

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

March 22, 2020

3:15 p.m.

MEMBERS PRESENT

Representative Ivy Spohnholz, Chair
Representative Zack Fields
Representative Sara Hannan
Representative Andi Story
Representative Mel Gillis
Representative Sara Rasmussen (via teleconference)

MEMBERS ABSENT

Representative Louise Stutes

OTHER MEMBERS PRESENT

Representative Mike Prax
Representative Grier Hopkins
Representative Geran Tarr

COMMITTEE CALENDAR

HOUSE BILL NO. 310

"An Act tolling deadlines for action by the Regulatory Commission of Alaska during the public health emergency declaration; relating to disconnection of utility service for nonpayment; relating to regulatory assets of a utility; relating to evictions; relating to foreclosures; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 310

SHORT TITLE: TOLL RCA/FORECL./EVICT. ACT FOR COVID-19

SPONSOR(S): LABOR & COMMERCE

03/21/20	(H)	READ THE FIRST TIME - REFERRALS
03/21/20	(H)	L&C
03/21/20	(H)	L&C WAIVED PUBLIC HEARING NOTICE, RULE 23 UC(A)
03/22/20	(H)	L&C AT 1:00 PM DAVIS 106

WITNESS REGISTER

TED MADSEN, Staff
Representative Ivy Spohnholz
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided the sectional analysis for HB 310, on behalf of Representative Spohnholz, prime sponsor.

ANNA BAILEY, Policy Analyst
Center on Budget and Policy Priorities
Washington, D.C.

POSITION STATEMENT: Provided testimony during the hearing on HB 310.

BOB PICKETT, Commissioner
Regulatory Commission of Alaska
Wasilla, Alaska

POSITION STATEMENT: Provided testimony during the hearing on HB 310.

STUART GOERING, Senior Assistant Attorney General
Office of the Attorney General
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Offered comments on Section 3 of HB 310 and answered questions.

NOAH KLEIN
Legislative Legal Services
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 310.

ERROL CHAMPION
Alaska Association of Realtors
Juneau, Alaska

POSITION STATEMENT: Provided testimony during the hearing on HB 310.

DIANE KAPLAN
Anchorage Homelessness Leadership Council
President, Rasmuson Foundation
Anchorage, Alaska

POSITION STATEMENT: Provided testimony during the hearing on HB 310.

RYAN STRONG, Chief Banking Officer
First National Bank Alaska
President, Alaska Bankers Association
Anchorage, Alaska

POSITION STATEMENT: Provided testimony during the hearing on HB 310.

KASSANDRA TAGGART
Real Property Management
City & State

POSITION STATEMENT: Provided testimony during the hearing on HB 310.

JOYCE PARKS
Fairbank, Alaska

POSITION STATEMENT: Testified during the hearing on HB 310.

LEE THIBERT, Chief Executive Officer
Chugach Electric Association
Anchorage, Alaska

POSITION STATEMENT: Provided testimony during the hearing on HB 310.

DEAN THOMPSON
Kempel, Huffman and Ellis, PC
Anchorage, Alaska

POSITION STATEMENT: Provided testimony during the hearing on HB 310.

ACTION NARRATIVE

[3:15:45 PM](#)

CHAIR IVY SPOHNHOLZ called the House Labor and Commerce Standing Committee meeting to order at 3:15 p.m. Representatives Gillis, Hannan, Story, and Spohnholz were present at the call to order. Representatives Fields and Rasmussen (via teleconference) arrived as the meeting was in progress.

HB 310-TOLL RCA/FORECL./EVICT. ACT FOR COVID-19

[3:16:30 PM](#)

CHAIR SPOHNHOLZ announced that the only order of business would be HOUSE BILL NO. 310, "An Act tolling deadlines for action by the Regulatory Commission of Alaska during the public health

emergency declaration; relating to disconnection of utility service for nonpayment; relating to regulatory assets of a utility; relating to evictions; relating to foreclosures; and providing for an effective date."

CHAIR SPOHNHOLZ, prime sponsor of HB 310, stated that Alaskans are afraid right now. She listed the unprecedented public health measures that have been implemented over the last 11 days, including closing schools; closing in-room dining for restaurants, bars, and coffee shops; reducing nonessential travel; closing public spaces; and implementing a 14-day quarantine for travelers. Unfortunately, she said, for many Alaskans these efforts have resulted in the inability to work. The Department of Labor & Workforce Development (DLWD) reported that they received 600 percent more unemployment insurance claims this week. Chair Spohnholz explained that [the legislature] is working to ensure that Alaskans can access unemployment benefits and small business owners can access low interest loans for payroll and debt payments authorized by the Small Business Administration (SBA). She noted that they are also considering other wage replacement options enabled by the passage of HR 6201 [Families First Coronavirus Response Act] in U.S. congress. She asserted that Alaskans need assurance that they won't lose their heat or electricity or be evicted or foreclosed upon if they are unemployed as a result of COVID-19. Subsequently, a piece of legislation was narrowly crafted to provide Alaskans with protections.

CHAIR SPOHNHOLZ stated that HB 310 is designed to complement efforts such as Governor Dunleavy's decision to suspend foreclosures on loans secured by the Alaska Housing Finance Corporation, as well as the state court system's decision to suspend evictions and foreclosures for 60 days. She noted that over the last 24 hours, work has been done with a wide range of stakeholders, including the Alaska Bankers Association, the Alaska Realtors Association, the Alaska Housing Finance Corporation, the Alaska Power Association, Chugach Electric Association, the Municipality of Anchorage, and the Alaska Public Interest Research Group. She said the plan is to hear the bill today, identify ways to make it better, and move it quickly - either through its current form or as part of an omnibus bill - to provide Alaskans with the surety that they will be secure during these unprecedented times.

[3:21:14 PM](#)

TED MADSEN, Staff, Representative Ivy Spohnholz, Alaska State Legislature, on behalf of Representative Spohnholz, prime sponsor, provided the sectional analysis for HB 310 [included in the committee packet], which read in its entirety as follows [original punctuation provided]:

Section 1

Suspends deadlines for action by the Regulatory Commission of Alaska during the Novel Coronavirus Disease (COVID-19) public health disaster emergency:

Notwithstanding contrary provisions of AS 42, extends all statutory and regulatory deadlines for the RCA.

Section 2

Moratorium on disconnection of residential utility service:

Stops disconnection of service by a public utility defined in AS 42.05.990 to a residence for bills not paid during the public health disaster emergency on or after March 11, 2020.

Section 3

Regulatory assets for unpaid utility bills:

Allows a utility certificated under AS 42.05 to create regulatory assets for residential utility bills that are not paid during the COVID-19 emergency declaration.

Section 4

Moratorium on evictions for nonpayment of rent:

Notwithstanding a contrary provision under AS 34.03,

(a) a landlord may not evict a person for nonpayment of rent during the declared public health disaster emergency, and,

(b) anyone seeking protection under this section must provide an affidavit before the emergency declaration expires that they are experiencing financial hardship.

Section 5

Moratorium on foreclosures:

Notwithstanding a contrary provision under AS 09.45, AS 34.35 or another law,

(a) a person cannot foreclose on a property of a person experiencing financial hardship during the COVID-19 public health disaster emergency, and,

(b) a person seeing protection under this section must provide the financial institution seeing foreclosure an affidavit before the emergency declaration expires that the person is experiencing financial hardship

Section 6

Repeal

This Act is repealed April 30, 2021.

Section 7

Effective Date

This Act takes effect immediately under AS 01.10.070(c).

[3:23:10 PM](#)

REPRESENTATIVE HANNAN asked if the governor's emergency declaration has an expiration date.

MR. MADSEN said the governor's disaster declaration is valid for 30 days unless extended by the legislature through legislation.

[3:23:36 PM](#)

REPRESENTATIVE STORY sought clarification on how landlords would pay their mortgage and utility payments with the proposed measures in place. She pointed out that if renters are out of work for six months it will be important for them to implement a payment plan.

CHAIR SPOHNHOLZ pointed out that she is a landlord herself and is sensitive to their position. She clarified that this would only last six months if the emergency disaster declaration were extended that long. She noted that the Alaska Realtors Association, which includes landlords, will be testifying today.

[3:25:40 PM](#)

REPRESENTATIVE FIELDS asked if the committee's intent is to allow the Chugach Electric Association and Municipal Light and Power (ML&P) merger to go forward, given that the city needs that cashflow.

CHAIR SPOHNHOLZ answered yes, that is the intent. She directed attention to a letter from Chugach Electric Association [included in the committee packet]. She noted that there is a possible amendment to this legislation, which would ensure the bill would not impact the ML&P purchase by Chugach in any way.

[3:26:34 PM](#)

REPRESENTATIVE GILLIS asked how the bill would apply to squatters.

CHAIR SPOHNHOLZ replied it would not apply to squatters.

[Chair Spohnholz opened public testimony.]

[3:27:20 PM](#)

ANNA BAILEY, Policy Analyst, Center on Budget and Policy Priorities, informed the committee that her work at the Center on Budget and Policy Priorities - a nonpartisan research and policy institute in Washington, DC - focuses on the intersection of healthcare and affordable housing policy, particularly for low-income renters. She stated that the spread of COVID-19 is a stressful time for everyone; however, it is exceptionally harsh on families that were already struggling to make ends meet and don't have the savings to weather loss of income. Compounding the problem, she said, the pandemic is hitting at a time when the country is facing a nationwide affordable housing crisis. She reported that since 2001, Alaska's median rent has increased by 9 percent, while the median income for renters has declined by 5 percent when adjusted for inflation. She added that data from 2018 indicates that approximately 42,000 low-income renters in Alaska are paying more than half their income towards rent every month, which leaves little for other necessities and no room for error. She pointed out that the addition of COVID-19 makes life for these individuals and families even more precarious. She added that the risk of eviction is significantly heightened right now. She specified that even in good economic times eviction has severe and immediate consequences, such as high-risk of homelessness, living in substandard housing, loss of personal belongings, and absence from school. There's also evidence of long-term consequences from eviction, including tarnished rental and credit history, which makes it difficult for families to find a decent home to live in even after their income situation improves. For families that are barely making ends meet, eviction can trigger a lasting spiral into poverty; furthermore, for families that

are already living in poverty, it can exacerbate that struggle. She further noted that housing instability, eviction, and homelessness tend to expose children to trauma or adverse childhood experience, which puts them at high risk for bad outcomes, like lower education attainment, substance use, mental or physical health problems, and lower lifetime earnings. The consequences are already severe, she said, but with the current public health crisis, a wave of evictions and increased homelessness could worsen the outbreak itself. She explained that eviction could make it difficult or virtually impossible to practice the social distancing that public health officials are urging everyone to engage in, putting vulnerable families at greater risk of infection or spreading the virus further. She indicated that this all creates an urgency to prevent evictions during the crisis, which many states and jurisdictions are starting to do.

[3:35:58 PM](#)

CHAIR SPOHNHOLZ inquired as to the best practices for placing a moratorium on evictions.

MS. BAILEY stated that the most promising approaches involve three elements. First, a broad moratorium on eviction; second, requiring minimal documentation or bureaucracy to halt evictions. She explained that evidence from public benefit programs shows that requiring families in survival mode to navigate bureaucracy results in preventing people who need help the most from getting it. She added that it's particularly important not to impose requirements that cost money or require people to leave their home. The third element, she said, is that the moratorium lasts for the entirety of the public health emergency.

CHAIR SPOHNHOLZ asked if Ms. Bailey has any sense of the relief packages that have been advanced by the federal government and what they provide for states.

MS. BAILEY stated that her colleagues and partner organizations are pushing for the inclusion of cash assistance for low-income families to help them avoid eviction. She offered her belief that the only way forward is to target significant assistance to the most vulnerable. She speculated there will be gaps in relief allocation composed of individuals who don't qualify for unemployment insurance or federal benefit programs. She further noted that some action has been taken to give relief to

homeowners with mortgages that are insured by the federal government; however, the same cannot be said for renters.

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REPRESENTATIVE FIELDS asked if the CBPP is working to ensure that workers who stay employed with less hours can collect unemployment insurance without those payments offsetting their wages.

MS. BAILEY said she is unaware of those details, as her field of knowledge is in health care and affordable housing.

CHAIR SPOHNHOLZ offered her belief that there are provisions in HR 6201 that allow for vastly expanded unemployment benefits and wage relief. She added that there may be additional provisions for wage relief in a forthcoming omnibus package, which will be important for small business owners and contract employees who are not eligible for unemployment insurance.

[3:41:54 PM](#)

BOB PICKETT, Commissioner, Regulatory Commission of Alaska (RCA), opined that the House Labor and Commerce Standing Committee has done a good job in offering HB 310. He said the bill recognizes the challenges faced by Alaska utility customers, the utilities themselves, and the RCA during these difficult times. Addressing Section 1 of HB 310, he suggested clarifying that the tolling starts on the date of the emergency disaster declaration and, ideally, doesn't end until the situation normalizes. He noted that it will be necessary to prioritize these matters immediately after the resumption of normal operations to reflect intervening events. Additionally, he opined that Section 3 would be clarified with the inclusion of language to the effect of "that the prohibition on disconnection and a requirement for reconnection are not withstanding in the approved care of provisions to the contrary. Regulated utilities and [indisc.] unregulated utilizes that may not have tariffs and are subject to AS 42.05.371 ... The terms and conditions under which a utility offers its services and facilities to the public shall be governed strictly by the provisions of this currently effective tariff." He offered his belief that without this clarification there may be a dissonance with the codified law.

[3:44:49 PM](#)

STUART GOERING, Senior Assistant Attorney General, Office of the Attorney General, Department of Law, stated that Section 3 allows public utilities to create regulatory assets. He said that after reading the sectional analysis and the sponsor statement, he understands the intention; however, he opined that the current language may lead to unintended consequences. He explained that while the legislature can change the way rate making occurs in the state of Alaska, regulatory assets are controlled by financial accounting standards set by the Financial Accounting Standards Board. There is a standard that applies to regulatory assets and effectively, the accounting industry does not recognize regulatory assets unless they are created by regulators. He suggested improving Section 3 by clarifying that it would be the public utilities commission - which in this case, is the RCA - that is creating the regulatory asset under specific circumstances. He expressed his concern that the current language in Section 3 would not allow utilities to get the financial support they need from the financial industry based on their own creation of an asset without a regulatory body intervening.

CHAIR SPOHNHOLZ recounted hearing conflicting opinions on Section 3. One opinion, she said, is that Section 3 isn't necessary because the normal accounting practices and standards for utilities handle this practice. The other opinion called for potentially amending Section 3 to allow for recouping the administrative expenses associated with the COVID-19 response.

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MR. GOERING said both observations are accurate. He explained that utilities account for delinquent accounts by carrying them in their accounts receivable until they become uncollectable. Normally, he said, "there is an allowance for bad debts built into the revenue requirement of the utility that is part of - that's built into the base rates that those utilities charge." He added that in this case, people are anticipating that both the number and amount of uncollectable accounts might become larger after this crisis is over. It is those extraordinary costs that will eventually have to be recovered through a regulatory asset. He went on to say that right now, people who have not paid their utility bills are currently in the utility's accounts receivable as an asset on their balance sheets. HB 310 as it currently exists, would allow utilities to move all those account receivables into a regulatory asset. He noted that it wouldn't necessarily be only the uncollectable amounts - it could potentially be more than that. Currently, he said,

Section 3 isn't immediately necessary because the unpaid accounts are in the utilities' assets as accounts receivable. Furthermore, he pointed out that if there are additional costs associated with this, they must be approved for inclusion in future rates because generally, future rates do not account for past losses. He reiterated that if there are costs in addition to bad debts, those would have to be placed into some kind of regulatory asset that would be collected over time in the future through rates, which would normally involve a petition to the RCA.

CHAIR SPOHNHOLZ surmised that the question is whether to get rid of Section 3 or to add more to it. She asked what Mr. Goering recommends.

MR. GOERING opined that in its current form, Section 3 is unnecessary. Nonetheless, he said utilities would like to have a streamlined process for the creation of regulatory assets, so they can have assurance that they can collect in future rates, which will allow them to borrow money from financial markets to sustain their current operations. He offered his belief that "something needs to go in where Section 3 is, but in a different form than is currently there." He noted that he has some suggested language that would address concerns without having the ambiguity of whether the regulatory assets would be recognized by the accounting and financial industries.

CHAIR SPOHNHOLZ said that would be helpful.

[3:53:08 PM](#)

REPRESENTATIVE HANNAN asked for an example of what a regulatory asset is apart from a bad debt.

MR. GOERING pointed out that typically, bad debts are not regulatory assets. He added that regulatory assets are usually for extraordinary things. He said, for example, a utility could ask for a regulatory asset to be created for costs incurred for uninsured earthquake damage or for a "once-in-a-generation windstorm." He added that in this case, if the state suspends the disconnection of service for nonpayment it would be an "extraordinary thing" that the utilities would need to recover.

REPRESENTATIVE HANNAN sought to clarify whether the confusion in Section 3 is that it creates a regulatory asset of bad debt from COVID-19 related circumstances, which wouldn't usually qualify as a regulatory asset. She added, "and if in doing so, we need

to be cautious and make sure it's narrow enough that it doesn't in perpetuity create bad debt as a regulatory asset under statute just as a temporary in these circumstances, allowing those to be regulatory assets." She asked if that is correct.

MR. GOERING said it's not the nature of the regulatory asset that is concerning. The concern is who is creating the regulatory asset. He turned attention to Section 3, which currently asserts that the certificated utility may create regulatory assets; however, typically, regulatory assets are created by regulators. He reiterated that the concern is who creates the regulatory asset, not what the regulatory asset is recovering the cost of.

REPRESENTATIVE HANNAN asked if Section 3 would satisfy legal concern if it were to clarify that the RCA would determine the bad debt as a regulatory asset under COVID-19 related circumstances.

MR. GOERING answered yes. He suggested inserting the following language in Section 3:

"A utility certificated under AS 42.05 may petition the Regulatory Commission of Alaska to create a regulatory asset or assets recovered through general rates or a sur charge for costs, including residential utility bills uncollectable due to the public health emergency declared by the governor and the extension of that emergency declaration by the legislature without the filing of a general rate case."

CHAIR SPOHNHOLZ said she appreciates the clarification.

[3:58:54 PM](#)

MR. PICKETT added that the RCA will work as hard and cooperatively as they can with the utilities. He noted that as of tomorrow, the majority of the RCA staff will be working remotely and given the complex engineering, financial, legal and regulatory issues, it's absolutely critical to keep things moving.

[3:59:40 PM](#)

REPRESENTATIVE HANNAN sought clarification as to whether creating a regulatory asset from COVID-19 related debt means rate payers will pick up that bad debt in the future.

MR. PICKETT replied short of federal assistance specifically targeted towards that type of bad debt, that is the only way it can be recovered.

CHAIR SPOHNHOLZ said that underscores the necessity of measures meant to prevent people from accruing debt. She emphasized the importance of making sure that in the short term, people are not getting their heat or lights turned off because they are underemployed due to COVID-19.

[4:01:06 PM](#)

REPRESENTATIVE HANNAN inquired as to the legal definition of affidavit.

[4:02:13 PM](#)

NOAH KLEIN, Legislative Legal Services, explained that an affidavit is a signed statement without a specific notarization requirement that is confirmed by an oath or an affirmation.

[4:02:49 PM](#)

ERROL CHAMPION, Alaska Association of Realtors, thanked the committee for bringing HB 310 forward to provide important protection to Alaskans. He offered several suggestions for the bill, mostly to Section 4. He noted that rentals cannot be presumed as only residential, as all properties, including residential and commercial, will be impacted by this pandemic. He added that the majority of commercial property in this state belong to small business owners. Additionally, he said he is reassured that the [rental payment] obligation is a deferment rather than a forgiveness as the federal wage replacement effort reaches Alaskans. He offered his belief that forgiving the obligation would only transfer the economic hardship or burden onto small business property owners, other tenants, or mortgage investors. Furthermore, he requested a clarification that the provisions [in HB 310] apply only to real financial hardships directly related to COVID-19 and are not used to circumvent eviction actions or violations of the condition of the Landlord Tenant Act. He applauded the legislature's efforts in moving swiftly to provide protections for Alaskans in light of this pandemic.

[4:06:23 PM](#)

REPRESENTATIVE STORY agreed with Mr. Champion's observation on the deferment of rental payments and how it might affect landlords. She asked if he had any suggestions on how to remedy it.

MR. CHAMPION suggested clarifying that [financial hardships] must be specifically related to COVID-19.

[4:08:31 PM](#)

CHAIR SPOHNHOLZ noted that page 2, lines 19-21, specifically state "during the public health disaster emergency declared by the governor on March 11, 2020, and an extension of that emergency declaration by the Alaska State Legislature," which is directly referring to the COVID-19 emergency disaster declaration. She said that is the element of the bill made clear in every section that relates to this specific public health emergency and not to the myriad of other reasons why people might not pay rent. She added that HB 310 does not change the landlord tenant laws in any other way. Furthermore, she stated that page 2, lines 24-25, clarify that a person seeking protection as a result of the disaster declaration must provide the landlord with an affidavit promising under penalty of perjury that his or her financial hardship is related to COVID-19. She added that there are a cascading series of effects that are part of the reason that the bill includes the mortgage foreclosure element in combination with the eviction piece, as the two go hand in hand.

REPRESENTATIVE STORY acknowledged that there will be bad debt whether it's from the renters or the mortgage owner.

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REPRESENTATIVE RASMUSSEN questioned whether the affidavit would be accompanied by a document that verifies a notice of layoff from the employer to protect both parties from potential lawsuits.

CHAIR SPOHNHOLZ said there is currently nothing in HB 310 requiring that. She pointed out that people who are temporarily underemployed will not have a layoff notice. She welcomed any suggested language that Representative Rasmussen might have.

REPRESENTATIVE RASMUSSEN said she would follow up with the requested information.

REPRESENTATIVE STORY noted the RCA mentioned a way they could recoup bad debt by raising rates. She questioned whether landlords could do the same by charging higher rental fees.

CHAIR SPOHNHOLZ asked Mr. Champion if the industry has a standard practice for situations where tenants cannot pay their rent for several months.

[4:14:06 PM](#)

MR. CHAMPION said landlords do not increase the rental rates for other tenants when there are natural vacancies. He offered his belief that the practice would not change for the current situation.

CHAIR SPOHNHOLZ said the RCA does have provisions for recouping costs and allowing utilities to pass on cost increases, whereas landlords do not have the same level of regulation or oversight.

REPRESENTATIVE STORY said no one wants to pass on bad debt. She restated the problem this presents for owners of duplexes and apartment buildings. She asked what can be done for owners if they don't have the ability to collect payments that have not been made.

CHAIR SPOHNHOLZ clarified that there is nothing in this bill that absolves people who cannot pay their rent from the obligation to make good on that liability at a later date; however, they will not be responsible for those payments immediately.

REPRESENTATIVE HANNAN added that she does not want to create the unnecessary burden of having to prove that, for example, someone cannot open their business and pay rent because cruise ships are not operational until July. She said she supports the current requirement of an affidavit under risk of perjury. She opined that leaving certain rental situations flexible while ensuring that families aren't evicted during this time of economic hardship is the right scope of intent.

[4:19:21 PM](#)

DIANE KAPLAN, Anchorage Homelessness Leadership Council; President, Rasmuson Foundation, stated that it's easier and less costly to keep people that are currently housed than to house a person who is homeless. She added any action the state can take to keep families and individuals who have lost their income from

falling into homelessness would be welcome. She reported that in Anchorage, any additional person that falls into homelessness puts added pressure on the city's resources, the Ben Boeke Ice Arena and the Sullivan Arena facilities, which are already over capacity. She further noted that real estate and landlords are represented on the Anchorage Homelessness Leadership Council. She said none of them want to evict people and are trying to work with tenants. She offered her understanding that most of the current evictions are people who cause life/safety risks at properties, such as domestic violence, rather than because of financial issues. She added that in most cases, landlords are asking residents to complete a payback agreement to stay in their unit, which generally extend 12-18 months or longer if there are extenuating circumstances. She opined that the proposed approach under HB 310 would preserve the existing workforce housing without increasing the number of people that are unhoused.

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REPRESENTATIVE FIELDS pointed out that the governor recently vetoed millions of dollars in funding for the Homeless Assistance Program (HAP) and Special Needs Housing Grants (SNHG). He asked Ms. Kaplan to talk about the impact of those vetoes.

MS. KAPLAN clarified that there are two lines of funding that are concerning: \$1.25 million that was vetoed from Alaska Housing Finance Corporation (AHFC) in this year's capital budget, and \$2 million that was originally in the budget for 2021. Altogether, that is \$3.25 million less than [AHFC] was hoping to have available over the next six months for the current homelessness crisis.

REPRESENTATIVE FIELDS suggested re-appropriating that money to give the governor another chance not to veto it in light of the significant risk of homelessness during this crisis.

MS. KAPLAN recounted that the governor communicated he would not veto the \$1.25 million from this year's budget if it were restored. She indicated that Representative Rasmussen received the same communication.

[4:23:31 PM](#)

REPRESENTATIVE RASMUSSEN noted that she has an amendment drafted to restore the \$1.25 million.

[4:24:03 PM](#)

RYAN STRONG, Chief Banking Officer, First National Bank Alaska; President, Alaska Bankers Association, opined that the bill is well intentioned and requires certain activities that banks are already doing today, such as postponing foreclosures. Additionally, he said, banks are actively working with borrowers to modify loan payments to allow them to work through this difficult time. Regarding the specifics of HB 310, he observed that the bill doesn't define the term "person." He said it appears to mean a natural person rather than a corporation, LLC, or the like. He offered his belief that using the term natural person would clarify the intent of the bill. He went on to address [Section 4 and Section 5] of the bill. He said the intent is relatively clear that the financial hardship should be a result of the COVID-19 pandemic and the state's emergency declaration; however, it doesn't clearly state that. He recommended removing potential ambiguity by including language to clarify that the borrower or tenant's financial hardship is a result of the COVID-19 pandemic. He expressed concern from the banking community that this prohibition on foreclosure activity could extend well into the future, long after the main activity from the pandemic has impacted Alaska's economy. He conveyed that if the prohibition were to extend past the main impacts of the emergency declaration, it would impair lenders' ability to manage treble debt and recover from the pandemic themselves. To conclude, he explained that banks are here to work with their customers to ensure mutual success, adding that banks do not want to foreclose in the midst of a pandemic.

[4:26:41 PM](#)

REPRESENTATIVE FIELDS asked what would be most helpful in terms of stabilizing banks and preventing them from going under during this crisis.

MR. STRONG explained that borrowers are going to need liquidity more than anything else during this crisis. He restated that banks are already actively modifying loans to push payments into the future. He said anything the state can provide to help would be a positive.

[4:27:52 PM](#)

REPRESENTATIVE HANNAN questioned whether the ABA is of the opinion that HB 310 should be narrowly construed to apply to residential properties rather than commercial properties.

MR. STRONG said the ABA does not yet have a formal position on the bill. Nonetheless, he stressed the importance of understanding how the bill will define the term "person."

CHAIR SPOHNHOLZ agreed. She said in introducing HB 310, her intention was to ensure that people wouldn't lose their residence because of COVID-19. She added that [the bill] came to her because of the closure of restaurants and bars and because people who work in those industries are living paycheck to paycheck. She pointed out that Alaska already has a big enough problem with homelessness as it is. She suggested that Mr. Klein could discuss different ways in which the bill could achieve the goal of protecting both small businesses and individual Alaskans without opening it up to large corporate entities.

REPRESENTATIVE FIELDS noted that his preference is to protect small businesses. He reported that economic literature suggests one of the biggest dangers from this crisis is losing numerous small businesses from a lack of cash flow, which would magnify and extend the economic impact. He offered his belief that helping small businesses survive is sound economic policy.

[4:33:13 PM](#)

MR. KLEIN explained that "person" is defined in Title 1 of Alaska Statutes for the entire body of Alaska law unless the context requires otherwise. He said the definition includes a corporation, company, partnership, firm association, organization, business trust, or society, as well as a natural person. He argued that if a court were interpreting the term "person" in the uncodified law, it would include small businesses and could also include larger businesses. He suggested defining the term "financial hardship" in the bill, which would allow a discussion of which types of financial hardship are being protected.

CHAIR SPOHNHOLZ sought clarification regarding the definition of financial hardship.

MR. KLEIN suggested placing dollar amounts on financial hardship or a timeframe for an amount owed leading up to the potential for eviction or foreclosure. He said that might allow the

legislature to put more sideboards on who would be eligible to receive the benefit.

CHAIR SPOHNHOLZ proposed referencing specific bullets from the definition of "person" in Title 1.

MR. KLEIN confirmed that option; however, he explained that those types of corporations don't specify size. He added that if the intent is to address the size of a company, either further defining "person" or further defining the type of financial hardship would suffice.

[4:35:40 PM](#)

REPRESENTATIVE HANNAN asked if the legal definition of "person" in Alaska codified law includes a reference to corporations that have been chartered and resident in Alaska.

MR. KLEIN directed attention to AS 01.10.060(a)(8), which reads:

"person" includes a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person

MR. KLEIN in response to Representative Hannan, noted that the definition is not limited to anything incorporated or established in Alaska.

[4:37:20 PM](#)

REPRESENTATIVE STORY asked if the current language in HB 310 clarifies that the prohibition of evictions is not a forgiveness of the obligation to pay rent.

MR. KLEIN said the bill doesn't explicitly grant forgiveness to any amount owed, whether its rent or debt leading to foreclosure. He suggested adding subsections to Section 4 and Section 5 to clarify the bill's intention.

CHAIR SPOHNHOLZ indicated that a court would not allow forgiveness unless it was explicitly defined [in the bill].

[4:38:59 PM](#)

KASSANDRA TAGGART, Real Property Management, said many mortgage companies and landlords understand that they need to help and are already playing their part; however, directly impacted

tenants will still need protection. She offered her belief that HB 310 would start that conversation and encourage the court to consider reopening for forceful entry and detainer (FED) evictions, which would allow landlords to manage squatters and the destruction of property. She went on to address specific elements of the bill. She opined that the definition of the term "person" needs to be further clarified. Additionally, she explained that numerous commercial properties in Alaska encompass small local businesses, many of which had to close during this time. She said they should be considered within this bill as they also face potential eviction. Furthermore, she recommended further defining "financial hardship" as it relates to COVID-19. She expressed concern that people would take advantage of the bill as it's currently written, causing further hardships to landlords and financial institutions. She also suggested enhancing what the affidavit is required to say, as well as requiring the provision of a document showing reduced work hours or a doctor's note, for example. She observed that the bill does not specifically acknowledge that rent is still due, even if the payment is postponed via a continuance to a future date. She suggested adding a clause that addresses deferment. In closing, she shared a personal anecdote.

[4:43:45 PM](#)

REPRESENTATIVE HANNAN sought clarification on the acronym FED.

MS. TAGGART said it stands for Forceful Entry [and] Detainer, "which has been shut down in Anchorage and the valley until March 31."

REPRESENTATIVE HANNAN asked if [FED] is a step in the process of eviction or if it's a type of court.

MS. TAGGART offered her understanding that a tenant must be served a notice for an eviction to take place. After the notice is served, the parties appear in [the District Court], which processes small claims, including FED evictions. She said that is phase one of an eviction, which issues a writ of possession of the property.

MS. TAGGART responding to a follow-up question from Representative Hannan, explained that at this time, the courts are still open; however, in order to limit the amount of people in the courthouse, FED evictions are currently suspended. She pointed out that FED eviction proceedings could be done telephonically, which is what she is advocating for. She

further noted that judges can ask if the tenant and landlord have entered into a "prepayment arrangement" to give the tenant time to honor the payment plan.

REPRESENTATIVE HANNAN pointed out that the bill clearly states that any financial hardship must have started on or after March 11, 2020, when the governor issued the public health disaster emergency. She asked if Ms. Taggart concluded that the courts might not understand that.

MS. TAGGART offered her belief that the individual judges would not understand the current language. She reiterated that judges typically ask if the landlord and tenant have attempted a payment arrangement. She said that can be used to draft something around deferments in order to protect people that are truly impacted.

[4:48:34 PM](#)

JOYCE PARKS suggested adding an automatic emergency extension for an additional year or more to prevent the legislature from having to meet at a later date. She added that it's hard to know who will be impacted and how long this crisis will last. Additionally, she inquired as to the criteria for determining when the public health disaster emergency will be lifted.

[4:50:38 PM](#)

LEE THIBERT, Chief Executive Officer, Chugach Electric Association, stated that Chugach Electric Association has been working with the committee to find good solutions to this problem. He said he submitted written testimony to the committee.

CHAIR SPOHNHOLZ noted that the letter submitted by Mr. Thibert provided comments on Section 1 and expressed support for Section 2 and Section 3.

MR. THIBERT confirmed that.

[4:52:12 PM](#)

REPRESENTATIVE STORY asked how Mr. Thibert's comments on Section 1 differ from the bill as it's currently written.

[4:52:48 PM](#)

MR. THIBERT referring to his written testimony, suggested including "except those where the timeline has been extended for good cause by order of the commission pursuant to AS 42.05.715(f) prior to March 11, 2020," to ensure that existing regulatory processes continue without further extension.

[4:53:40 PM](#)

CHAIR SPOHNHOLZ responding to Ms. Parks, clarified that the public health disaster emergency would end when the governor receives a recommendation from the Department of Health and Social Services (DHSS). She noted that currently, the emergency declaration is for a 30-day time period; however, HB 310 allows for the possibility of an extension - without putting an artificial number on it - by both the governor and the legislature. She expressed her hope that public health disaster emergency will be concluded in under a year.

[4:56:42 PM](#)

DEAN THOMPSON, Kempffel, Huffman and Ellis, PC, informed the committee that he is testifying on behalf of the Alaska Power Association (APA), to whom his firm serves as outside council. He direction attention to Section 3 of the bill, suggesting a broader inclusion of regulatory assets, such as other extraordinary expenses that result from the COVID-19 disaster. He indicated that there could be significant unanticipated costs that would not otherwise occur, and under general ratemaking rules would not be recoverable in rates. This would allow utilities to record those expenses as regulatory assets and recover them over time as approved by the RCA. He explained that it would help utilities meet their debt covenants and financial ratio requirements. He recommended that the bill authorize a streamlined process for regulatory assets to allow utilities to avoid a formal proceeding with the RCA during this crisis.

CHAIR SPOHNHOLZ sought clarification on the process for a utility with individual rate payers who cannot fulfill their obligatory payments. She asked what the current internal process is for carrying over a debt.

MR. THOMPSON explained that utilities have a reserve for bad debt on their balance sheet. He said, "based on year-to-year adjustments of their bad debt level, a certain amount of bad debt expense will be recorded on the income statement." He stated when utility customer does not pay, it ultimately ends up

being reflected as a bad debt expense in electric utility rates. He added that if there were a significant increase in customers that don't pay, it would be reflected as an increase in rates for all customers as part of the revenue requirement for the utility when they adjust their rates.

[5:04:54 PM](#)

REPRESENTATIVE HANNAN sought to clarify whether Mr. Thompson is asserting that [HB 310] should "grant authority for the RCA for every utility to be able to keep track of those extraordinary expenses related to COVID if they're ever able to recover them or have insurance recover that cost." She asked if that is correct.

[5:05:34 PM](#)

MR. THOMPSON suggested language clarifying that if the expense is extraordinary and a result of COVID-19, the utility would be allowed to book that cost as a regulatory asset on its balance sheet - instead of an expense on its income statement - and in doing so, ensure that those costs would be recoverable.

CHAIR SPOHNHOL asked Mr. Pickett to comment on Mr. Thompson's proposal.

[5:07:34 PM](#)

MR. PICKETT said he would want to see the proposal in writing.

CHAIR SPOHNHOLZ noted that she is inclined to include that provision as a change to Section 3 because the RCA would still have to consider whether the expenses are justifiably extraordinary and related to COVID-19. She said this would allow utilities that are potentially restructuring the way they do business in response to the public health crisis to recoup those costs later.

[5:09:36 PM](#)

REPRESENTATIVE HANNAN asked if there is a standard period of time for recouping regulatory assets.

MR. PICKETT said it varies. He added that it's factually intensive depending on the nature of the regulatory asset.

REPRESENTATIVE HANNAN asked whether it would be helpful or a hindrance to put a timeframe on that process.

MR. PICKETT said it would depend on how long the public health disaster emergency lasts. He added that the timeframe for recovery needs to be adjusted accordingly.

CHAIR SPOHNHOLZ noted that the bill as it's currently crafted would go through April 2021. She said that her inclination is to leave the timeframe as it is. She added that if the pandemic lasts that long, there will an opportunity to make any necessary changes in January 2021.

[5:14:01 PM](#)

CHAIR SPOHNHOLZ closed public testimony.

[HB 310 was held over]

[5:14:20 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at [5:14] p.m.