

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

March 11, 2022

1:07 p.m.

**MEMBERS PRESENT**

Representative Matt Claman, Chair  
Representative Liz Snyder, Vice Chair  
Representative Harriet Drummond  
Representative Jonathan Kreiss-Tomkins  
Representative David Eastman  
Representative Christopher Kurka

**MEMBERS ABSENT**

Representative Sarah Vance

**COMMITTEE CALENDAR**

CS FOR SENATE BILL NO. 11(JUD)

"An Act relating to community property and to community property trusts; and providing for an effective date."

- MOVED CSSB 11(JUD) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: SB 11

SHORT TITLE: COMMUNITY PROPERTY TRUSTS

SPONSOR(S): SENATOR(S) BEGICH

01/22/21	(S)	PROFILE RELEASED 1/8/21
01/22/21	(S)	READ THE FIRST TIME - REFERRALS
01/22/21	(S)	L&C, JUD
03/10/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/10/21	(S)	-- MEETING CANCELED --
03/12/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/12/21	(S)	Heard & Held
03/12/21	(S)	MINUTE(L&C)
03/19/21	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/19/21	(S)	Moved SB 11 Out of Committee
03/19/21	(S)	MINUTE(L&C)
03/22/21	(S)	L&C RPT 4DP
03/22/21	(S)	DP: COSTELLO, GRAY-JACKSON, STEVENS, HOLLAND
05/05/21	(S)	JUD AT 1:30 PM BUTROVICH 205

05/05/21 (S) Heard & Held  
 05/05/21 (S) MINUTE(JUD)  
 05/10/21 (S) JUD AT 1:30 PM BUTROVICH 205  
 05/10/21 (S) Moved CSSB 11(JUD) Out of Committee  
 05/10/21 (S) MINUTE(JUD)  
 05/11/21 (S) JUD RPT CS 3DP 2NR SAME TITLE  
 05/11/21 (S) DP: HOLLAND, HUGHES, KIEHL  
 05/11/21 (S) NR: MYERS, SHOWER  
 05/17/21 (S) TRANSMITTED TO (H)  
 05/17/21 (S) VERSION: CSSB 11(JUD)  
 05/18/21 (H) READ THE FIRST TIME - REFERRALS  
 05/18/21 (H) L&C, JUD  
 02/02/22 (H) L&C AT 5:15 PM BARNES 124  
 02/02/22 (H) Heard & Held  
 02/02/22 (H) MINUTE(L&C)  
 02/14/22 (H) L&C AT 3:15 PM BARNES 124  
 02/14/22 (H) Moved CSSB 11(JUD) Out of Committee  
 02/14/22 (H) MINUTE(L&C)  
 02/16/22 (H) L&C RPT 5DP 2NR  
 02/16/22 (H) DP: SNYDER, MCCARTY, SCHRAGE,  
 SPOHNHOLZ, FIELDS  
 02/16/22 (H) NR: NELSON, KAUFMAN  
 02/25/22 (H) JUD AT 1:30 PM GRUENBERG 120  
 02/25/22 (H) Heard & Held  
 02/25/22 (H) MINUTE(JUD)  
 03/04/22 (H) JUD AT 1:00 PM GRUENBERG 120  
 03/04/22 (H) Heard & Held  
 03/04/22 (H) MINUTE(JUD)  
 03/11/22 (H) JUD AT 1:00 PM GRUENBERG 120

**WITNESS REGISTER**

SENATOR TOM BEGICH

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** As prime sponsor, answered questions on CSSB 11(JUD).

ABIGAIL O'CONNOR, Attorney

O'Connor Law Office, LLC

Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on CSSB 11(JUD).

**ACTION NARRATIVE**

[1:07:08 PM](#)

**CHAIR MATT CLAMAN** called the House Judiciary Standing Committee meeting to order at 1:07 p.m. Representatives Eastman, Kriess-Tomkins, Drummond, Snyder, and Claman were present at the call to order. Representative Kurka arrived as the meeting was in progress.

**SB 11-COMMUNITY PROPERTY TRUSTS**

[1:07:38 PM](#)

CHAIR CLAMAN announced that the only order of business would be CS FOR SENATE BILL NO. 11(JUD), "An Act relating to community property and to community property trusts; and providing for an effective date."

REPRESENTATIVE EASTMAN asked for the status of any changes to federal regulations associated with marital trusts.

[1:08:54 PM](#)

SENATOR TOM BEGICH, prime sponsor, Alaska State Legislature, stated that he was unaware of any federal actions pertaining to the proposed bill. He offered that the bill had been drafted in response to a court case which had identified ambiguity in existing statute pertaining to the appreciation of value.

REPRESENTATIVE EASTMAN asked whether community property trusts are the same as grantor property trusts.

SENATOR BEGICH deferred to invited testifiers.

[1:10:06 PM](#)

ABIGAIL O'CONNOR, Attorney, O'Connor Law Office, LLC, answered that a community property trust is a grantor trust, but a grantor trust is not necessarily a community property trust. She added that a grantor trust is one for which the grantor is treated as the owner for income tax purposes. She stated that a grantor trust may be either irrevocable or revocable. She added that a community property trust, during the grantor's lifetime, is revocable, or for a living trust, the income is taxed to the grantors.

REPRESENTATIVE EASTMAN asked whether grantor trusts have mandatory Internal Revenue Service (IRS) filings.

MS. O'CONNOR answered that any income to the grantor's trust during the grantor's lifetime would be reported on the grantor's income tax return. She added that, following the death of the first grantor, part of the trust becomes irrevocable, then the irrevocable trust is "siphoned off" and may result in a separate filing requirement. She clarified that while both grantors are still alive, there is no separate return required.

REPRESENTATIVE EASTMAN asked whether the initial formation of a trust would address any potential ambiguities regarding appreciation of assets.

MS. O'CONNOR answered that, in a perfect world, yes. She speculated that practitioners [drafting trusts] assume that the statute included this. She added that some trusts were created without the inclusion of language regarding appreciation, with the assumption appreciation was considered. She stated that, should income and appreciation not be community property, then there is no point in having community property law in Alaska.

SENATOR BEGICH stated that the comments offered by Ms. O'Conner were the reason the the bill was drafted and before the committee. He pointed out the intention of the original legislation was that income and appreciation should be included in community property. He stated that the proposed legislation would remove any ambiguity from the statute.

[1:14:09 PM](#)

REPRESENTATIVE KREISS-TOMKINS asked for an explanation of the retroactivity in Section 1 of the proposed legislation.

SENATOR BEGICH expressed the opinion that thousands of trust agreements were drafted with the assumption the appreciation and income would be a part of the trusts. He stated that when the court case occurred, the matter was called into question. He noted that a savings clause exists in the proposed legislation so any cases filed before the effective date would not be impacted, should it pass.

REPRESENTATIVE KREISS-TOMKINS asked whether May 23, 1998, was the initial date of the original legislation.

SENATOR BEGICH answered that it was exactly the date this became law.

REPRESENTATIVE EASTMAN observed that it is rare for the legislative intent to be so clear, and this makes the process of considering the proposed legislation easier.

REPRESENTATIVE KREISS-TOMKINS commented that he would be extremely cautious regarding trust-related legislation because of cases which have resulted in a "race to the bottom" for trust laws. He added that there has been flawed legislation previously introduced, which fortunately did not pass. He expressed the opinion that flawed legislation and its resulting "cottage industry" would be tantamount to making the rich richer.

[1:18:18 PM](#)

REPRESENTATIVE SNYDER moved to report CSSB 11(JUD) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSSB 11(JUD) was reported out of the House Judiciary Standing Committee.

[1:18:39 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 1:18 p.m.