order residential real estate valuation services for properties on which they are considering extending loans to homebuyers. AMCs fulfill an administrative function in the appraisal process, including selecting an appraiser and delivering the appraisal report to the lender. Individual appraisers who work for AMCs provide the actual property valuation services.

AMCs existed well before the 2008 global financial crisis, and today they play an increasingly important role as a third-party service provider in the consumer mortgage process. AMCs have become increasingly popular by lenders across the country to ensure federal and state regulatory compliance and independence between lenders and appraisers as required by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Dodd-Frank requires that states enact comprehensive AMC oversight and registration programs with an August 2018, deadline.

Senator Meyer believed that the legislation would help to promote public trust, consumer protection, and establish oversight and enforcement.

[9:20:32 AM](#)

Senator Olson asked whether commercial properties were affected by the appraisals.

Senator Meyer thought that the appraisals applied only to residential property but deferred to his staff for a final answer.

[9:21:14 AM](#)

EDRA MORLEDGE, STAFF, SENATOR KEVIN MEYER, affirmed that the bill applied only to residential real estate. She discussed the Sectional Analysis (copy on file):

**Section 1:** Adds a new subsection 'j' to allow the Dept. of Commerce, Community and Economic Development to establish a fee for regulatory costs and a mechanism for reporting those fees.

**Section 2:** Requires the department to establish a registry fee as required by the federal government and permits the department to remit those fees to the federal government.

**Section 3:** Amends the powers and duties of the Board of Certified Real Estate Appraisers to require regulations for Appraisal Management Companies.

**Section 4:** Authorizes the Board to examine records of AMCs, requires those companies to submit information to the Board, and allows investigations of alleged violations.

**Sections 5 and 6:** Adds a new section to the statute regarding Appraisal Management Companies including provisions for registration, reporting records retention, and inspection requirements, exemptions, prohibited practices, and disciplinary proceedings.

**Section 7:** Definitions - "appraisal management services," "appraisal panel," "company, controlling person," and "principal dwelling."

**Section 8:** Allows for fingerprinting of a controlling person of an Appraisal Management Company through the Department of Public Safety.

**Section 9:** Allows real estate Appraisal Management Company registry fees to be included in the definition of program receipts and non-general fund program receipts.

**Section 10:** Applicability clause - this act applies to a person offering or providing appraisal.

Co-Chair MacKinnon OPENED public testimony.

[9:24:28 AM](#)

MARK SCHIFFMAN, EXECUTIVE DIRECTOR, REAL ESTATE EVALUATION ADVOCACY ASSOCIATION, (REEVA), MINNEAPOLIS (via teleconference), spoke in support of the legislation. He said that the association had supported similar legislation in other states. He believed that the bill supported consumer protections in the appraisal process; the independent third party created a valuable firewall and addressed undue influence. He said that AMCs were integrated into the mortgage lending process as well as secondary markets and the products provided by AMCs insured proper valuations for the investment marketplace.

[9:27:58 AM](#)

Senator Stevens wondered whether a full-time new position would need to be established to carry out the legislation requirements.

Mr. Schiffman replied that licensing fees paid for the program. He said that the need for additional staffing was not unusual and varied from state to state.

[9:29:30 AM](#)

WILLIAM SCOGGIN, REAL ESTATE EVALUATION ADVOCACY ASSOCIATION, NORTH CAROLINA (via teleconference), introduced himself and indicated that he was available for questions.

[9:29:56 AM](#)

DAVID DERRY, CHAIR, CERTIFIED REAL ESTATE APPRAISERS, KENAI (via teleconference), testified in support of the legislation and indicated that the board was ready to assume oversight of AMCs. He said that the appraisal board had been self-funded since 1991. He lamented that the fingerprinting requirement for AMCs was cumbersome and should be removed from the bill. He also recommended an increased bond amount of \$150,000. He believed that this would provide a more fiduciary cushion for the state.

[9:34:26 AM](#)

Co-Chair MacKinnon clarified that the board listed in Section 3 was an existing board; the powers and duties of that existing board would be modified by the legislation.

Mr. Derry agreed.

Co-Chair MacKinnon asked whether the legislation created another board in state government.

Mr. Derry replied no.

[9:36:49 AM](#)

SARA CHAMBERS, DEPUTY DIRECTOR, DIVISION OF CORPORATIONS, BUSINESS AND PROFESSIONAL LICENSING, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, testified in support of the legislation - with certain amendments. She felt that the federal deadline created a sense of urgency. She suggested that the authority to set fees in order to recoup costs should be granted in the legislation. She added that an extension to the effective date would allow the board and the department the ability to adopt regulations and set fees. She said that transitional language would be needed in advance of the effective date. She said that the department supported on PCN in the fiscal note and did not believe that a full-time person would need to be added to staff. She said that the PCN would be supported by fees and not general funds.

[9:40:20 AM](#)

Co-Chair MacKinnon requested that the department work with her office on any amendments to the legislation.

[9:40:33 AM](#)

Senator Olson wondered about the self-regulation of the appraisers and worried that an appraiser could "go rouge."

Ms. Chambers replied that the program would be self-funded and regulated by the existing Board of Certified Real Estate Appraisers; self-regulation was a misnomer, as the board would be governed by the existing board process.

[9:41:27 AM](#)

Senator Stevens understood that the program would require a half-time position but that the PCN was for a full-time position. He wondered what the PCN would do for the other half of their duties.

Ms. Chambers replied that the department would use the PCN to manage the licensing work of other boards that had produced more work than had been initially expected.

[9:42:44 AM](#)

Senator Micciche wondered how many licensees were expected and the approximate cost of licensing.

Ms. Chambers responded that the department was working on developing the licensing fee, 200 new licensees were expected. This would be the only federally regulated program for boards under the department and would require additional scrutiny.

[9:43:57 AM](#)

Vice-Chair Bishop wondered what the economic loss to the state would be if the bill were not passed.

Ms. Chambers thought that the appraisal management companies that were not federally regulated would not be able to operate in the state. She said that anything that required federal oversight would not be able to be regulated by a non-federally regulated AMC, which would slow the process in the state.

Co-Chair MacKinnon queried Mr. Derry's thoughts on the matter.

Mr. Derry shared that it could constrict potential for financing for home purchases, which would negatively affect the entire residential market.

[9:47:16 AM](#)

Co-Chair MacKinnon understood that 10 to 15 percent of the mortgages in Alaska were processed through Fanny Mae or Freddy Mac.

Mr. Derry replied that the mortgage funder was not the issue, whether the transaction was federally regulated would be what would impact AMCs under the Dodd-Frank Act.

[9:49:00 AM](#)

Co-Chair MacKinnon CLOSED public testimony.

Co-Chair MacKinnon stated that amendments would be due the following Friday at 5pm.

SB 155 was HEARD and HELD in committee for further consideration.

#hb195

HOUSE BILL NO. 195

"An Act relating to insurer actions based on credit history and insurance scores at insurance policy renewal; and providing for insurer consideration of consumer requests for exceptions of credit history or insurance scores."

[9:50:55 AM](#)

LORI WING-HEIER, DIRECTOR, DIVISION OF INSURANCE, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, discussed HB 195 [from the Transmittal Letter (copy on file)]:

This bill makes changes to the Alaska Insurance Code to allow an insurer to use a consumer's credit history or insurance score for policy renewals. Under the current law, an insurer cannot use a consumer's credit history or insurance score when renewing a policy, unless the consumer affirmatively waives the prohibition on the use of credit history at renewal.

If passed, this legislation would give an insurer the ability to take into consideration a consumer's credit history or insurance score at the time of renewal. However, there are many consumer protections that have been added.

The bill requires insurers to provide written notification to consumers if their insurance rate will be negatively affected due to their credit score. In the notification to the consumer, the insurer must provide information regarding extraordinary life circumstance exceptions and instruct the consumer regarding how to request an exception. In addition to the specific circumstances listed, this legislation adds language allowing consumers who feel their life circumstances warrant exception, to request one in writing, even if it is not specifically listed on the insurer's list of expectations.

This legislation further protects consumers by establishing an appeal process for consumers who believe their requests for an extraordinary life circumstance exception have been wrongfully denied by an insurer. The appeal process designates the State's Division Director of Insurance as the final decision maker on consumer appeals under the extraordinary life circumstances and requires a decision maker on consumer appeals under extraordinary life circumstances and require a decision be made within 30 days after receipt of the appeal. The appeal process included in this legislation implements safeguards for consumers by ensuring the final decision does not rest with the insurer and requires timely action so as not to adversely affect the consumer.

Additionally, this bill adds provisions stating that an insurer may not fail to renew a policy based on a consumer's lack of credit history and prohibits the use of a credit score that is more than 90 days old. Furthermore, this bill would require insurers that use a consumer's credit history to underwrite or rate a policy to re-underwrite or re-rate a policy no later than every 24 months, allowing consumers to reap the benefits of an improved credit score.

This bill clarifies that the definition of an "adverse action" is limited to the definition under the Fair Credit Reporting Act.

[9:55:30 AM](#)

Senator Olson asked how the bill would affect people who did not have credit or credit scores.

Ms. Wing-Heier replied that a credit score could not be used if credit did not exist. The lack of a credit score could not be used in a detrimental manner.

Senator Micciche requested an explanation of the correlation between credit scores and premiums.

Ms. Wing-Heier responded that statistics had shown that someone who managed their credit was a better insurance risk.

Senator Micciche appreciated the explanation of the direct relationship between credit scores and insurance risk.

Senator Stevens requested an example that showed a correlation.

Ms. Wing-Heier agreed to provide the information to the committee.

[9:58:22 AM](#)

Ms. Wing-Heier addressed the Sectional Analysis (copy on file):

**Section 1:** The subsection is amended to require an insurer writing personal insurance that uses credit information in underwriting or rating a consumer at the time of renewal to disclose to the consumer that the insurer will obtain credit information in connection with the renewal. It also replaces the word "applicant's" with "consumer's" because the requirement now applies to both new applicants and existing policyholders.

**Section 2:** The subsection amends the notice required when an adverse action is taken and to provide notice informing the consumer of extraordinary life

circumstance exemptions, the process for requesting such an exemption, and that they must request an exemption within 60 days. The amendment also clarifies that the notice of adverse action must be in writing.

**Section 3:** The subsection is amended to clarify the statute by adding that an insurer may, in addition to credit history, use a consumer's insurance score to cancel, deny, nonrenew, underwrite, or rate personal insurance only in combination with other substantive underwriting factors. The subsection is also amended to provide that if an insurer uses a consumer's credit history or insurance score, then not later than 24 months after the insurer most recently used the consumer's credit history or insurance score to underwrite or rate a policy, the insurer shall reunderwrite and rerate the policy based on the consumer's current (1) credit history or insurance score and current risk characteristics; or (2) risk characteristics but not including, in whole or in part, the consumer's credit history or insurance score.

**Section 4:** This section eliminates the requirement that an insurer first obtain a written waiver at each renewal from a consumer to underwrite or rate a personal insurance policy based on the consumer's credit history or insurance score. The remaining paragraphs in the subsection are renumbered accordingly. is amended to provide that the prohibitions on the use of credit scores by insurers set forth in the paragraph also apply to nonrenewals. This section also establishes that an insurer may not use credit history to cancel, deny, nonrenew, underwrite, or rate a personal insurance policy if the history is obtained more than 90 days before the policy is canceled, denied, nonrenewed, underwritten, or rated. It further clarifies that the paragraph does not require an insurer to reevaluate a consumer's credit history more frequently than is required under AS 21.36.460(c).

**Section 5:** is a new section which requires (except as provided under AS 21.36.460(d)) an insurer that uses a consumer's credit history or insurance score to provide reasonable exceptions to the insurer's rates, rating classifications, company or tier placement, or

underwriting rules or guidelines for a consumer who has experienced, and whose credit history or insurance score has been affected by one or more of the following extraordinary life circumstances:

- a catastrophe, as declared by the director under AS 21.06.080;
- a serious illness or injury, or a serious illness of or injury to an immediate family member;
- the death of a spouse, child, or parent;
- divorce or the involuntary interruption of spousal support or maintenance payments;
- identity theft;
- loss of employment for three months or more as a result of involuntary termination;
- military overseas deployment; or
- other extraordinary life circumstances where a prudent person would consider an exception to the insurer's rates, rating classifications, company or tier placement, or underwriting rules or guidelines to be reasonable.

**AS 21.36.461(b)**

This subsection allows an insurer to require a consumer requesting an exemption under 21.36.461(a) to provide reasonable written and independently verifiable documentation of the extraordinary life circumstances and demonstrate that the circumstances had a direct and meaningful effect on the consumer's credit information.

**AS 21.36.461(c)**

This subsection describes situations where an insurer may grant an exception when a consumer requests an exception under AS 21.36.460(b).

**AS 21.36.461(d)**

This subsection provides that an insurer may not be considered out of compliance with a law or rule relating to underwriting, rating, or rate filing as a result of granting an exception under this section. The subsection allows an insurer to grant an exception notwithstanding its approved filings and rates and does not require the insurer to have to submit filing or rate amendments to the division for approval in order to grant the exception.

**AS 21.36.461(e)**

This subsection requires the insurer to provide notice to the consumer in writing of its decision in granting or not granting the request for an exception not later than 30 days after the insurer receives sufficient documentation of the information requested from the consumer under AS 21.36.461(b).

**AS 21.36.461(f)**

If an exception is denied and an adverse action will be maintained by the insurer, this subsection requires the insurer's notice under AS 21.36.461(e) to include the insurer's reason for denying the request for an exception and for maintaining the adverse action and notice of the consumer's right to appeal the denial to the director of the division of insurance.

**AS 21.36.461(g)**

This subsection provides that the consumer can appeal the adverse action to the director not later than 30 days after receiving the insurer's notice.

**AS 21.36.461(h)**

This subsection requires the director of the division of insurance to make a decision on the consumer's appeal not later than 30 days after receiving the appeal and requires the director to provide the decision to both the insurer and to the consumer and outlines requirements for the basis of the decision.

**AS 21.36.461(i)**

This subsection provides that the hearing and appeal procedures provided for in AS 21.06.180 - 21.06.230 do not apply to consumer appeals submitted to the director under AS 21.36.461(g).

**AS 21.36.461(j)**

This subsection makes clear that nothing in AS 21.36.461 may be construed to provide a consumer with a cause of action that does not exist in the absence of this AS 21.36.461.

**AS 21.36.461(j)**

This subsection provides that the term "adverse action" as used in AS 21.36.461 is limited to an adverse action defined under AS 21.36.460(i) that is based in whole or in part on the insured's credit

history or insurance score as affected by one or more extraordinary life circumstances.

The subsection also provides that the term "consumer" has the meaning given in AS 21.36.460 and the term "director" has the meaning given in AS 21.97.900.

**AS 21.36.461(k)**

The subsection is amended to replace the term "insured" with the term "consumer" for consistency.

**Section 6:**

This section is amended to exclude the exception appeal process under AS 21.36.461 from the jurisdiction of Department of Administration Office of Administrative Hearings (OAH).

[10:02:11 AM](#)

Senator Stevens wondered when the 60 days, listed in Section 2 on the Sectional Analysis, would officially begin.

[10:02:45 AM](#)

Ms. Wing-Heier replied that the timeframe would begin once the consumer received the notice from the insurance company.

[10:03:46 AM](#)

KRISTIE BABCOCK, AGENT, STATE FARM INSURANCE, spoke in support of the legislation. She offered a brief history of similar legislation. She highlighted the difficulties she faced working under the current law. She often had to explain current law to her clientele, which she categorized as confusing and cumbersome. She expressed gratitude to the committee for hearing the legislation.

[10:10:30 AM](#)

Senator Stevens asked whether a similar bill passed by the legislature 2 years ago had addressed the appeals process.

Ms. Babcock replied that there had been an appeal process written into the previous legislation, this bill differed in that the appeals process offered additional consumer protections.

[10:11:26 AM](#)

AT EASE

[10:11:38 AM](#)

RECONVENED

[10:11:54 AM](#)

GEORGE PIERCE, SELF, KASILOF (via teleconference), testified against the bill. He felt that the bill would discriminate against those who experienced medical and financial hardship.

[10:14:57 AM](#)

TED MONINSKI, SELF, ANCHORAGE (via teleconference), spoke in support of the legislation. He believed that the intent language in the legislation about the renewal process should be very clear.

[10:18:30 AM](#)

Ms. Wing-Heier spoke to the testifiers concerns. She shared that she read nothing in the legislation that implied that a person would have to go back through the application process; the word "consumer" had been substituted for "applicant" so that it applied to renewal business as well as new business.

[10:19:11 AM](#)

Co-Chair MacKinnon assured the testifier that under the legislation all consumers would be considered equitably.

[10:19:13 AM](#)

Senator Micciche understood that the legislation provided the right to appeal in the application process and that the standard had been changed to what a prudent person would consider to be "fair and reasonable."

Ms. Wing-Heier agreed. She said that the appeal process had been at the sole discretion of the insurance company, which had led to the Governor's veto of the previous legislation.

Co-Chair Hoffman asked if there had been other reasons that the Governor had vetoed the previous legislation.

Ms. Wing-Heier responded that the Governor wanted to ascertain that people were given the notice of the appeal process, that the appeal went to the director if it could not be resolved with the insurance company, and that the "prudent person" language be added.

[10:21:05 AM](#)

Senator Stevens noted the changes from the previous bill. He wondered whether the appeal process changes in the current legislation would be onerous to the department.

Ms. Wing-Heier said that the department received 2 to 3 calls per month from consumers. She believed that her department was equipped with the staff to handle the workload.

[10:22:32 AM](#)

GARY STRANNIGAN, LIBERTY MUTUAL INSURANCE COMPANY, SEATTLE (via teleconference), spoke in support of the bill.

[10:23:44 AM](#)

Co-Chair MacKinnon CLOSED public testimony.

[10:23:55 AM](#)

Vice-Chair Bishop discussed the zero-fiscal note:

This bill allows an insurer to use a consumer's credit history or insurance score to underwrite or rate the consumer's policy at renewal. It also provides for exemptions from using credit history.

This bill modifies existing statute and is not anticipated to have a fiscal impact on the Division of Insurance.

[10:24:50 AM](#)

Vice-Chair Bishop noted Section 5 of the bill. He hoped that the department would make sure to keep the people of Alaska's best interests at heart.

Co-Chair MacKinnon stated that amendments to the legislation were due the following Friday at 5pm

HB 195 was HEARD and HELD in committee for further consideration.

#

ADJOURNMENT

10:25:52 AM

The meeting was adjourned at 10:25 a.m.