

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

January 19, 2022

1:30 p.m.

MEMBERS PRESENT

Senator Mia Costello, Chair
Senator Joshua Revak, Vice Chair
Senator Gary Stevens
Senator Elvi Gray-Jackson

MEMBERS ABSENT

Senator Peter Micciche

COMMITTEE CALENDAR

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 44 (STA)
"An Act relating to the practice of accounting."

- MOVED SCS CSHB 44 (L&C) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 85 (L&C)
"An Act relating to the Alaska Banking Code; relating to mutual savings banks; relating to interstate state banks and international banks; relating to the pledging of bank assets as collateral security to tribal organizations; relating to the pledging of bank assets for interest swap agreements; relating to state business licenses; relating to persons who make loans secured by interests in vessels or facilities; relating to liability for the release or threatened release of hazardous substances; relating to the Model Foreign Bank Loan Act; and providing for an effective date."

- MOVED SCS CSHB 85 (L&C) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 44

SHORT TITLE: PRACTICE OF ACCOUNTING; LICENSURE

SPONSOR(s): REPRESENTATIVE(s) THOMPSON

02/18/21	(H)	PREFILE RELEASED 1/8/21
02/18/21	(H)	READ THE FIRST TIME - REFERRALS
02/18/21	(H)	STA, L&C

03/11/21 (H) STA AT 3:00 PM GRUENBERG 120
 03/11/21 (H) Heard & Held
 03/11/21 (H) MINUTE(STA)
 03/16/21 (H) STA AT 3:00 PM GRUENBERG 120
 03/16/21 (H) Heard & Held
 03/16/21 (H) MINUTE(STA)
 03/23/21 (H) STA AT 3:00 PM GRUENBERG 120
 03/23/21 (H) Moved CSHB 44(STA) Out of Committee
 03/23/21 (H) MINUTE(STA)
 03/24/21 (H) STA RPT CS(STA) 6DP 1AM
 03/24/21 (H) DP: CLAMAN, STORY, KAUFMAN, VANCE,
 TARR, KREISS-TOMKINS
 03/24/21 (H) AM: EASTMAN
 05/03/21 (H) L&C AT 3:15 PM BARNES 124
 05/03/21 (H) Heard & Held
 05/03/21 (H) MINUTE(L&C)
 05/07/21 (H) L&C AT 8:00 AM GRUENBERG 120
 05/07/21 (H) Heard & Held
 05/07/21 (H) MINUTE(L&C)
 05/12/21 (H) L&C AT 3:15 PM BARNES 124
 05/12/21 (H) Moved HB 44 Out of Committee
 05/12/21 (H) MINUTE(L&C)
 05/13/21 (H) L&C RPT CS(STA) 6DP 1NR
 05/13/21 (H) DP: KAUFMAN, SCHRAGE, MCCARTY, SNYDER,
 NELSON, FIELDS
 05/13/21 (H) NR: SPOHNHOLZ
 05/19/21 (H) LIMIT ALL DEBATE TO 2 MIN EACH Y23 N16
 E1
 05/19/21 (H) TRANSMITTED TO (S)
 05/19/21 (H) VERSION: CSHB 44(STA)
 05/19/21 (S) READ THE FIRST TIME - REFERRALS
 05/19/21 (S) L&C
 01/19/22 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 85

SHORT TITLE: FINANCIAL INSTITUTIONS; LIABILITY
 SPONSOR(S): REPRESENTATIVE(S) LEBON BY REQUEST

02/18/21 (H) READ THE FIRST TIME - REFERRALS
 02/18/21 (H) L&C, FIN
 04/07/21 (H) L&C AT 3:15 PM BARNES 124
 04/07/21 (H) Heard & Held
 04/07/21 (H) MINUTE(L&C)
 04/19/21 (H) L&C AT 3:15 PM BARNES 124
 04/19/21 (H) Heard & Held
 04/19/21 (H) MINUTE(L&C)
 04/21/21 (H) L&C AT 3:15 PM BARNES 124

04/21/21 (H) Moved CSHB 85(L&C) Out of Committee
 04/21/21 (H) MINUTE(L&C)
 04/22/21 (H) L&C RPT CS(L&C) 5DP 1NR
 04/22/21 (H) DP: SCHRAGE, MCCARTY, SNYDER, FIELDS,
 SPOHNHOLZ
 04/22/21 (H) NR: KAUFMAN
 05/06/21 (H) FIN AT 9:00 AM ADAMS 519
 05/06/21 (H) Heard & Held
 05/06/21 (H) MINUTE(FIN)
 05/13/21 (H) FIN RPT CS(L&C) 6DP 4NR
 05/13/21 (H) DP: ORTIZ, LEBON, THOMPSON, JOHNSON,
 RASMUSSEN, MERRICK
 05/13/21 (H) NR: CARPENTER, WOOL, JOSEPHSON, FOSTER
 05/13/21 (H) FIN AT 9:00 AM ADAMS 519
 05/13/21 (H) Moved CSHB 85(L&C) Out of Committee
 05/13/21 (H) MINUTE(FIN)
 05/14/21 (H) TRANSMITTED TO (S)
 05/14/21 (H) VERSION: CSHB 85(L&C)
 05/14/21 (H) FIN AT 9:00 AM ADAMS 519
 05/14/21 (H) <Bill Hearing Canceled>
 05/17/21 (S) READ THE FIRST TIME - REFERRALS
 05/17/21 (S) L&C, FIN
 01/19/22 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

REPRESENTATIVE STEVE THOMPSON
 Alaska State Legislature
 Juneau, Alaska
POSITION STATEMENT: Sponsor of HB 44.

LYNETTE BERGH, Staff
 Representative Steve Thompson
 Alaska State Legislature
 Juneau, Alaska
POSITION STATEMENT: Presented the sectional analysis for HB 44
 on behalf of the sponsor.

CRISTA BURSON, President and CEO
 Alaska Society of CPAs (AKCPA)
 Anchorage, Alaska
POSITION STATEMENT: Provided testimony on HB 44 by invitation.

KAREN BREWER-TARVER, Member
 Alaska Society of CPAs
 Juneau, Alaska

POSITION STATEMENT: Provided explanations and supporting testimony for HB 44.

THOMAS G. NEILL, Chair
Uniform Accountancy Act Committee of the American Institute of Certified Public Accountants

POSITION STATEMENT: Testified in support of HB 44.

LESLIE SCHMITZ, Member and past Chair
Alaska Board of Public Accountancy
Department of Commerce, Community and Economic Development
Anchorage, Alaska

POSITION STATEMENT: Provided supporting testimony for HB 44.

REPRESENTATIVE BART LEBON
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 85.

JOSEPH BYRNES, Staff
Representative Bart LeBon
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the sectional analysis for HB 85 on behalf of the sponsor:

JOE SCHIERHORN, Chair, President, and
Chief Executive Officer (CEO)
Northrim Bank
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 85.

DAVID DURHAM, Executive Vice President and
Chief Credit Administrator
Mt. McKinley Bank
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 85.

ROBERT SCHMIDT, Director
Division of Banking and Securities
Department of Commerce, Community and Economic Development
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 85.

ACTION NARRATIVE

[1:30:09 PM](#)

CHAIR MIA COSTELLO called the Senate Labor and Commerce Standing Committee meeting to order at 1:30 p.m. Present at the call to order were Senators Gray-Jackson, Stevens, and Chair Costello. Senator Revak arrived soon thereafter.

HB 44-PRACTICE OF ACCOUNTING; LICENSURE

[1:30:47 PM](#)

CHAIR COSTELLO announced the consideration of CS FOR HOUSE BILL NO. 44(STA) "An Act relating to the practice of accounting."

[CSHB 44(STA) was before the committee.]

She noted that there was an amendment for the committee to consider and following that she would look to the will of the committee.

[1:31:55 PM](#)

SENATOR REVAK joined the committee.

[1:32:26 PM](#)

REPRESENTATIVE STEVE THOMPSON, Alaska State Legislature, Juneau, Alaska, Sponsor of HB 44. explained that he introduced the bill after members of the Alaska Board of Public Accountancy contacted his office to share that the National Association of the State Boards of Accountancy (NASBA) and the American Institute of Certified Public Accountants (AICPA) had reached out to ask them to work to update Alaska statutes to meet the standards of the Uniform Accountancy Act (UAA) and the Institute of CPA's Code of Professional Conduct. The national organizations provided the Board of Public Accountancy with a summary of areas where Alaska's statutes do not meet the national standards. The board reviewed those statutes over the past several years and developed a rough draft of a bill to address the issues.

REPRESENTATIVE THOMPSON stated that HB 44 incorporates these changes and would update the public accountancy statutes to bring Alaska more in line with national standards while continuing to protect the public interest by ensuring that only qualified persons are licensed, and that appropriate standards of competency and practice are established and enforced.

He listed the individuals who were available to answer questions, deferred to Ms. Bergh to provide a sectional

analysis, and mentioned an amendment he would like the committee to consider.

CHAIR COSTELLO made a motion to clarify that the bill version that passed the House was before the committee.

SENATOR STEVENS commented that HB 44 appears to simply align Alaska statutes with national standards.

REPRESENTATIVE THOMPSON agreed.

CHAIR COSTELLO offered her understanding that the bill removes current regulations that are beyond what the federal law requires. She asked what impact this would have to the public.

REPRESENTATIVE THOMPSON deferred to one of the subject matter experts who were available online.

CHAIR COSTELLO asked Ms. Bergh to walk through the sectional analysis.

[1:37:23 PM](#)

LYNETTE BERGH, Staff, Representative Steve Thompson, Alaska State Legislature, Juneau, Alaska, stated that many of the changes in the bill are redundant to replace antiquated accountancy terminology, which makes the sectional lengthy. She asked if the committee would prefer a summary rather than the complete sectional.

CHAIR COSTELLO conveyed her preference to hear the complete sectional.

[1:38:21 PM](#)

MS. BERGH provided the following sectional analysis for HB 44:

[Original punctuation provided.]

Section 1. AS 08.04.020(b)

Appointment and qualifications of board. Revises the qualifications for public members for board appointments by deleting "out-of-state exemption" license holders.

Section 2.

AS 08.04.100 Certificate granted. Eliminates "out-of-state exemption" and "practice privilege" from those certificate holders who are not authorized to engage

in the practice of public accounting without a current license or permit.

Section 3. Amends AS 08.04.105 (b)

License for individual to practice as a public accountant. The individual requirements for the board to renew a license granted in this section are amended by deleting reference to repealed statutes [AS 08.04.360-AS 08.04.380] and inserts statutes [AS 08.04.360 and AS 08.04.370]. Substitutes the word "peer" review for "quality" review.

Section 4. AS 08.04.195(d)

Reciprocity with other states. Deletes references to repealed statutes [AS 08.04.360-AS 08.04.380] and inserts revised statutes [AS 08.04.360 and AS 08.04.370].

Section 5. AS 08.04.240(a) (1-4)

Application of partnerships, limited liability companies, corporations, and other legal entities for permits. Replaces the phrase "as a partnership to a partnership" to "a firm with an office in the state". Replaces the term "partnership" with the term "firm". The term "partner" is replaced with the term "owner" as relates to the board or an individual who is engaged in the practice of public accounting.

Section 6. AS 08.04.240(f)

References a new subsection (k) to the list in which initial permits can be issued and deletes subsections (b), (d), and (e).

Section 7. AS 08.04.240(g)

References subsection (k) and deletes (b), (d), or (e) for a permit renewal. Deletes references to repealed statutes [AS 08.04.360-AS 08.04.380] and inserts revised statutes [AS 08.04.360 and AS 08.04.370]. Substitutes the term "peer" for "quality" review and deletes specific competency requirements.

[1:41:50 PM](#)

Section 8. AS 08.04.240(i)

Replaces the terms "partnership, corporation, limited liability company or other legal entity" with the term "firm".

Section 9. AS 08.04.240.(j)

Replaces the terms "partnership, corporation, limited liability company or other legal entity" with the term "firm".

Section 10. AS 08.04.240

Adds a new subsection (k) that mandates that the board shall grant a permit to engage in the practice of public accounting to a firm that does not have an office in the state but offers or provides attest functions in the state. The permit shall be granted if the firm applies to the board as a firm of certified public accountants and meets the requirements as set out in AS 08.04.240(k)(1-4).

Section 11. AS 08.04.360 Supervision required.

Deletes the requirement of "in residence" for an individual who holds a license as a supervisor. Deletes the phrase "practice privilege" and inserts the phrase a license "issued under this chapter". Adds that a 3 supervisor may serve for each office in the state that is maintained by a firm.

Section 12. AS 08.04.370 Use of title "certified public accountant" by office of "firm".

Replaces the term "legal entity" with the term "firm". Deletes "out-of-state exemption" as a permit holder.

Section 13. AS 08.04.420(a) Practice privileges.

Deletes subsection (b) as an exception to the requirements for licensure (repealed).

Section 14. AS 08.04.420(c) Practice privileges.

Deletes subsection (b) as a requirement for engaging in the practice of public accounting in this state (repealed).

Section 15. AS 08.04.422 Conditions of Practice Privileges.

Deletes "out-of-state permits and out-of-state exemptions" as conditions for practice privileges. Substitutes the term "firm" for "legal entity". Removes the phrases "exemption under AS 08.04.421, and "under the permit exemption" as that statute is repealed.

Section 16. AS 08.04.426(a) Quality review.

Adds that the board may require that an applicant who is seeking a license renewal or permit "provide evidence of enrollment in" a peer review program approved by the board by regulation. Deletes the term "quality" review and inserts the term "peer" review. Substitutes the phrase "program approved" for the phrase "conducted as required".

1:45:00 PM

Section 17. AS 08.04.426(c) Quality review.

References new subsection "(f)" which directs that the Board shall require a peer review of a firm that has in its employ an applicant scheduled for renewal of a permit in that firm. *[See Section 19. New subsection on (f)].

Section 18. AS 08.04.426(d) Quality review.

References new subsection "(f)" for the Board's quality review regulations. Amends Section AS. 08.04.426(d)(1-3) by replacing the term "quality" review with the term "peer" review. Deletes the phrase "quality reviews" and inserts the phrase "administration of a peer review". The term "oversight" replaces the term "supervision". 4 Deletes the term "operated" and replaces it with "performed". Amends Section 08.04.426(d)(4) by striking current text and replacing it with text to clarify that organizations who administer peer review programs must provide information requested by the board.

Section 19. AS 08.04.426 Quality review.

Adds a new subsection (f). This subsection sets the guidelines that the board must follow to conduct peer reviews by regulation.

Section 20. AS 08.04.440 Effect of failure to obtain license or permit.

Deletes the terms "partnership", "limited liability company", "corporation", "or other legal entity" and replaces them with the term "firm". Deletes the paragraph that defines the calculated fee for penalty of an untimely renewal of license with the phrase "the department shall determine" the fee.

Section 21. AS 08.04.450(a) Revocation or suspension of license, practice privilege permit.

Eliminates the "out-of-state exemption" license holder status. Adds a clause that the board may require peer reviews or continuing education courses. Cleans up the language in this section by substituting "comply with the peer" review for the phrase "satisfactorily complete a quality" review. Deletes the word "committing" an act and replaces with "commission of" an act. Adds subsections (12-15) as additional board findings for possible revocation or suspension of licenses.

Section 22. AS 08.04.450(c) Revocation or suspension of license, practice privilege permit.

Adds a new subsection (c) that states that the board may hold a disciplined license holder to bear the costs of any disciplinary proceedings.

[1:47:55 PM](#)

Section 23. AS 08.04.470 Revocation of "firm" permit.

Deletes the terms "of partnership", "limited liability company", "corporation", "or other legal entity", and "it" and replaces the terms with the word "firm".

Section 24. AS 08.04.480 Grounds for censure of, or the revocation, suspension, or refusal to renew a permit for a "firm".

Uses the term "firm" to replace the terms "of partnership", "limited liability company", "corporation", "or other legal entity". Amends AS 08.04.480(1) by adding the "refusal to renew" as 5 an additional cause for suspension or revocation. Replaces the terms "a partner", "a member", "a shareholder", "or if the permittee is a legal entity other than a partnership, corporation or limited liability company", "an owner of the permittee" with the phrase "'an owner of the firm in this state or in another state". AS 08.04.480(3) adds refusal to renew the "permit or authority of the firm" to replace the terms cited above.

Section 25. AS 08.04.500(a) Individual posing as a certified public accountant.

Delineates the statutes required to be met to use the CPA title. Specifically, AS 08.04.360 and AS 08.04.370.

[1:49:32 PM](#)

Section 26. AS 08.04.505 Issuance of reports. Deletes the term "out-of-state exemption".

Replaces the term "financial statements" with on "behalf" of. Replaces the terms "sole proprietorship", "partnership", "corporation", "limited liability company", "or other legal entity" with the term "firm".

Section 27. AS 08.04.510(a) Partnership, limited liability company, corporation, or other legal entity posing as a certified public accountant.

Uses the term "firm" to replace "partnership", "corporation", "limited liability company", "or other legal entity".

Section 28. AS 08.04.520 Individual posing as a public accountant.

Delineates the statutes that are required to be met to use the title of public accountant. Those statutes are AS 08.04.360 and AS 08.04.370. Deletes AS 08.04.380.

Section 29.

AS 08.04.530 "Firm" posing as a public accountant. Replaces the terms "partnership", "corporation", "limited liability company", "or other legal entity" with the term "firm".

[1:50:59 PM](#)

Section 30. AS 08.04.540 Use of deceptive title or abbreviation. Replaces the terms "partnership", "corporation", "limited liability company", "or other legal entity" with the term "firm".

Deletes the phrase "out-of-state exemption". Delineates the statutes that are required to be met and maintained by individuals or firms whose offices are in this state. If requirements are met, they may use the titles public accountant or auditor. Those statutes are AS 08.04.360 and AS 08.04.370.

Section 31.

AS 08.04.560 Individual may not assume title. Deletes the phrase "on any accounting or financial statement" as it relates to reports. Deletes the phrase that refers to individual's offices in this state for the practice of public accounting. 6

Section 32.

AS 08.04.565 Prohibited acts. Replaces the terms "partnership", "corporation", "limited liability company", "or other business entity" with the term "firm".

Section 33. AS 08.04.600 Disclosure of lack of license or permit. Replaces the terms "partnership", "corporation", "limited liability company", "or other entity" with the term "firm".

Deletes "or a current out-of-state exemption" from the list of individuals or firms holding licenses, practice privileges or permits.

[1:52:28 PM](#)

Section 34. AS 08.04.610 Deceptive use of title or designation by "firm". Replaces the terms "partnership", "corporation", "limited liability company", "or other legal entity" with the term "firm".

Deletes "or a current out-of-state exemption" as a holder of a permit.

Section 35. AS 08.04.620(1) Exceptions. Replaces terms "partnership", "corporation", "limited liability company", "or other legal entity" with the term "firm".

Deletes the phrase "or a current out-of-state exemption so long as". Amends AS 08.04.620(3) by inserting new language to describe the requirements that entitles a holder to a certificate, license, or degree from a foreign country. Deletes previous language used.

Section 36. AS 08.04.662(a) Confidential communications. Deletes "(an) out-of-state exemption holder".

Replaces the term "quality" review with "peer" review.

[1:53:41 PM](#)

Section 37. AS 08.04.680(1)(E) Definitions.

Adds a qualifier under the definition of attest function that clarifies accepted examinations.

Section 38. AS 08.04.680(4) Definitions.

Clarifies the definition of "compilation service". Deletes the subsection in AS 08.04.680(4)(B).

Section 39. AS 08.04.680(14) Definitions.

Delineates AS 08.04.240 as the sole statute to issue a permit under; thereby deleting AS 08.04.421(a).

Section 40. AS 08.04.680(15) Definitions.

Deletes the phrase "on financial statements" as pertains to issuing reports.

Section 41. AS 08.04.680(19) Definitions. Updates the definition of "report" to include an "attest function".

Amends AS 08.04.680(19)(A)(i) by adding the phrase "the attested information or compiled" to describe the financial statements. Amends AS 08.04.680(19)(B)(ii) by deleting "or an out-of-state exemption". 7

Section 42. AS 08.04.680(20) Definitions.

Adds clarifying language, "Commonwealth of the" Northern Mariana Islands.

Section 43. AS 08.04.680 Definitions.

Adds new definitions for (21) "firm", (22) "peer review" and (23) "preparation of financial statements".

Section 44.

Repeals statutes

[1:56:31 PM](#)

CHAIR COSTELLO observed that the bill appears to remove the out-of-state exemption to practice accountancy in Alaska and instead allows a person to practice in an Alaskan firm if an Alaska certified manager oversees the CPAs. She asked the sponsor if that was accurate.

REPRESENTATIVE THOMPSON said he believes so but he would defer to the subject matter experts for clarification.

CHAIR COSTELLO asked if HB 44 allows anyone to practice public accountancy without either Alaska certification or under the oversight of a certified accountant with an office in Alaska.

REPRESENTATIVE THOMPSON deferred the question to either Ms. Bergh or one of the subject matter experts who were online.

CHAIR COSTELLO said her final question related to Section 14, page 6, line 10. It is amended to remove reference to AS

08.04.420(b) for those individuals who may engage in the practice of public accountancy. Then it says those individuals are not required to provide notice to the board. She asked why that language is included and how onerous it might be for somebody to have to notify the board that they are practicing accountancy in Alaska.

[1:58:34 PM](#)

SENATOR GRAY-JACKSON said the chair articulated the questions she had related to out-of-state exemptions.

SENATOR STEVENS asked when these statutes were last amended.

REPRESENTATIVE THOMPSON said he did not know.

SENATOR STEVENS said he would like someone to provide an answer.

[1:59:29 PM](#)

MS. BERGH explained that the accountancy statutes were modified in 2006 when Representative Hawker carried the bill in the 24th legislature. That bill changed the language to talk about practice privilege for out-of-state applicants and had regulations relating to the test function and licenses for individuals to practice as public accountants. Some definitions were also changed.

The statutes were revisited again in 2010 in the 26th legislature when Representative Kurt Olsen carried the bill. That bill addressed the concept of mobility for accountants, out-of-state exemptions, and practice privileges.

The statutes were visited again in 2018 in the 30th legislature when Representative Steve Thompson carried the bill. That bill addressed the national standards in the first half of the accountancy statutes and HB 44 addresses the second part of that effort.

[2:01:18 PM](#)

CHAIR COSTELLO turned to invited testimony and asked the individuals to respond to the questions that were asked earlier in the hearing.

[2:01:37 PM](#)

CRISTA BURSON, President and CEO, Alaska Society of CPAs (AKCPA), Anchorage, Alaska, stated that AKCPA has worked collaboratively with the State Board of Public Accountancy on the changes proposed in HB 44. On behalf of the more than 600

AKCPA members in public and private practice, educators, and students she was speaking in support of HB 44.

[2:02:54 PM](#)

At ease

[2:03:20 PM](#)

CHAIR COSTELLO reconvened the meeting and asked the individuals invited to testify to talk about whether or not HB 44 addresses the out-of-state exemption that is being removed.

[2:03:55 PM](#)

KAREN BREWER-TARVER, Member, Alaska Society of CPAs, Juneau, Alaska, stated that she is a CPA and partner at the Juneau-based accounting firm Elgee Rehflod LLC, and in 2020 she completed eight years on the Board of Accountancy. In 2018, the board reviewed the accountancy statutes and HB 44 reflects the subsequent four-year review the board worked on in collaboration with NASBA and AICPA.

Responding to earlier questions, she said the board compared the Alaska statutes to the model licensing law in the Uniform Accountancy Act (UAA) that provides a uniform approach to the regulation of the accounting profession. That model law is modified as needed for each jurisdiction.

MR. BREWER-TARVER addressed the out-of-state exemption. She explained that current statute requires a firm that does not have an office in Alaska but wants to provide services to a client in Alaska to obtain a firm permit. HB 44 eliminates that requirement if the out-of-state firm meets certain statutory criteria and understands that the board has oversight of their work when they are serving an Alaska-based business. If the out-of-state firm does not meet the criteria they would be required to apply for a firm permit.

CHAIR COSTELLO referenced the list of criteria in Section 10 and the language in Section 14 that says an individual who may practice public accounting in the state is not required to provide notice to the board. She asked how the board would be aware that an individual has met the criteria and is practicing.

MS. TARVER replied that an out-of-state firm that meets the criteria does not have to apply for a permit or provide notice. Board oversight only occurs if an issue is brought to the board or investigator's attention.

[2:08:09 PM](#)

THOMAS G. NEILL, Chair, Uniform Accountancy Act Committee of the American Institute of Certified Public Accountants, stated that he is speaking in support of HB 44, which modernizes the Alaska accountancy statutes. He explained that UAA is model legislation whose goal is to provide the 55 licensing jurisdictions in the United States a consistent framework for regulation of the CPA profession. He relayed that the accounting profession has faced challenges the last few years that has affected businesses' access to needed professional services. The mobility provision in HB 44 addresses this challenge. He explained that when the concept of mobility was first contemplated 20 years ago, a concern was that businesses licensed in Alaska would lose work to out-of-state firms. That has not proved to be the case in either Alaska or other states. Another concern related to the potential loss of revenue but that, too, has not been the case. When a firm crosses a state line it may have to file and pay occupation and individual taxes or taxes for staff that worked in that state. To date, 31 states have enacted mobility statutes and two others, and Alaska, are in the process. He reported having received no negative feedback from states, firms, or clients. A key advantage to firm mobility is that Alaska businesses will have more access to these professional services, which may help them grow and thrive.

[2:11:03 PM](#)

LESLIE SCHMITZ, Member and past Chair, Alaska Board of Public Accountancy, Anchorage, Alaska, stated that the board has been working on this legislation for several years and is in full support. She explained that the board worked with the State Society of CPAs (AKCPA) to assure a transparent process. They sought assistance from the American Institute of CPAs (AICPA) to help with the technical edits to bring Alaska practices and terminology to current industry standards. The board also reached out to interested parties throughout the process. She related that the Uniform Accountancy Act is an "evergreen" model licensing law developed to provide a uniform approach to regulation of the accounting profession. The board believes HB 44 will enhance public protection and modernize terminology referenced in the law. Despite the length, she advised that HB 44 addresses just a few main topics. These include updates in the definition of "firm," updated terminology from "quality review" to "peer review," and updating the law to allow firm mobility.

SENATOR STEVENS asked if she could say that this in no way harms Alaska CPAs and businesses.

MS. SCHMITZ replied the bill will provide mobility for Alaska CPAs to do business in other states, which will open new markets. Thus, she did not believe it would harm Alaska CPAs or businesses. She deferred further comment to Mr. Neill.

SENATOR STEVENS said it makes sense but he would like to hear from Mr. Neill as well.

[2:14:17 PM](#)

MR. NEILL explained that HB 44 allows Alaska accountancy firms to work in Washington and other states and firms from Washington and other states to work in Alaska. He offered his belief that the bill would not harm Alaska CPAs or Alaska accountancy businesses.

CHAIR COSTELLO noted that Sara Chambers was available to answer questions about licensing.

SENATOR GRAY-JACKSON asked if out-of-state accountants need a sponsor to work in Alaska.

[2:15:51 PM](#)

MR. NEILL answered that sponsorship would not be required. For example, as a Washington accountant he could serve a client in Alaska through the mobility statute. His main concern would be to ensure compliance with any taxation laws that might apply.

[2:16:36 PM](#)

CHAIR COSTELLO opened public testimony for HB 44; finding none, she closed public testimony.

She noted that she worked with the sponsor on a [conceptual] amendment.

[2:17:10 PM](#)

SENATOR STEVENS moved Conceptual Amendment 1 to HB 44.

CONCEPTUAL AMENDMENT 1

Page 4, lines 23-24:

Delete: "applies to the board as a firm of certified public accountants and"

CHAIR COSTELLO objected for discussion purposes. She related that she worked with the sponsor on the amendment. The intent of the legislation is that a firm will not apply to the board, but

instead meet certain requirements. The amendment aligns with the intent. She asked the sponsor to comment.

REPRESENTATIVE THOMPSON agreed with the characterization. The board identified this language as a problem and requested the committee pass the amendment.

CHAIR COSTELLO read Conceptual Amendment for the listening public.

[2:18:53 PM](#)

CHAIR COSTELLO removed her objection. Seeing no further objection, Conceptual Amendment 1 to HB 44 passed. She asked the will of the committee.

[2:19:14 PM](#)

SENATOR REVAK moved to report CSHB 44, work order 32-LS0302\I, as amended, from committee with individual recommendations and attached fiscal note(s).

CHAIR COSTELLO found no objection and SCS CSHB 44(L&C) was reported from the Senate Labor and Commerce Standing Committee.

SENATOR STEVENS offered his assumption that this was the only committee of referral.

REPRESENTATIVE THOMPSON said he believed that was accurate.

[2:20:35 PM](#)

At ease

HB 85-FINANCIAL INSTITUTIONS; LIABILITY

[2:22:58 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of CS FOR HOUSE BILL NO. 85(L&C) "An Act relating to the Alaska Banking Code; relating to mutual savings banks; relating to interstate state banks and international banks; relating to the pledging of bank assets as collateral security to tribal organizations; relating to the pledging of bank assets for interest swap agreements; relating to state business licenses; relating to persons who make loans secured by interests in vessels or facilities; relating to liability for the release or threatened release of hazardous substances; relating to the Model Foreign Bank Loan Act; and providing for an effective date."

[2:23:16 PM](#)

REPRESENTATIVE BART LEBON, Alaska State Legislature, Juneau, Alaska, sponsor of HB 85, stated that HB 85 seeks to achieve parity and level the competitive playing field between state chartered banks and national chartered banks. Alaska has seven commercial banks, three of which are nationally chartered and four that are state chartered. The bill also has language that levels the playing field between a mutual bank, of which there is one in Alaska, and state stock-owned banks. He noted that the sectional analysis references mutual banks.

REPRESENTATIVE LEBON related that he was previously employed at Mount McKinley Bank in Fairbanks, which is a mutual bank, and at the National Bank of Alaska that is now Wells Fargo.

He related that he worked with the Alaska Bankers Association and the state Division of Banking and Securities to update state banking statutes to ensure that all banks have an equal opportunity to offer Alaskans and businesses banking services. HB 85 is the result, and all seven commercial banks and the Division of Banking and Securities support HB 85.

[2:25:45 PM](#)

SENATOR STEVENS asked for the difference between national and state chartered banks.

REPRESENTATIVE LEBON provided a personal experience to respond to the question. When he worked on commercial loans at the National Bank of Alaska, national banking law allowed him to loan at 80 percent of the value of the asset, whereas state law allowed state chartered banks to loan at just 75 percent of the value of the asset. That is a competitive disadvantage to state chartered banks.

SENATOR STEVENS asked how HB 85 fixes that issue.

REPRESENTATIVE LEBON explained that it would align loans to value, types and dollar amounts of loans, management of banks' deposit base, and investment and loan portfolio management.

SENATOR REVAK made a motion to clarify that the committee was considering CSHB 85(L&C), which was the version that passed the House.

CHAIR COSTELLO asked Joseph Byrnes to walk through the sectional analysis for HB 85.

[2:27:54 PM](#)

JOSEPH BYRNES, Staff, Representative Bart LeBon, Alaska State Legislature, Juneau, Alaska, presented the sectional analysis for HB 85 on behalf of the sponsor, which read as follows:

[Original punctuation provided with some formatting changes.]

Sec. 1. AS 06.05.005(a)

Conforming language to changes made under Section 10 to provide Alaska chartered banks parity with credit unions when establishing a bank branch.

Sec. 2. AS 06.05.005

Prohibits the Department from placing a regulatory limitation on a credit card that a state bank issues to an officer of a state bank, the statutory authority for which is amended in Section 5 and the regulation (3 AAC 02.121) annulled in Section 24. Prohibits the Department from adopting regulations relating to the setting of time limits on the disposal of real and personal property, the statutory authority for which is amended in Section 6 and the regulation (3 AAC 02.135) annulled in Section 24.

Sec. 3. AS 06.05.050

Publication of reports: Adds the option for posting notices of publication of bank reports on a bank's internet website vs. physical posting in the bank lobby.

MR. BYRNES added that the requirement that a copy of the report of condition be supplied upon request at no cost is unchanged, but it makes state law more consistent with federal regulations for nationally chartered banks that do not have the requirement to post notices of financial reports.

Sec. 4. AS 06.05.166(c)

Defines the timeframe - not later than 15 days - for which a bank must notify the Department after an emergency non-opening or closing of the bank.

Sec. 5. AS 06.05.210(a)

Increases the amount a director or executive officer of a state bank may borrow to \$500,000 (from \$100K or \$250K for a primary residence).

MR. BYRNES explained that this changes aligns with the barring limit for national banks

Sec. 6. AS 06.05.245

Disposition of property not needed in the conduct of a banking business: Removes the Department's authority to set a time limit on the disposal of real and personal property. Instead, the carrying value and write-down will be dictated by Generally Accepted Accounting Principles (GAAP).

MR. BYRNES explained that this is consistent with federal regulations governing nationally chartered banks.

[2:31:43 PM](#)

Sec. 7. AS 06.05.260

Allows a state bank to pledge bank assets as collateral security to secure funds deposited by consortiums of federally recognized tribes.

Sec. 8. AS 06.05.260

Adds a new subsection to replace the Division of Banking's Parity Orders 12-B (3- 6) regarding the pledging of assets for interest rate swaps.

Adds a new subsection to define:

- "federally recognized tribe" as an Indian tribe under the Federally Recognized Indian Tribe List Act of 1994; and
- "interest rate swap agreement" as a stream of future interest payments that are exchanged for another stream of future interest payments.

MR. BYRNES explained that this achieves parity by authorizing state chartered banks to pledge assets for interest rate swaps the same as for nationally chartered banks. National banks are regulated by Section 610 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Sec. 9. AS 06.05.355(a)

Requires all banks to become a member of the FDIC as a condition for receiving a Certificate of Authority; Intended to maintain trust and level the playing field for the banking industry.

MR. BYRNES noted that federal regulation requires all nationally chartered banks to be FDIC insured and all banks in Alaska are so insured.

Sec. 10. AS 06.05.399

Changes of location; branch banks. Provides Alaska chartered banks parity with credit unions when establishing a bank branch. Banks are currently subject to stricter bank branch application requirements under 3 AAC 02.215. The Division would establish in regulations similar requirements of credit unions as in 3 AAC 03.260. [This is the same as Section 19 for state chartered mutual banks.]

Sec. 11. AS 06.05.438(a)

Reduces the number of required meetings of a bank's board from 10 to 4 per calendar year.

MR. BYRNES stated that this brings parity with nationally chartered banks that do not have a required number of board meetings.

Sec. 12. AS 06.05.555(a) Conforming language to changes made under Section 10 to provide Alaska chartered banks parity with credit unions when establishing a bank branch.

[2:35:06 PM](#)

Sec. 13. AS 06.05.990(4)

Removes "remote service unit" (ATM, etc.) from the definition of "branch bank" and defines "remote service unit" directly under this section.

Sec. 14. AS 06.15.180

Allowing mutual banks to have similar borrowing options as state banks.

MR. BYRNES explained that this raises the amount that may be borrowed from a mutual bank from five percent to no more than 15 percent of assets.

Sec. 15. AS 06.15.190

Expands the deposits that mutual banks can accept.

MR. BYRNES noted that Sec. 15 allows state mutual banks to accept the same deposits as nationally chartered mutual banks,

which received expanded authority to accept deposits under the federal Depository Institutions Deregulation and Monetary Control Act of 1980.

Sec. 16. AS 06.15.220

Allows trustees to delegate their authority to approve interest on deposits.

Sec. 17. AS 06.15.240

Provides mutual banks with the same investment opportunities as state banks under AS 06.05.270.

Sec. 18. AS 06.15.250

Providing mutual banks with the same lending opportunities as state banks.

Sec. 19. AS 06.15.290

Changes of location; branch banks. Provides mutual banks parity with state banks and credit unions when establishing a bank branch. Alaska chartered banks are currently subject to stricter bank branch application requirements under 3 AAC 02.215. The Division would establish in regulations similar requirements of credit unions as in 3 AAC 03.260.

Sec. 20. AS 43.70.105(a)

Exempts depository institutions (banks and credit unions) from the requirement to obtain business licenses for all headquarter and branch locations. Currently, state-chartered institutions receive a Certificate of Authority through the Division of Banking and Securities. Until each institution receives this certificate, they may not transact business. This change would eliminate duplicate licensing, thus reducing regulatory burden.

Sec. 21. AS 46.03.822(a)

Adds reference to the new language in Section 22.

[2:39:05 PM](#)

Sec. 22. AS 46.03.822

Conforms state law to the Comprehensive, Environmental Response, Compensation, and Liability Act (CERCLA) standard for lender liability. CERCLA Section 101(20) contains a secured creditor exemption that eliminates owner or operator liability for lenders who hold ownership in a CERCLA facility primarily to protect

their security interest in that facility, provided they do not "participate in the management of the facility." Generally, participation in the management applies if a bank exercises decision-making control over a property's environmental compliance, or exercises control at a level similar to a manager of the facility or property. Participation in management does not include actions such as conducting property inspections, requiring a response action to address contamination, providing financial advice or renegotiating or restructuring the terms of the security interest. The secured creditor exemption also provides that foreclosure on a property does not result in liability for a bank, provided the bank takes "reasonable steps" to divest itself of the property "at the earliest practicable, commercially reasonable time, on commercially reasonable terms." Generally, a bank can maintain business activities and close down operations at a property as long as the property is listed for sale shortly after the foreclosure date or at the earliest practicable, commercially reasonable time.

2:40:38 PM

Sec. 23. Repealed Sections

- Repeals AS 06.05.265 Liability of directors for certain loans. Overbroad and unnecessary.
- Repeals AS 06.10.010-050 Model Foreign Bank Loan Act. The Act exempts out-of-state banks from Alaska taxation for certain business types and became obsolete in 1984 due to other tax measures. The Act is an unnecessary administrative burden.
- Repeals AS 06.15.150, 160 & 170 Surplus requirements, additions and limitations. Repealing these statutes would provide parity and allow a mutual savings bank to follow AS 06.05.305 for capital requirements.
- Repeals AS 06.15.230 Withdrawal of Deposits: Language no longer relevant after deregulation of Thrifts and Savings and Loans.

Sec. 24. Annulled Regulations

- Annuls 3 AAC 02.121 Credit cards for officers: Removes the regulation limiting uncollateralized

credit card balances up to \$10,000 for an officer of a state bank. See Sections 2 and 5.

- Annuls 3 AAC 02.135 Disposition of property not needed for banking business. The carrying value and write-down of property will instead be dictated by Generally Accepted Accounting Principles (GAAP). See Sections 2 and 6.

Sec. 25. Applicability Uncodified law for Sections 3, 4, 6, 9, 10, 12, 16, 18, and 19.

Cites definition locations for "branch bank", "department", "international bank", "interstate state bank", "mutual bank" and "state bank".

[2:42:36 PM](#)

Sec. 26. Transition

Provides a transition period relating to Sections 1, 10, 12, and 19; provides the Department time to promulgate regulations for changes of bank locations and establishing branch banks.

Sec. 27.

Delayed Effective Date Sets a delayed effective date for Sections 1, 10, 12, and 19 to provide the Department time to promulgate regulations for changes of bank locations and establishing branch banks.

MR. BYRNES stated that the effective date currently is set to January 2022 but the sponsor would like the committee to conceptually amend that date to January 2023.

Sec. 28. Immediate Effective Date

MR. BYRNES explained that the immediate effective date would apply to all but those sections listed in Section 27.

[2:44:34 PM](#)

At ease

[2:46:37 PM](#)

CHAIR COSTELLO reconvened the meeting and turned to invited testimony.

[2:46:54 PM](#)

JOE SCHIERHORN, Chair, President, and Chief Executive Officer (CEO), Northrim Bank, Anchorage, Alaska, stated that he is a member and past president of the Alaska Bankers Association, which represents the seven banks that operate in Alaska. These include: the state chartered Denali State Bank, Mt. McKinley Bank, 1st Bank of Ketchikan, and Northrim Bank, as well as KeyBank, Wells Fargo, and First National Bank Alaska, which are national banks chartered by the Office of the Comptroller of the Currency. He reported that all seven banks support HB 85, and the four state chartered banks have submitted letters that are in the bill packets.

MR. SCHIERHORN stated that the Alaska Bankers Association has worked in concert with the Division of Banking and Securities on HB 85, the provision of which will provide meaningful updates to the banking code. He expressed gratitude to the sponsor for introducing the bill which is essential to better serve bank customers in Alaska; create parity between laws and regulations governing the various types of financial institutions that operate in Alaska; keep Alaska chartered banks competitive with other financial institutions; keep pace with the technology advances in banking; and enable efficient operations.

[2:50:39 PM](#)

DAVID DURHAM, Executive Vice President and Chief Credit Administrator, Mt. McKinley Bank, Fairbanks, Alaska, stated that he is also the secretary-treasurer for the Alaska Bankers Association. He related that Mt. McKinley Bank is Alaska's only mutual bank. It is owned by its depositors and its structure lies between a commercial bank and credit union. The focus is to provide customer service to local communities rather than generating dividends for shareholders. He shared that Mt. McKinley Bank recently earned another outstanding CRA rating from the FDIC, demonstrating its commitment to serving the banking and commercial needs of communities.

MR. DURHAM opined that HB 85 will modernize banking regulations in Alaska and provide parity for Alaska banks chartered under AS 06.05 with national banks. It also modernizes and gives parity to the state's home and mutual banks regulated under AS 06.15, which still contains provisions for mutual banks that became obsolete when savings and loans were deregulated in 1980. HB 85 seeks to update banking regulations to take advantage of new technology and accounting standards, and levels the playing field. He said Alaska's banks have always enjoyed a friendly competitive environment, but today the competition has grown to include numerous online financial institutions that have

captured a significant share of the Alaska market. HB 85 also brings parity between commercial banks and mutual banks for lending, investing, and borrowing.

MR. DURHAM said HB 85 repeals AS 06.15.180 and allows mutual banks the same borrowing capacity as commercial banks. It also removes antiquated provisions of AS 06.15.150 - .170, which required mutual banks to sequester up to 10 percent of its annual net earnings into a surplus reserve account that may only be used to meet losses. Since 1970, all financial institutions have been required to reserve for losses under the Financial Accounting Standards Board (FASB) regulation FAS 5 and FAS 114. AS 06.15.150 - .170 require that mutual banks duplicate the reserve requirement. HB 85 repeals these sections and brings parity to both state and national banks.

Finally, he said HB 85 adds provisions to AS 06.03 that mirror the Comprehensive Environmental Response Compensation and Liability Act (CERCLA). These regulations protect lenders from environmental liability when they foreclose on contaminated properties. CERCLA requires that lenders cannot participate in the management of the property and must take reasonable steps to divest the property in the earliest practicable and environmentally reasonable manner to avoid liability. This provision gives Alaska lenders the same protections available to lenders in other states and allows continued lending to local businesses vital to the health of Alaska communities.

[2:54:45 PM](#)

SENATOR STEVENS asked why credit unions are not members of the Alaska Bankers Association and if they have the parity afforded to federal, state, and mutual banks.

MR. DURHAM offered that credit unions already enjoy advantages not available to banks. They are not regulated by the Community Reinvestment Act and do not pay tax on their income.

SENATOR STEVENS asked the sponsor to supplement the response.

REPRESENTATIVE LEBON explained that federal banking laws require banks to offer loans to all parts of the community from which they collect deposits, whereas credit unions are not required to do so. The bill seeks to level the playing field by extending banks the advantages credit unions currently enjoy. He added that he has not heard credit unions in Alaska raise concerns about the bill.

SENATOR STEVENS asked if he is saying that the bill bring parity for state, national, and mutual banks to the credit union position.

REPRESENTATIVE LEBON clarified that HB 85 seeks to address the major differences between state chartered and federally chartered banks.

[2:59:06 PM](#)

ROBERT SCHMIDT, Director, Division of Banking and Securities, Department of Commerce, Community and Economic Development (DCCED), Anchorage, Alaska, stated that the division serves as the primary regulator of the four state chartered banks in Alaska, following the Alaska banking statutes. The nationally chartered banks have had the advantage of broader powers from updated federal laws, which has created a disparity between the two banking systems. There has been a collaborative effort between the Alaska Bankers Association and the division to bridge the gap between the state and federal law. HB 85 modernizes Alaska's banking law to bring parity between state and national banks and level the playing field. HB 85 will help banks to become competitive with modern best practices and the evolution of the financial services they provide. The Division of Banking and Securities supports HB 85.

[3:00:17 PM](#)

CHAIR COSTELLO opened public testimony for HB 85; finding none, she closed it.

[3:00:38 PM](#)

SENATOR GRAY-JACKSON moved Conceptual Amendment 1 to HB 85.

CONCEPTUAL AMENDMENT 1

Page 12, line 6:
Delete: "2022"
Insert "2023"

[3:01:03 PM](#)

CHAIR COSTELLO found no objection and Conceptual Amendment 1 was adopted.

[3:01:09 PM](#)

SENATOR REVAK moved to report the [Senate CS] for CSHB 85, work order 32-LS0371\G, as amended, from committee with individual recommendations and attached fiscal note(s).

3:01:31 PM

CHAIR COSTELLO found no objection and SCS CSHB 85(L&C) was reported from the Senate Labor and Commerce Standing Committee.

3:02:19 PM

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 3:02 p.m.