

COMMITTEE REPORT
HOUSE

4/7

(5)

FURTHER: Finance

~~1/14/85~~
1/16/85

Date: April 3, 1986

The Committee on House Special Committee on State Loans has had HB 51

"An Act requiring banks to pay interest on money in reserve accounts held in connection with mortgage loans."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without ^{intentional} recommendation Zero Fiscal Note Attached
Intent
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

CHAIRMAN

Introduced: 1/14/85
Referred: 1/16/85 House Special
Committee on State Loans and
Finance

1 IN THE HOUSE

BY DUNCAN, SUND AND MARROU

2 HOUSE BILL NO. 51

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act requiring banks to pay interest on money in
7 reserve accounts held in connection with mortgage
8 loans."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 06.05 is amended by adding a new section to read:

11 Sec. 06.05.285. INTEREST ON RESERVE ACCOUNTS. (a) A bank that
12 requires the payment of money by a borrower into an escrow or similar
13 reserve account for the payment of taxes, insurance premiums, or home
14 owner's association dues in connection with a mortgage loan shall pay
15 interest on the money in that account unless the account is required
16 by federal law or regulation. The rate of interest paid on money in a
17 reserve account shall equal the rate of interest charged to the bor-
18 rower for the mortgage loan and shall be computed on the average
19 monthly balance in that account on the first of each month.

20 (b) Interest earned on money in a reserve account shall be
21 annually credited to the remaining principal balance on the mortgage
22 loan, or at the election of the borrower, shall be paid to the borrow-
23 er.

24 * Sec. 2. AS 06.05.285 enacted in sec. 1 of this Act applies to escrow
25 and similar reserve accounts established before the effective date of this
26 Act, as well as to accounts established after the effective date of this
27 Act, with interest to be paid beginning on the effective date of this Act
28 on money in those accounts.

STATE OF ALASKA 1985 LEGISLATIVE SESSION

FISCAL NOTE

CC
477

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 51
 Title: An Act requiring banks to pay interest on money in reserve with mortgage loans
 Sponsor: Duncan
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: _____
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Representative Jim Duncan Phone: 465-4766
 Division: J. Duncan Date: 4-4-86

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84

ALASKA STATE LEGISLATURE

14th Legislature FIRST Session

HOUSE BILL NO. 51

By DUNCAN, SUND, MAPROU

"An Act requiring banks to pay interest on money in reserve accounts held in connection with mortgage loans."

Banks to Pay Interest

Introduced in the House .. 1/16, 19. 85

HISTORY IN THE HOUSE

19 85

Jan. 16

Read first time and referred to Committee on

SPEC. LOANS AND FINANCE

Reported back with recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed
Signed by Speaker
Sent to Senate

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19

Read first time and referred to Committee on

Reported back with recommendation that

Read second time and

Read third time and

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reconsideration

PASS	Effective Date
Yeas	Yeas
Nays	Nays
Absent	Absent
Excused	Excused

Reported correctly engrossed
Signed by President
Returned to House

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19

Received from Senat6

Concurred in Senate amendment thus adopting:
VOTE

Failed to concur in Senate amendment; asked Senate to recede
VOTE

Senate receded from amendment
VOTE

Senate failed to recede from amendment
VOTE

CC appointed by House

CC appointed by Senate

CC adopted by House
VOTE

CC adopted by Senate
VOTE

To enrolling
Reported correctly enrolled
Sent to Governor

..... by Governor

Filed with Lt. Governor

Chapter No.

Cook
4/15/86

Changes
Changes are
underlined.

Original sponsors: Duncan, Sund,
Marrou and Gruenberg

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 51 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act requiring banks, mortgage companies, and
7 other lending businesses to pay interest on money in
8 reserve accounts held in connection with mortgage
9 loans."

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15 the payment of taxes, insurance premiums, or home owner's associator.
16 dues in connection with a mortgage loan shall pay interest on the
17 money in that account unless the account is required by federal law or
18 regulation. The rate of interest paid on money in a reserve account
19 shall equal the rate of interest charged to the borrower for the
20 mortgage loan and shall be computed on the average monthly balance in
21 that account on the first of each month.

22 (b) Interest earned on money in a reserve account shall be
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29 Act, with interest to be paid beginning on the effective date of this Act

1 on money in those accounts.
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STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 51

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Sponsor: Duncan

Requestor: _____

Date of Request: _____

FISCAL DETAIL

Agency Affected: _____

Program Category Affected: _____

Account(s) Held in Connection: _____

BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING	0	0	0	0	0	0
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 SUPPLIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS	0	0	0	0	0	0
800 MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Representative Tim Duncan

Division: _____

Phone: 465-4766

Date: 4-4-86

Approved by Commissioner: _____

Agency: _____

Date: _____

Distribution (by Agency preparing fiscal note):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

7/1/84

H1351

Oct. 13, 1984

RECEIVED

OCT 1 1984

Dear Representative Duncan:

I am writing to you as a constituent in hopes that you will agree that some sort of legislation is needed in the banking area that would respond to the concerns expressed in the attached letter.

If the Alaska legislature is not yet ready to require interest to be paid on mortgage escrow accounts (as is required in Minnesota - copy of law attached), perhaps it could at least decrease the benefits gained by banks when they are slow in returning escrow balances by requiring interest to be paid during the period between the date the loan related to the escrow was been paid off and the date of return of the escrow balance. In my case, this was two-and-a-half months and the amount withheld was \$971.

Since escrowing is required by AHFC regulations, my case is not an isolated one related to unique circumstances. And, while banks are free to rollover escrows to new loans, I know of only one that does. I would guess this kind of thing happens to alot of people and the banks make alot of money off of it.

I would appreciate it if you would propose legislation that would require interest to be paid on escrow accounts related to home mortgages, or, in the alternative, legislation that would require interest to be paid on escrow accounts retained after the related loan has been paid off.

Thank you for considering this matter. I look forward to hearing from you on this subject.

Sincerely,

Terri Lauterbach

Terri Lauterbach
800 F Street N-6
Juneau, AK 99801
cc: Representative Mike Miller

Senator Bill Ray

Ms. Lucille Stietz
Vice President, NBA
Mortgage Loan Department
Anchorage, Alaska 99510

Oct. 13, 1984

Dear Ms. Stietz:

This letter is written to express my extreme dissatisfaction with the dilatory handling of the return of my escrow balance on mortgage loan #125040.

These are the facts:

- 1) Loan #124040 (hereafter referred to as loan #1) was paid off on August 1 of this year.
- 2) A second mortgage loan (#545015, hereafter referred to as loan #2) was closed on August 2.
- 3) The balance of my escrow (\$971) was received by me on October 12.
- 4) The check for that balance was dated September 13, 1984.

First of all, it angered me that I couldn't use that escrow money (which was primarily for taxes) to pay my portion of taxes due at the closing on August 1. Instead, my proceeds from the sale of my home were reduced by \$1002 by the closing agent.

Secondly, it angered me that NBA would not rollover escrow #1 when I took out loan #2. Instead, I had to come up with several months' reserve of taxes and insurance for loan #2 while NBA sat there knowing that loan #1 had been paid off. (NBA had to know that loan #1 had been paid off because otherwise NBA wouldn't have closed on loan #2. The settlement papers showing both the payoff of loan #1 and the money reserved by the closing agent to pay taxes had to be presented before I could get loan #2 closed.)

Thirdly, when I questioned the practice of not rolling over the escrow account to be reserves for the second loan, I was told it wouldn't matter much because the escrow balance would be remitted to me very promptly, probably the same day, maybe in a week's time.

Well, as you can see by the above facts, the check to me was anything but "prompt". Not only did NBA have the interest-free use of escrow #1 during the pendency of loan #1, but it also had it for another two-and-a-half months afterwards, still interest-free! (A months' worth of that time even occurred after the check had been written.) And, during that two-and-a-half months, of course, NBA also had the use of an escrow balance for loan #2.

I find such practices outrageous. The banking community should feel benefitted enough by not having to pay interest on escrow accounts during the pendency of a loan without having to play their position to the hilt by retaining such accounts after a loan is paid off.

I want an explanation of why it took so long for me to get my money back when you knew the loan was paid off on August 2.

Yours truly,

Theresa M. Lauterbach

cc: Commissioner of Commerce and Economic Development

without the required consent of the lender. The mortgage shall further provide that the notice shall contain the following provisions:

- (a) the nature of the default by the borrower.
 - (b) the action required to cure the default.
 - (c) a date, not less than 30 days from the date the notice is mailed by which the default must be cured.
 - (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by the mortgage and sale of the mortgaged premises, and
 - (e) that the borrower has the right to reinstate the mortgage after acceleration.
- and
- (f) that the borrower has the right to bring a court action to assert the nonexistence of a default or any other defense of the borrower to acceleration and sale.

Subd. 9. (1) For purposes of this subdivision the term "mortgagee" shall mean all state banks and trust companies, national banking associations, state and federally chartered savings and loan associations, mortgage banks, mutual savings banks, insurance companies, credit unions or assignees of the above. Each mortgagee requiring funds of a mortgagor to be paid into an escrow, agency or similar account for the payment of taxes or insurance premiums with respect to a mortgaged one to four family, owner occupied residence located in this state, unless the account is required by federal law or regulation or maintained in connection with a conventional loan in an original principal amount in excess of 80 percent of the lender's appraised value of the residential unit at the time the loan is made or maintained in connection with loans insured or guaranteed by the secretary of housing and urban development, by the administrator of veterans affairs, or by the administrator of the farmers home administration, shall calculate interest on such funds at a rate of not less than five percent per annum. Such interest shall be computed on the average monthly balance in such account on the first of each month for the immediately preceding 12 months of the calendar year or such other fiscal year as may be uniformly adopted by the mortgagee for such purposes and shall be annually credited to the remaining principal balance on the mortgage, or at the election of the mortgagee, paid to the mortgagor or credited to his account. If the interest exceeds the remaining balance, the excess shall be paid to the mortgagor or vendee. The requirement to pay interest shall apply to such accounts created prior to June 1, 1976 as well as to accounts created after June 1, 1976.

(2) A mortgagee offering the following option (c) to a mortgagor but not requiring maintenance of escrow accounts as described in clause (1), whether or not the accounts were required by the mortgagee or were optional with the mortgagor, shall offer to each of such mortgagors the following options:

- (a) the mortgagor may manage the payment of insurance and taxes by himself;
- (b) the mortgagor may open with the mortgagee a passbook savings account carrying the current rate of interest being paid on such accounts by the mortgagee in which the mortgagor can deposit the funds previously paid into the escrow account; or
- (c) the mortgagor may elect to maintain a non-interest bearing escrow account as described in clause (1) to be serviced by the mortgagee at no charge to the mortgagor.

A mortgagee that is not a depository institution offering passbook savings accounts shall instead of offering option (b) above notify its mortgagors (1) that they may open such accounts at a depository institution and (2) of the current maximum legal interest rate on such accounts.

A mortgagee offering option (c) above to a mortgagor but not requiring the maintenance of escrow accounts shall notify its mortgagor of the options under (a), (b) and (c). The notice shall state the option and state that an escrow account is not required by the mortgagee, that the mortgagor is legally responsible for the payment of taxes and insurance, and that the notice is being given pursuant to this subdivision.

Notice shall be given within 30 days after the effective date of the provisions of Laws 1977, Chapter 350 amending this subdivision, as to mortgagees offering option (c) above to mortgagors but not requiring escrow accounts as of the effective date, or within 30 days after a mortgagee's decision to discontinue requiring escrow accounts if the mortgagee continues to offer option (c) above to mortgagors. If no reply is received within 30 days, option (c) shall be selected for the mortgagor but the mortgagor may, at any time, select another option.

A mortgagee making a new mortgage and offering option (c) above to a prospective mortgagor shall, at the time of loan application, notify the prospective mortgagor of options (a), (b) and (c) above which must be extended to the prospective mortgagor. The mortgagor shall select one of the options at the time the loan is made.

Any notice required by this clause (2) shall be on forms approved by the commissioner of banking and shall provide that at any time a mortgagor may select a different option. The form shall contain a blank where the current passbook rate of interest shall be entered by the mortgagee. Any option selected by the mortgagor shall be binding on the mortgagee.

This clause (2) does not apply to escrow accounts which are excepted from the interest paying requirements of clause (1).

(3) A mortgagee shall be prohibited from charging a direct fee for the administration of the escrow account.

(4) A mortgagee shall make timely payments of tax and insurance bills provided that funds paid into the account by the mortgagor are sufficient for the payment. If there is a shortage of funds the mortgagee shall promptly notify the mortgagor of the shortage. Failure to make the payment required by this clause shall subject the mortgagee to liability for all damages caused by the failure except that this sentence shall not deprive the mortgagee of the right to present any legal defenses in any subsequent proceeding. The mortgagee is permitted to make any payment on behalf of the mortgagor even though there are not sufficient funds in a particular account to cover the payment.

Subd. 10. Notwithstanding any other law, the provisions of this section may not be waived by any oral or written agreement executed by any person.

Subd. 11. All lenders who make conventional loans pursuant to this section and who are not financial institutions supervised by state or federal government agencies shall register with the banking division of the department of commerce. Lenders who make no more than five conventional loans in any calendar year are exempt from the registration requirements of this subdivision. The commissioner of banks shall charge and collect a fee of \$25 for registration.

For purposes of this subdivision, the Minnesota housing finance agency shall not be considered a lender.

Subd. 12. All lenders, including the Minnesota housing finance agency but excluding lenders making no more than five conventional loans in any calendar year, shall make an annual report containing the following information and such further information as the commissioner may require to the commissioner of banks describing the lender's number of:

(a) conventional loans to individuals secured by a residential unit located in this state made during each month of the reporting period and the total dollar amount thereof by month;

SUBJECT: Process of Collecting Real Estate Taxes

BACKGROUND: At the present time, financial institutions must collect, monthly, 1/12th of the annual cost of CBJ real estate assessments. These funds are invested by the financial institutions until October, and then payment is made to CBJ. The Borough then reinvests the funds over the next 12 months to pay the monthly expenses for the operation of the City.

ISSUE: Better utilization of private tax payments will allow the City to utilize the approximately \$13 million currently invested for paying their budget items.

SOLUTION: Issue monthly tax bills for 1/12th the annual cost of real estate taxes directly to the property owner...the same as we are presently doing for water and sewer. (It could be a separate line on the same card.)

- ADVANTAGES:**
1. A constant monthly income to the City to cover normal city monthly cash outlay requirements, with reduce working capital, and the freeing up of approximately \$13 million to spend without increasing tax millage.
 2. A reduction in management costs by the City associated in handling and investing the funds.
 3. A closer relationship would develop between the property owners and the taxing authority as the public would constantly be reminded of the cost of the service they receive.
 4. The problems associated with buying and selling of real estate by the public would be greatly reduced as less cash funds would be needed to buy and sell the tax escrows.

- DISADVANTAGES:**
1. CBJ would lose the income currently derived from the investment of the funds. However, this income correctly belongs to the property owner as it is not the responsibility of CBJ to invest property owners' money. Currently the income is estimated to be \$585,000.
 2. Annual costs associated with a monthly billing routine is estimated as follows:

. Monthly data processing cost @ \$500/mo ---	\$ 6,000
. Input of data by staff @ 8 hours/mo -----	\$ 1,500
. Postage on tax bills that don't have -----	\$ 7,500
water and sewer services (i.e., separate bills) 4,000/mo at 10.5 cents	
. Customer relations time by staff -----	\$ 2,500
@ 2 hours/week	
. Collections work by staff @ ? hours/week -	<u>\$ 2,500</u>
TOTAL -----	<u>\$20,000</u>

. Less the reduction of investment time,---- \$24,000
insurance and bonding associated
with less investments @ \$2000/month
(estimated)

The monthly savings would approximate the additional monthly cost.

SUBJECT:

Process of Collecting Real Estate Taxes

DISADVANTAGES:

3. The CBJ assembly may encounter a lot more public input requiring more time and expense to answer questions and conduct public meetings.
4. Financial institutions would lose the income associated with the investment of escrows funds. However, this income correctly belongs to the public and a close analysis of cost would probably show that a reduction of cost associated with handling the funds would more than offset the loss of income.
5. Some legal and legislative work may be required to legally change to a monthly billing process.

J. O. Coffman

ALASKA MORTGAGE BANKERS ASSOCIATION

P.O. BOX 4-2691/ANCHORAGE, ALASKA 99503

January 25, 1985

Mr. Willis Kirkpatrick
Director of Banking, Securities and Corporations
Department of Commerce and Economic Development
Pouch D
Juneau, Alaska 99811

Dear Mr. Kirkpatrick:

The Alaska Mortgage Bankers Association has reviewed House Bill 51 and Senate Bill 6, relating to Interest on Escrows.

Banks, of their own volition, do not require funds held in escrow on mortgage loans. This is only one requirement of the investors purchasing the mortgages, with which banks must comply in order to originate and sell mortgage loans.

The bills are discriminatory, in that they would affect banks only; escrows on mortgage loans are held not only by banks, but by Credit Unions, Savings and Loan Associations, Savings Banks and Mortgage Companies. Requiring only banks to pay interest on escrows would give non-bank institutions an unfair advantage and a disadvantage to non-bank borrowers.

The bills also would require banks to pay interest at the rate of interest charged to the borrower on a mortgage loan. Since Alaska lenders sell the majority of loans to investors, such as Alaska Housing Finance Corporation, and service the loans for the investors for a set fee, the rate of interest paid on the loan is not relevant to the escrow. This requirement would create a real computer nightmare if it is even possible, adding to the cost of performing escrow functions.

Banks have never wanted to collect reserves (escrows) on mortgage loans. During the Depression in the 1930s, many borrowers lost their homes due to inability to pay taxes. The federal government and lending institutions determined there should be a better way, and collection of reserves on a monthly basis evolved, in great part as a result of the Housing Act of 1934, which created FHA. Reserve accounts have helped standardize mortgage loans, which has resulted in loans requiring minimal down payments and lower interest rates than would otherwise be available, thus making homeownership available to more people.

AHFC, which purchases some 75-80% of all mortgage loans in Alaska, requires collection of reserves. Without the assurance that funds are available to pay taxes and insurance, we question whether AHFC could sell their bonds, and if so, at what price. The cost to Alaska homebuyers would definitely increase.

The bills would exempt those loans where escrows are required by federal law or regulation; this would exempt FHA and VA loans, and possibly loans sold to Federal National Mortgage Association (FNMA) and the Federal Home Loan Mortgage Corporation (FHLMC). As AHFC now sells its' loans to FNMA, these could possibly also be exempted. The majority of loans in Alaska could therefore come under exemption.

Lenders holding escrow funds in connection with mortgage loans perform significant services which accrue to the benefit of the borrowers, local tax authorities, insurers and mortgage investors.

- 1) Collection of taxes and insurance monthly.
- 2) Collection of assessments in certain instances.
- 3) Obtaining tax bills and paying in a timely manner.
- 4) Payment of assessments in a timely manner.
- 5) Payment of insurance premiums to assure coverage.
- 6) Analyzing sufficiency of escrow accounts and adjusting payments as necessary due to changes in taxes, insurance and assessments.
- 7) Answering questions and complaints including those regarding increases in taxes which should more properly be directed to taxing authorities.
- 8) Distributing an annual statement of account.
- 9) Advancing lenders' own funds when necessary to insure timely payment of taxes and insurance. Repayment of these advances are often spread over a period of time, without charge, to ease the financial burden to the borrower.

The cost of administering escrow accounts is significant. Lenders currently absorb this cost because it is partially offset by non-interest bearing deposits. Should lenders be required to continue the escrow function and to pay interest on the escrows, the full cost of performing the services required would necessarily be passed on to the borrowers.

The Alaska Mortgage Bankers Association urges thoughtful consideration of these bills prior to any action. At this time, we urge these bills be rejected.

Please keep us advised of any hearings.

Sincerely,

Paula Cranmer
President
Alaska Mortgage Bankers Association

attachment: Membership list, Alaska Mortgage Bankers Assoc.

Introduced: 1/14/85
Referred: 1/16/85 House Special Committee on
State Loans and Finance

1 IN THE HOUSE

BY DUNCAN, SUND AND MARROU

2

HOUSE BILL NO. 51

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act requiring banks to pay interest on money in
7 reserve accounts held in connection with mortgage
8 loans."

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