

SB

60

"An Act relating to arbitrary discrimination; and providing for an effective date."

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# COMMITTEE REPORT

4/29/75

HOUSE

Mr. Speaker:

Date 5/13/75

The Committee on JUDICIARY has had CSSB 60 (Rules)

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR CSSB 60 AND THAT

CS FOR          DO PASS

"and" recommends it BE REFERRED TO THE \_\_\_\_\_

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____

Members NOT concurring in the Majority report:

[Signature] recommends: no res

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

[Signature] Chairman

R. E. ROBERTSON (1888-1981)  
F. O. EASTAUGH  
J. B. BRADLEY  
W. G. RUDDY  
L. B. JACOBSON  
R. B. BAKER (ANCHORAGE)  
M. T. THOMAS  
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PLEASE REPLY TO

JUNEAU OFFICE

ANCHORAGE OFFICE

May 6, 1975

Honorable Terry Gardiner  
Chairman  
House Judiciary Committee  
Alaska State House of Representatives  
Pouch "V", State Capitol Building  
Juneau, Alaska 99811

Re: CSSB 60 (Rules) Amended

Dear Chairman Gardiner:

This letter is written on behalf of Beneficial Management Corporation, a company affiliated with Beneficial Finance Company.

Beneficial Management has no objection to the laudable purposes of the referenced bill. It has come to our attention, however, that compliance with its provisions relating to loan applications would involve loan companies in violation of the Alaska Small Loans Act, and specifically AS 06.20.240. That section reads:

"Loans for purpose of obtaining higher interest. No licensee may induce or permit any borrower to split up or divide any loan. No licensee may induce or permit any person, nor any husband and wife jointly or severally, to become obligated, directly or contingently or both, under more than one loan contract at the same time, for the purpose or with the result of obtaining a higher rate of interest than would otherwise be permitted by § 230 of this chapter."

In the common situation where a husband or wife applied for a loan when a loan was already outstanding to the spouse of the applicant, the quoted section would require denial

Honorable Terry Gardiner  
CSSB 60 (Rules)  
May 6, 1975  
Page 2

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of the application, exactly because of the marital status of the applicant. This would be a violation of AS 18.80.250 as amended by the pending bill.


We believe that the protections afforded by each of the conflicting provisions can best be retained by allowing the application of the second spouse to be processed normally, unless under the circumstances the intent is not to extend credit separately to the second spouse, but rather to split up an application for a loan exceeding the small loan limits into two loans in order to extract interest not otherwise lawful for a loan of the total amount applied for. For example, when a couple wants a loan for a single purpose, and as part of a single transaction loans are granted to each to avoid the small loan limits, the purpose of the pending bill is not being furthered, and AS 06.20.240 should control.

I have drafted an amendment to Sec. 12 of the act, adding a subsection (c) to AS 18.80.250, which hopefully will effectively deal with this problem. That amendment is enclosed.

I am sorry that other commitments preclude my attendance at your hearing this afternoon. I hope the Committee will favorably consider the proposed amendment, and will contact me if further information or input will be helpful.

Thank you for considering this letter.

Very truly yours,



M. T. THOMAS

MTT:kh

Enclosure

(c) No action by a financial institution or other commercial institution extending credit taken in compliance with (a) of this section, including the extension of credit or the making of a loan, shall be a violation of AS 06.20.240, unless done with the intent or purpose of obtaining a higher rate of interest than would otherwise be permitted by AS 06.20.230.

May 1975

## Rules on Credit Aim to End Bias Against Women

By Barbara J. Katz

Women who seek credit from retail stores, mortgage institutions, and other concerns may soon have an easier time of it.

Regulations proposed by the Federal Reserve Board last week would prohibit creditors from discriminating against credit seekers on the basis of sex or marital status. The regulations were issued to implement the Equal Credit Opportunity Act, passed by Congress last year.

The act, which goes into effect Oct. 28, was sought by women's and consumer groups who contended that women were often denied credit solely because they were women. Divorced, separated, and widowed women often found that after years of obtaining credit under their husbands' names, they were unable to get credit in their own name.

To remedy these and other discriminatory practices, the proposed regulations would forbid creditors from:

- ✓ Terminating credit because of a change in a person's marital status without evidence that the credit applicant's financial circumstances had been unfavorably affected.

- ✓ Requiring the signature of a spouse on a credit application if the applicant is creditworthy in his or her own right.

- ✓ Assigning any value to sex or marital status in the "point system" used by many creditors.

- ✓ Ruling that married persons are more creditworthy than unmarried or separated persons.

- ✓ Asking—as many creditors have asked women in the past—whether the applicant uses birth control or intends to have children.

- ✓ Discounting any part of a person's income because of sex or marital status, a common practice of mortgage lenders when evaluating a working wife's income.

The proposed regulations also would require creditors to do such things as consider alimony and child support as part of a person's income, and supply a written statement of reasons for denying or terminating credit when a rejected applicant requests an explanation.

The regulations also would require creditors to establish separate accounts for husbands and wives who apply for credit separately and are creditworthy in their own right, and to extend credit in any legal name designated by a qualified applicant.

Among the more far-reaching proposals put forth is one that would require creditors by Oct. 28, 1976—one year after the act takes effect—to maintain accounts used by both a husband and wife in both names. This regulation is aimed particularly at solving the problem of the newly divorced woman who is unable to get credit because she has never held credit in her own name.

The board will hold a hearing on these and other proposed regulations on May 28 and 29 in Washington, D.C. Persons who wish to testify are to notify the secretary of the board of governors of the Federal Reserve System by May 14. Persons who wish to submit written testimony are to do so by June 30.

# ALASKA STATE COMMISSION FOR HUMAN RIGHTS



JAY S. HAMMOND, Governor

March 26, 1975

The Honorable Patrick Rodey  
Alaska State Legislature  
State Capitol  
Pouch V  
Juneau, Alaska 99811

Dear Senator Rodey:

The following is a short explanation of the changes proposed for AS 18.80:

AS 18.80.060(b)(3) is amended to put subpoena and discovery powers into a separate subsection (new subsection 18.80.060(b)(4)), thereby expressly making these powers independent of the power to hold hearings. Such a move would end procedural challenges alleging that the Commission does not have discovery powers during its investigation of a discrimination complaint.

AS 18.80.060(b)(4) this new subsection makes express the Commission's power to require discovery during investigation of alleged discriminatory conduct. The language is substantially the same as that which appears in AS 42.06.160(c) (Alaska Pipeline Commission discovery powers) and AS 42.07.141(d) (Alaska Transportation Commission discovery powers).

AS 18.80.130(a)(1) as presently written could be construed as limiting the relief that may be granted to an aggrieved person to that which is set out in the statute. The amendment would clarify the Commission's power to shape appropriate relief. Federal court decisions and many other states' court decisions make it clear that the Commission does have discretion in shaping relief.

AS 18.80.130(a)(2) is amended to provide some form of adequate relief for a person who has been discriminated in housing. The present statutory relief is inadequate in that the housing accommodation sought to be rented, leased or purchased is often unavailable at the time the Commission issues an order. The Civil Rights Act of 1968 provides for an award of actual damages and not more than \$1,000 punitive damages, together with costs and reasonable attorney's fees. (See sec. 812(c)). A similar relief should be provided for citizens who file a complaint with the State.

AS 18.80.130(e) is based upon the language in the Clean Air Act, 42 U.S.C. §1857 et seq. In a case of first impression under that act an award of counsel fees and costs to an unsuccessful litigant was upheld. Citizens Association of Georgetown v. Washington, United States District Court for the District of Columbia, September 30, 1974.

March 26, 1975

an award of attorney's fees to any private party is meant to avoid the type of problem encountered by the courts in applying the "prevailing party" language found in various statutes. (See, for example, Hughes, Award of Attorney's Fees in Alaska: An Analysis of Rule 82.) Furthermore, in the civil rights field, awarding attorney's fees to an unsuccessful complainant has been held proper if the complainant performed a valuable public service in bringing the suit.

The word "private" is meant to indicate that a public agency such as the Commission would not be entitled to recover expenses but a private attorney who may be designated by the executive director to present a case before the Commission (as was the situation in ASCHR v. University of Alaska) could recover reasonable attorney fees.

AS 18.80.240. In the sale, lease or rental of commercial property or commercially zoned property, it is legal in the State of Alaska to discriminate against a person on the basis of that person's race, color, religion, sex, marital status, changes in marital status, pregnancy or national origin. The proposed change in the title of this section would fill this large loophole and more adequately protect our citizens.

AS 18.80.240(4) thru (7). These, subsections are designed to bring the state's statutes up to federal standards. Subsections (4) and (5) are taken from the Washington statutes against discrimination (RCW 49.60.220). Subsections (6) and (7) are taken and are substantially similar to Sections 804(d) and (e) of the Civil Rights Act of 1968 (Title VII, Fair Housing).

AS 18.80.300(8). This definition is the same as that which was adopted by Washington at RCW 49.60.040.

AS 18.80.310. Presently, it is questionable whether or not second-class boroughs and possibly other local governments have the power to protect their citizens on a local level. This section authorizes local governments to set up local human rights commissions to handle discrimination complaints on a local level. The wording of this section is taken from Section 962.1 of the Pennsylvania Human Rights Act.

I will be available to answer any questions you may have on the Commission's proposed amendments or these explanations anytime before April 1, 1975. After that date, please contact Larry Shaw in the Juneau Office for assistance desired.

Sincerely,

Tim Stearns  
Administrative Counsel

TS:kc

A M E N D M E N T

TO: HCS FOR CS FOR SENATE BILL NO. 60

BY PARKER

Page 6, line 5: after "origin," insert "or because of the fact that that person has control or custody of a minor child who will occupy the premises;"

Page 6, line 10: after "origin" insert ", or because of the fact that that person has control or custody of a minor child who will occupy the premises,"

Page 6, line 24: after "origin" insert ", or the fact that the person has control of a minor child who will occupy the premises,"

Page 7, line 1: after "person" insert ", or because of the fact that that person has control or custody of a minor child who will occupy the premises"

Page 7, line 7: after "origin," insert "or the fact that the person has control of a minor child who will occupy the premises,"

Page 3, Lines 9 through 17:

1  
2 (b) Therefore, it is the policy of the state and the purpose of  
3 this chapter to eliminate and prevent discrimination in employment, in  
4 credit and financing practices, in places of public accommodation, [IN  
5 HOUSING ACCOMMODATIONS] and in the sale, [OR] lease, or rental of real  
6 [OF UNIMPROVED] property because of race, religion, color, national  
7 origin, [OR, IN THE CASE OF EMPLOYMENT, BECAUSE OF] sex,  
8 [OR] age, marital status, changes in marital status, pregnancy or  
9 parenthood. It is not the purpose of this chapter to supersede laws  
10 pertaining to child labor, the age of majority or other age restrictions  
11 or requirements.  
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Drafting  
Correction