

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

March 3, 2022

8:03 a.m.

MEMBERS PRESENT

Representative Sara Hannan, Co-Chair
Representative Calvin Schrage, Co-Chair
Representative Josiah Patkotak, Vice Chair
Representative Harriet Drummond
Representative Mike Prax
Representative Ken McCarty
Representative Kevin McCabe

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 309

"An Act exempting candidates for municipal office and municipal office holders in municipalities with a population of 15,000 or less from financial or business interest reporting requirements; relating to campaign finance reporting by certain groups; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 227

"An Act relating to municipal energy and resilience improvement assessment programs; and providing for an effective date."

- MOVED HB 227 OUT OF COMMITTEE

SENATE BILL NO. 143

"An Act relating to horizontal property regimes and common interest communities; and relating to mortgages, deeds of trust, and other property liens."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 309

SHORT TITLE: APOC; CAMPAIGN CONTRIBUTIONS/REPORTING

SPONSOR (s) : REPRESENTATIVE (s) KREISS-TOMKINS

02/07/22 (H) READ THE FIRST TIME - REFERRALS
02/07/22 (H) CRA, STA
03/03/22 (H) CRA AT 8:00 AM BARNES 124

BILL: HB 227

SHORT TITLE: MUNI ENERGY IMPROVEMNT ASSESSMENT PROGRAM

SPONSOR (s) : REPRESENTATIVE (s) SCHRAGE

01/18/22 (H) PREFILE RELEASED 1/7/22
01/18/22 (H) READ THE FIRST TIME - REFERRALS
01/18/22 (H) ENE, CRA
01/20/22 (H) ENE AT 10:15 AM ADAMS 519
01/20/22 (H) Heard & Held
01/20/22 (H) MINUTE(ENE)
01/27/22 (H) ENE AT 10:15 AM ADAMS 519
01/27/22 (H) Moved HB 227 Out of Committee
01/27/22 (H) MINUTE(ENE)
01/31/22 (H) ENE RPT 4DP 2NR
01/31/22 (H) DP: ZULKOSKY, CLAMAN, FIELDS, SCHRAGE
01/31/22 (H) NR: KAUFMAN, RAUSCHER
03/01/22 (H) CRA AT 8:00 AM BARNES 124
03/01/22 (H) Heard & Held
03/01/22 (H) MINUTE(CRA)
03/03/22 (H) CRA AT 8:00 AM BARNES 124

BILL: SB 143

SHORT TITLE: COMMON INTEREST COMMUNITIES; LIENS

SPONSOR (s) : SENATOR (s) REVAK

01/18/22 (S) PREFILE RELEASED 1/7/22
01/18/22 (S) READ THE FIRST TIME - REFERRALS
01/18/22 (S) L&C
02/09/22 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/09/22 (S) Moved SB 143 Out of Committee
02/09/22 (S) MINUTE(L&C)
02/11/22 (S) L&C RPT 3DP
02/11/22 (S) DP: STEVENS, MICCICHE, GRAY-JACKSON
02/16/22 (S) TRANSMITTED TO (H)
02/16/22 (S) VERSION: SB 143
02/17/22 (H) READ THE FIRST TIME - REFERRALS
02/17/22 (H) L&C
02/17/22 (H) CRA REFERRAL ADDED BEFORE L&C
03/01/22 (H) CRA AT 8:00 AM BARNES 124
03/01/22 (H) Heard & Held
03/01/22 (H) MINUTE(CRA)

03/03/22

(H)

CRA AT 8:00 AM BARNES 124

WITNESS REGISTER

CLAIRE GROSS, Staff

Representative Jonathan Kreiss-Tomkins

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 309 on behalf of Representative Kreiss-Tomkins, prime sponsor.

HEATHER HEBDON, Executive Director

Alaska Public Offices Commission (APOC)

Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 309.

RYAN JOHNSTON, Staff

Representative Calvin Schrage

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Provided information during the hearing on HB 227 on behalf of Representative Schrage, prime sponsor.

SHAINA KILCOYNE, Energy and Sustainability Manager

Solid Waste Services

Municipality of Anchorage

Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 227.

ANNA BRAWLEY, President

Edgewater Villa HOA Board

Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 143.

DEBORAH BOROLLINI, representing self

No address provided

POSITION STATEMENT: Testified in opposition to SB 143.

JASON HENNINGS, representing self

Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 143.

CINDY LENTINE, President

Commodore Park HOA

Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 143.

EMMA TORGERSON, Staff
Senator Josh Revak
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered a question during the hearing on SB 143 on behalf of Senator Revak, prime sponsor.

ACTION NARRATIVE

[8:03:43 AM](#)

CO-CHAIR SARA HANNAN called the House Community and Regional Affairs Standing Committee meeting to order at 8:03 a.m. Representatives Drummond, McCabe, Patkotak, Schrage, and Hannan were present at the call to order. Representatives McCarty and Prax arrived as the meeting was in progress.

HB 309-APOC; CAMPAIGN CONTRIBUTIONS/REPORTING

[8:04:15 AM](#)

CO-CHAIR HANNAN announced that the first order of business would be HOUSE BILL NO. 309, "An Act exempting candidates for municipal office and municipal office holders in municipalities with a population of 15,000 or less from financial or business interest reporting requirements; relating to campaign finance reporting by certain groups; and providing for an effective date."

[8:05:24 AM](#)

CO-CHAIR SCHRAGE moved to adopt the proposed committee substitute (CS) for HB 309, Version 32-LS0540\G, Bullard, 2/24/22, as a working document. There being no objection, Version G was before the committee.

[8:05:50 AM](#)

The committee took an at-ease from 8:05 a.m. to 8:06 a.m.

[8:06:50 AM](#)

CLAIRE GROSS, Staff, Representative Jonathan Kreiss-Tomkins, Alaska State Legislature, presented HB 309 on behalf of Representative Kreiss-Tomkins, prime sponsor. She paraphrased

the sponsor statement [hard copy included in the committee file], which read as follows [original punctuation provided]:

HB 309 seeks to remedy two issues that will make the Alaska Public Offices Commission more effective.

HB 309 provides a campaign disclosure reporting exemption for smaller groups who don't intend to raise or spend more than \$2,500 in a calendar year (\$5,000 during an 18 month election cycle). The bill also exempts these groups from the electronic filing requirement for these reports. This is beneficial as smaller groups generally require much more APOC staff time and interaction because they are usually novices who are only interested in a single topic on a ballot, unlike ongoing groups that participate every year. A similar exemption already exists for judicial retention candidates and municipal candidates.

HB 309 would also exempt smaller communities (population of 15,000 or less), from Public Official Financial Disclosure (POFD) reporting requirements. There is already a minimum population exemption for campaign disclosures, but none for a POFD filing. Many of the smaller communities who struggle with clerk turnover, connectivity, and regular mail service often find themselves at a disadvantage when it comes to timely notifications and filing. This results in disproportionate civil penalties for these rural areas where most, if not all, of their municipal officers are serving in a volunteer capacity.

MS. GROSS pointed to conforming language in the bill and the effective date of January 1, 2023.

[8:09:44 AM](#)

CO-CHAIR HANNAN noted the following individuals were available for questions: Heather Hebdon, Executive Director, Alaska Public Offices Commission; and Alpheus Bullard, the bill drafter from Legislative Legal Services.

[8:10:00 AM](#)

REPRESENTATIVE MCCABE asked how many municipalities in Anchorage have populations under 15,000.

[8:10:32 AM](#)

HEATHER HEBDON, Executive Director, Alaska Public Offices Commission (APOC), answered that although she did not have the exact figure available at that moment, her estimate would be 25 communities. In response to a follow-up question regarding the need for HB 309, she explained that the smaller communities that struggle with "clerk turnover, connectivity issues, and mail service" are at a distinct disadvantage compared to those in urban issues that do not struggle with those issues. In these smaller communities, the vast majority are submitting forms manually and are serving in a volunteer capacity, and APOC finds it is continually penalizing them "for many things that are beyond their control."

[8:12:47 AM](#)

REPRESENTATIVE DRUMMOND asked how the bill sponsor determined the number should be 15,000, and she named some [municipalities] that would qualify but would not be considered small or "without robust Internet."

MS. GROSS answered that the number was derived as a result of talks with Ms. Hebdon, to whom she deferred.

[8:14:01 AM](#)

MS. HEBDON proffered that the minimum threshold that exists under campaign disclosure currently is [municipalities] of 1,000 or more. She said the 15,000 captures [municipalities] that APOC was not necessarily concerned about, but it exists in statute in terms of [municipalities of 15,000 and up] that are required to file electronically.

REPRESENTATIVE DRUMMOND told Co-Chair Hannan that she would like a list of [municipalities] with populations of 15,000 or less.

[8:15:35 AM](#)

REPRESENTATIVE MCCARTY questioned what "community" could encompass.

MS. GROSS noted that she may have used the term "community" but what is being discussed are municipalities, which are defined under statute.

[8:17:28 AM](#)

REPRESENTATIVE MCCABE observed he saw only five municipalities listed that are greater than 15,000, and he said he, too, would like a list.

CO-CHAIR HANNAN clarified that the committee needs more information on who is impacted and what the bill is trying to fix, because there is concern by members not to make the bill too broad. She then point out that one of the exemptions created under HB 309 states that the municipalities under 15,000 in population would still be allowed to file electronically; they would not be required to do so.

[8:19:07 AM](#)

REPRESENTATIVE DRUMMOND noted that the Alaska Municipal League has a directory of all the municipalities in Alaska, which includes population. She then asked if the provisions under the bill would apply to first-class cities or only to municipalities.

CO-CHAIR HANNAN asked whether the legislation addressed regional educational attendance area (REAA) elections.

[8:20:33 AM](#)

MS. HEBDON answered that the REAA elections are not regulated by APOC. She noted that currently municipalities are able to exempt themselves from POFD, and a vast majority have done so going back to approximately 1975. She offered her understanding that currently there are 30 municipalities and boroughs that fall under POFD regulations. Of those, 5 are over 15,000, so HB 309 would impact approximately 25 municipalities.

CO-CHAIR HANNAN suggested Ms. Hebdon could provide how many of those municipalities that are "covered by it" and which ones "already exempted themselves from the disclosure law."

MS. HEBDON said she would be happy to do that.

[8:22:09 AM](#)

CO-CHAIR SCHRAGE asked about the motivation for the \$2,500 cap. He asked if there are a lot of groups that raise less than that amount involved in elections.

MS. HEBDON answered that the \$2,500 was identified through currently existing statute related to municipal and judicial candidates that agree to raise less than \$5,000 during a campaign cycle of 18 months or two years. She said, "So, this was an effort to try to make ... it equal for these smaller groups." She said APOC finds there are smaller groups that are interested in one election, one candidate or issue, and do not have major expenditures, and APOC spends considerable time assisting those groups because they are novices requiring a lot of attention.

[8:23:40 AM](#)

REPRESENTATIVE PATKOTAK commented that his district, the North Slope Borough, has a population under 15,000, and he filed a POFD when he ran for assembly and had no issue doing so. He said the borough does not experience turnover of clerks. He asked where the language was in HB 309 which allows the option of continuing to file POFDs. He then pointed to the sponsor statement and noted that there is already "a minimum population exemption for campaign disclosures." He asked, "Are we mirroring that number with that 15,000 mark or is that a different number?"

MS. GROSS deferred to Ms. Hebdon.

[8:25:15 AM](#)

MS. HEBDON asked Representative Patkotak to confirm his first question as being whether municipalities exempted out of POFD under APOC could elect to "manage it themselves" and "require that their officials file POFDs or something similar."

REPRESENTATIVE PATKOTAK responded yes.

MS. HEBDON confirmed that is correct. She said she knew a few municipalities already doing so. Regarding Representative Patkotak's second question, she said the campaign disclosure threshold is a population of less than 1,000.

REPRESENTATIVE PATKOTAK, regarding the idea of municipal office holders following POFD filing, asked whether, under HB 309, and considering the responsibility of APOC, that would "still be able to be something that could be accomplished on line." He added that he wanted to know whether that is something "that still can be accomplished with the way the bill is written, as

far as online filing, if we do self-elect, and we do fall under that population threshold."

MS. HEBDON said she does not know the answer and would have to think about the question further.

REPRESENTATIVE PATKOTAK emphasized the importance of proper disclosure.

[8:29:06 AM](#)

CO-CHAIR HANNAN announced that HB 309 was held over.

[8:29:16 AM](#)

The committee took an at-ease from 8:29 a.m. to 8:32 a.m.

HB 227-MUNI ENERGY IMPROVEMNT ASSESSMENT PROGRAM

[8:32:03 AM](#)

CO-CHAIR HANNAN announced that the next order of business would be HOUSE BILL NO. 227, "An Act relating to municipal energy and resilience improvement assessment programs; and providing for an effective date.

[8:32:31 AM](#)

CO-CHAIR SCHRAGE, as prime sponsor of HB 227, reminded committee members that [the resilience improvement assessment programs] are a new financing mechanism that has spread throughout the U.S. He noted that HB 227 would expand the property assessed financing mechanism set in place under House Bill 80 [passed during the Thirtieth Alaska State Legislature] and loosen some of the restrictions, which should benefit quite a few communities with taxing authority.

CO-CHAIR HANNAN noted that six amendments had been submitted for consideration.

[8:33:46 AM](#)

REPRESENTATIVE MCCARTY moved to adopt Amendment 1 to HB 227, labeled 32-LS1028\I.3, Dunmire, 3/2/22, which read as follows:

Page 1, line 1, following "**programs**":
Insert "**for commercial buildings**"

[8:33:48 AM](#)

CO-CHAIR HANNAN objected for the purpose of discussion.

[8:34:20 AM](#)

The committee took an at-ease from 8:34 a.m. to 8:36 a.m.

[8:36:11 AM](#)

REPRESENTATIVE MCCARTY spoke to Amendment 1, explaining that it would limit the provisions under HB 227 to commercial buildings.

[8:36:59 AM](#)

CO-CHAIR SCHRAGE said while he appreciated the intent behind Amendment 1, there are provisions of HB 227 that "apply to other projects than just commercial buildings." He said changing the title of the bill would make it inconsistent with the content of the bill and, thus, constitutionally invalid. He said the proper way to address the issue would be to "amend the corresponding sections of the bill that would need those changes."

[8:38:06 AM](#)

REPRESENTATIVE MCCABE agreed with the bill sponsor that the corresponding language would need to be changed, and he concurred with Representative McCarty regarding the need to limit the bill to commercial buildings. He questioned how wide open the bill would be.

CO-CHAIR SCHRAGE deferred to his staff.

[8:39:14 AM](#)

RYAN JOHNSTON, Staff, Representative Calvin Schrage, Alaska State Legislature, on behalf of Representative Schrage, prime sponsor of HB 227, pointed out where in statute the provision is limited to industrial and commercial properties only: AS 29.55.100(a)(1), which read as follows:

(a) A municipality may establish an energy improvement assessment program under AS 29.55.100 - 29.55.165 to finance the installation or modification of permanent improvements that are

(1) fixed to existing privately owned commercial or industrial property; and

REPRESENTATIVE MCCABE concluded that Amendment 1 would "more conform" the proposed legislation to statute.

CHAIR SCHRAGE responded no. He offered his understanding as follows:

The issue is that the amendment specifically deals with sections that also apply to other statutes; ... however, this C-PACE program is limited -- there's a reason it's called C-PACE: "Commercial Property Assessed Clean Energy" is what it was called. We're talking more of the first three letters here, but again, it's restricted just to those commercial and industrial properties.

[8:40:34 AM](#)

REPRESENTATIVE DRUMMOND remarked on the restrictions in what could be commercial, such as between an apartment building versus a condominium.

CO-CHAIR SCHRAGE said he thinks Representative Drummond was correct that it would be "restricted in that way."

REPRESENTATIVE DRUMMOND asked whether there is a program that would apply to a condominium project that is similar in structure to a mixed-use development but wherein the apartments are separately owned.

CO-CHAIR SCHRAGE offered his understanding that there is not such a program currently. He said there has been initial restriction to those structures "that we have the most confidence in," but other states have expanded beyond that, and that is something that Alaska could consider in the future.

[8:42:33 AM](#)

REPRESENTATIVE PATKOTAK directed attention to language on page 3, in Section 5, subsection (a), [paragraphs] (1) and (2), and said he thinks "that's where you start to see the scope broaden beyond commercial and industrial property." He offered his understanding that by removing [paragraph] (2) and allowing Legislative Legal Services to make conforming changes, "that's how the title would change."

[8:43:36 AM](#)

CO-CHAIR SCHRAGE pointed to language on page 3, beginning on line [13], which read: "new construction or existing privately owned commercial or industrial property [;] and that", and he explained that [paragraphs] (1) and (2) ensue. He clarified that [paragraph] (2) expands the types of projects that would qualify for this financing mechanism, but the projects have to be for a commercial or industrial property.

REPRESENTATIVE PATKOTAK noted that the last sentence of a memorandum from Legislative Legal Services [included in the committee packet] read, "The scope of [AS]29.55.100(a) is not clearly limited to commercial buildings."

[8:44:45 AM](#)

CO-CHAIR HANNAN asked for confirmation that [Amendment 1] is specifying the actual physical building, not the property that surrounds it.

REPRESENTATIVE MCCARTY answered that's correct.

[8:45:29 AM](#)

MR. JOHNSTON noted that changing the bill title as proposed in Amendment 1 would "nullify the industrial side of the bill." Regarding the intent to address structures only, he pointed out that commercial construction would be on land zoned for commercial or industrial use. He said, "So, that would also conflict with the intent of the bill to allow new construction to be utilizing C-PACE programs."

[AN UNIDENTIFIED SPEAKER] said, "Correct."

[8:46:38 AM](#)

REPRESENTATIVE MCCABE said he still "sees this as an issue." He opined that "it still needs to be focused on buildings." He said, "If you're going to construct a new building, this would apply, because it's in here; it says construction of new buildings." He expressed concern regarding "the green agenda," and continued as follows:

I could have a[n] industrial or commercially zoned property on the corner of 20th and Muldoon, and I

could put in a charging farm with nothing but charging stations under this bill, get a huge tax financing break, and make a pile of money on the commuters that are leaving Anchorage that forgot to charge their cars on the way out.

REPRESENTATIVE MCCABE said he does not think that is the intent of HB 227; the intent is to provide resilience following earthquakes, floods, and high winds, so that commercial buildings can continue to operate quickly. Resiliency is tightly defined and is not needed for a piece of property, he posited.

[8:48:02 AM](#)

CO-CHAIR SCHRAGE said Representative McCabe brought forward valid concerns. He then clarified how the bill "might actually work in application." He talked about a co-housing unit in his district. He mentioned solar panels that could be put up in the parking area, not on the building itself. Then he said [the proposed legislation] is not offering a financial break but rather a financial mechanism that allows the obligation to be placed on the property instead of the individual owner, which allows for a more secure line of credit with longer terms and lower interest rates. He specified there is no subsidy from the government. Finally, he said whether or not [committee members] think [the bill] should be limited to commercial buildings, Amendment 1 does not limit the bill "in any way whatsoever." He reiterated that there is a way to make changes to the bill itself, but "this amendment is not that."

[8:50:04 AM](#)

REPRESENTATIVE DRUMMOND said she could see many places where "storm water management, for example, would be smart to manage for the building that you own on that property." She gave an example. She concluded that she does not see "why it should be limited only to the building."

[8:51:11 AM](#)

A roll call vote was taken. Representatives McCarty and McCabe voted in favor of Amendment 1 to HB 227. Representatives Drummond, Patkotak, Prax, Schrage, and Hannan voted against it. Therefore, Amendment failed by a vote of 2-5.

[8:52:10 AM](#)

REPRESENTATIVE MCCARTY moved to adopt Amendment 2 to HB 227, labeled 32-LS1028\I.4, Dunmire, 3/2/22, which read as follows:

Page 6, lines 22 - 25:
Delete all material.

Renumber the following bill sections accordingly.

[8:52:12 AM](#)

CO-CHAIR HANNAN and REPRESENTATIVE DRUMMOND objected.

[8:53:26 AM](#)

CO-CHAIR SCHRAGE compared this to refinancing, as this would provide a financing mechanism that is a great benefit to commercial and industrial property owners. He said, "Instead of exchanging a mortgage for a mortgage, they would be exchanging a mortgage for a property." He said this could "free up capital" that then could be invested in the community.

REPRESENTATIVE MCCABE asked whether those people who have had to remodel their businesses but did not do any "resiliency" projects would get nothing from this.

CO-CHAIR SCHRAGE gave the example of a property owner who has made improvements for a drainage issue and, under the proposed legislation, rather than take on the debt alone, could "attach that lien to the property." That could increase the value of the property.

REPRESENTATIVE MCCABE asked about the limit of two years for retroactivity.

CO-CHAIR SCHRAGE responded that he would support an amendment extending that period.

[8:57:23 AM](#)

REPRESENTATIVE MCCARTY spoke about someone getting a loan to purchase property and then flipping the debt on the new owner. He said beyond helping with energy and resiliency in construction, there would also be the ability for owners to use the funding for other purposes, which he said raises a red flag.

CO-CHAIR SCHRAGE described a hypothetical situation in which he bought property for \$50,000 and then sold it for \$100,000. If he used the property lien assessment, then when he sold the property, he would sell it for \$50,000, because the buyer would recognize that the property was encumbered by \$50,000; therefore, it would not be worth \$100,000. He clarified, "All of this is going to be disclosed in the purchase process." Addressing Representative McCarty's red flag concern, he said that if he were to get a conventional loan for \$100,000 and an 8 percent interest rate, the value of that loan is going to be higher than if he were to get that same \$100,000 loan at a 6 percent interest rate. He described the banks having a higher level of faith that the loan will get repaid on the assessed property; therefore, they can offer the lower interest rate, which frees up capital on the project that could be further invested in the property or community or other developments. He said these proposed transactions would be vetted by the financial institutions.

REPRESENTATIVE MCCARTY stated concern about a loan being used for other purposes than originally intended. He mentioned the risk of being a lender. He acknowledged that with the program proposed under HB 227, the risk to the lender is reduced "because property is seized." With the retroactive proposal of Amendment 2, there could be properties that have already gone through the loan process, "and now we're going to come in and allow them to ... seize money," and he said he is concerned if that "goes back to 1964."

[9:02:19 AM](#)

CO-CHAIR SCHRAGE explained that if he took out a loan for improvement of property, only those improvements that fit the definition of HB 227 could be refinanced through the commercially assessed property mechanism. He said with refinancing, it is likely the money has already been invested in the projects, and when refinancing as a property lien, the lender and municipality would make sure that the money is associated with clean energy projects. He pointed out that both commercial property owners and lenders have sent letters of support for HB 227. He concluded, "It's a good way for us to ... make more secure loans, ... on a longer term, at a lower cost of capital for the property owner, and allows them to further invest in their community."

[9:03:35 AM](#)

REPRESENTATIVE PATKOTAK asked about taxing and the possibility of there being a higher rate on the assessed value.

CO-CHAIR SCHRAGE responded that someone who made the investment to his/her property would likely have a higher assessed value and thus be paying higher property taxes. He offered his understanding that anyone who made an investment would be made aware of the tax implications.

[9:05:43 AM](#)

REPRESENTATIVE DRUMMOND maintained her objection to the motion to adopt Amendment 2.

[9:05:49 AM](#)

A roll call vote was taken. Representatives Patkotak, McCarty, and McCabe voted in favor of Amendment 2. Representatives Drummond, Schrage, and Hannan voted against it. Therefore, Amendment 2 failed by a vote of 3-3.

[9:07:02 AM](#)

REPRESENTATIVE MCCARTY moved to adopt Amendment 3 to HB 227, labeled 32-LS1028\I.5, Dunmire, 3/2/22, which read as follows:

Page 7, line 8, following "of":
Insert "**commercial building**"

[9:07:06 AM](#)

CO-CHAIR HANNAN objected and noted there was a legal memorandum ("memo") to distribute [from Andrew Dunmire, Legal Counsel, Legislative Legal Services, dated 3/2/22, subsequently included in the committee packet].

[9:07:15 AM](#)

The committee took a brief at-ease at 9:07 a.m. to distribute the memo.

[9:07:58 AM](#)

REPRESENTATIVE MCCARTY spoke to Amendment 3, which he said would specify the type of construction being done as pertaining to commercial buildings.

[9:08:29 AM](#)

CO-CHAIR SCHRAGE again noted that the underlying statute, as well as HB 227, are already restricted to commercial and industrial properties. He referred to the legal memo, which notes that [Amendment 3] would be inconsistent in that it does not reference industrial properties. He said the limitation to only buildings could be problematic. He said this section addresses reports required, not types of investments that qualify; therefore, it seems inconsistent to allow a wider scope for the types of investments allowed while restricting the reporting to just investments on commercial buildings and not commercial or industrial properties.

[9:09:59 AM](#)

A roll call vote was taken. Representatives McCarty and McCabe voted in favor of Amendment 3. Representatives Drummond, Patkotak, Schrage, and Hannan voted against it. Therefore, Amendment 3 failed by a vote of 2-3.

[9:10:55 AM](#)

REPRESENTATIVE MCCARTY moved to adopt Amendment 4 to HB 227, labeled 32-LS1028\I.6, Dunmire, 3/2/22, which read as follows:

Page 9, lines 2 - 3:

Delete "[FROM AN INDEPENDENT, THIRD-PARTY QUALIFIED ENERGY AUDITOR THE FOLLOWING:]"

Insert "from an independent, third-party qualified energy auditor the following:"

[9:10:59 AM](#)

REPRESENTATIVE DRUMMOND objected.

[9:11:21 AM](#)

REPRESENTATIVE MCCARTY spoke to Amendment 4. He said he did not know why the third-party auditor was being removed, and Amendment 4 would reinstate that language in HB 227.

[9:12:05 AM](#)

CO-CHAIR SCHRAGE responded that the reason the third-party auditor is being removed is because there has been the addition of projects to the scope of the financing mechanism that do not

have anything to do with energy, for example, seismic or storm water improvements. Further, he said he does not know anyone that would loan money without vetting the proposed project.

[9:13:31 AM](#)

CO-CHAIR HANNAN stated her understanding that HB 227 expands existing [statute], thus an auditor can direct for construction of "XYZ," and improvements on which financing is based can be met. However, with new construction, "you couldn't audit something that does not exist, but you could design it to be more energy efficient." She added, "So, requiring audit of it sort of is contrary to allowing new construction."

CO-CHAIR SCHRAGE confirmed Co-Chair Hannan is correct. The property assessed financing mechanisms were introduced only for projects that would result in a positive cash flow via energy savings. However, some projects may not result in savings of money but may increase the value of the property, he said.

[9:15:36 AM](#)

REPRESENTATIVE MCCABE moved to adopt Conceptual Amendment 1 to Amendment 4, to insert "appraiser, or licensed home inspector," following "auditor".

[9:16:17 AM](#)

REPRESENTATIVE DRUMMOND objected to question the use of "home" when this is commercial property. She then pointed out that there are already companies dedicated to doing "construction estimating."

REPRESENTATIVE MCCABE explained that his intent was "to expand the definition from energy auditors," and he expressed willingness to change the language to "architect" or "construction estimator". He explained his concern that "there's too much opportunity for nefarious activity ... between banks and good buddy commercial property owners," and he opined there needs to be a third party to verify the work is being done.

[9:18:41 AM](#)

CO-CHAIR HANNAN suggested Representative McCabe withdraw Conceptual Amendment 1 to Amendment 4.

[9:18:53 AM](#)

CO-CHAIR SCHRAGE suggested that if an amendment were necessary, it could be to require an independent third party, but he said he is struggling to come up with the right language and is concerned about legislating "on the fly."

[9:19:57 AM](#)

CO-CHAIR HANNAN noted those on line, who could weigh in on the issue.

[9:20:54 AM](#)

SHAINA KILCOYNE, Energy and Sustainability Manager, Solid Waste Services, Municipality of Anchorage, said it is difficult to pinpoint which kind of auditor to require, and typically other states' statutes are "leaving that up to the handbook where we have all of the details of the program within it."

[9:22:18 AM](#)

REPRESENTATIVE MCCABE withdrew the motion to adopt Conceptual Amendment 1 to Amendment 4.

[9:22:36 AM](#)

CO-CHAIR HANNAN noted that the lenders could speak to the issue but were not currently available on line.

[9:22:55 AM](#)

REPRESENTATIVE MCCABE said he would discuss the issue with a former testifier for the purpose of offering an amendment on the House floor.

[9:23:05 AM](#)

REPRESENTATIVE MCCARTY concluded that more information was needed to make an informed decision; therefore, he withdrew the motion to adopt Amendment 4.

[9:24:43 AM](#)

REPRESENTATIVE MCCABE moved to adopt Amendment 5 to HB 227, labeled 32-LS1028\I.2, Dunmire, 3/2/22, which read as follows:

Page 6, line 16:
Delete "market"

Page 6, lines 17 - 18:
Delete "or completion of the proposed energy or resilience improvement project"

[9:24:49 AM](#)

CO-CHAIR HANNAN objected for the purpose of discussion.

REPRESENTATIVE MCCABE spoke to Amendment 5. He expressed concern that without Amendment 5, the legislation would allow people "to overreach."

[9:26:28 AM](#)

CO-CHAIR SCHRAGE said he understood Representative McCabe's concern. He highlighted that the changes proposed under HB 227 are modeled after programs in other states, and lenders are supporting these changes because they do not result in high risk. He talked again about opening markets and infusing communities with investments made.

[9:28:16 AM](#)

REPRESENTATIVE DRUMMOND noted that the bill would remove the word "assess", which she said makes sense. She pointed out that it is more difficult to assess a commercial property, as compared to a home; therefore, she does not think the word "market" needs to be deleted from the bill. She added that she does not agree with the second part of Amendment 5.

[9:29:44 AM](#)

REPRESENTATIVE PATKOTAK said he is inclined to support Amendment 5 based on the intent of the maker of the amendment; however, he questioned what the benchmark of value would be if "market" was removed.

REPRESENTATIVE MCCABE explained the intent was to "remove the change that inserts 'market' instead of 'assessed'," thus leaving "assessed value" in the bill language.

REPRESENTATIVE PATKOTAK suggested adding "assessed" back through a conceptual amendment to Amendment 5.

[9:31:45 AM](#)

The committee took an at-ease from 9:31 a.m. to 9:32 a.m.

[9:32:51 AM](#)

REPRESENTATIVE MCCABE moved Conceptual Amendment 1 to Amendment 5 to insert "assessed" where "market" had been removed.

REPRESENTATIVE DRUMMOND objected, and she referred to her previous comment about assessed valuations of commercial property.

[9:34:15 AM](#)

CO-CHAIR SCHRAGE said either "assessed" or "market" needed to be left in the bill. He said the Municipality of Anchorage would prefer "market value" as a better metric to use in terms of "what the market is going to pay for the property." He said it would be "a tremendous limitation" on developers or those who want to invest in communities by "putting in a development" if they are allowed to utilize only existing assets for the lien, and "the value that would be created by the loan has no consideration by the lender." He added, "If we are to remove the ability to take in that future value that would be created, 'market' would be the preferable phrase."

REPRESENTATIVE MCCABE stated his problem with "market value" is that it is a nebulous term because "it's not defined who sets the market value." He suggested it could be set by a licensed commercial property appraiser. He concluded, "And with that, I think I'll withdraw this and do it on the floor."

[9:37:13 AM](#)

REPRESENTATIVE PRAX proffered that the municipally assessed value is supposed to be the market value, and "that is the official determination on other property tax payments or assessments, and this is kind of attached to the tax." He added, "So, it would seem like we should stick with what is legally in there."

[9:38:06 AM](#)

CO-CHAIR SCHRAGE asked for clarification as to whether Representative McCabe had withdrawn just Conceptual Amendment 1 to Amendment 5 or the underlying Amendment [5].

REPRESENTATIVE MCCABE responded, "I withdraw both the conceptual amendment and Amendment 5." In response to Co-Chair Hannan, he noted that he would not be offering Amendment 6, as previously planned, at this time.

[9:39:13 AM](#)

REPRESENTATIVE DRUMMOND moved to report HB 227, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

CO-CHAIR HANNAN noted there had been no amendments adopted; therefore, she asked Representative Drummond to restate the motion.

[9:39:36 AM](#)

REPRESENTATIVE DRUMMOND moved to report HB 227 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 227 was reported out of the House Community and Regional Affairs Standing Committee.

[9:40:04 AM](#)

The committee took an at-ease from 9:40 a.m. to 9:45 a.m.

SB 143-COMMON INTEREST COMMUNITIES; LIENS

[9:45:00 AM](#)

CO-CHAIR HANNAN announced that the final order of business would be SENATE BILL NO. 143, "An Act relating to horizontal property regimes and common interest communities; and relating to mortgages, deeds of trust, and other property liens."

[9:45:27 AM](#)

CO-CHAIR HANNAN opened public testimony on SB 143.

[9:45:48 AM](#)

ANNA BRAWLEY, President, Edgewater Villa HOA Board, referred to a letter of support from the Edgewater Villa Home Owner's Association Board, "in a prior committee." She emphasized the financial impact of one financial delinquency from one unit on all the other units. She said SB 143 addresses this issue. She

described a situation in which the HOA, incorporated prior to 1986, did not have first priority on a lien and was unable to collect an unpaid assessment, and this resulted in costly legal fees. She said the HOA has considered changing its bylaws to address this problem, but there would be cost to mitigate the risk. She indicated that SB 143 also addresses this issue. She strongly urged the committee to pass SB 143. In response to Representative Drummond, she confirmed she is the chair of the Turnagain Community Council.

9:50:01 AM

DEBORAH BOROLLINI, representing self, testified in opposition to SB 143. She said the committee should have heard testimony from the Alaska Housing Finance Corporation (AHFC), which she said is the property owner of several pre-1986 condominiums. She spoke about law suits and the effects of them on homeowners. She mentioned the notice requirement and pointed out the length of time it takes for mail to be delivered, including when mailed from out of state. She said she is a former paralegal. She warned that condominium association boards can "go rouge" and "have taken unlawful actions against homeowners in the past." She talked about the trauma faced by homeowners, and she said it is not uncommon for HOA board members to not understand financial records and federal and state laws. She related that the majority of those who have reached out to her for assistance have been Alaska Native minorities and first-time home buyers who do not have the money to hire lawyers. Sharing her own story, Ms. Borollini expressed that if she had not reached out to AHFC directly, she would have lost her own home. She indicated a desire to see legislation that will protect homeowners, most especially those who own condominium properties.

9:55:06 AM

JASON HENNINGS, representing self, stated that he has worked with HOAs on and off for ten years and supports SB 143. He said of two condominiums he has managed, the one built in 1986 had a delinquency rate of 5 percent, while the one built in 1985 had a delinquency rate of 24 percent. He talked about going directly to the bank when there is a delinquency and working out a plan to avoid foreclosures. He emphasized getting everything "on the same playing field" by giving those HOAs formed prior to 1986 the same rights as those formed in 1986 and later. He said he thinks "this process" will help HOAs in Alaska and "make everything fair."

[9:56:43 AM](#)

CINDY LENTINE, President, Commodore Park HOA, testified in support of SB 143. She described the condominiums and the variety of residents, indicating some are on fixed incomes. She said there have been multiple occasions in which some owners have not paid, and the other owners "must meet the cost when this happens." Meanwhile, the bank gets the benefit of the HOA interest without contributing to the cost. She said SB 143 will solve this problem by treating pre-1986 properties the same as post-1986 properties in regard to the liens. She said Commodore Park has one or two amended governing documents but has not been able to get response from the bank to get lienholder approval in writing - a requirement. The proposed legislation solves this problem.

[9:58:38 AM](#)

CO-CHAIR HANNAN asked Emma Torgerson whether the bill sponsor had heard from AHFC.

[9:59:06 AM](#)

EMMA TORGERSON, Staff, Senator Josh Revak, Alaska State Legislature, on behalf of Senator Revak, prime sponsor of SB 143, stated that the sponsor's office had not heard from AHFC regarding the proposed legislation.

[9:59:29 AM](#)

CO-CHAIR HANNAN, after ascertaining there was no one else who wished to testify, closed public testimony on SB 143.

CO-CHAIR HANNAN stated her intention to have the committee send a formal request to AHFC "to weigh in on the bill."

[SB 143 was held over.]

[10:00:33 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 10:00 a.m.