

CSHB

143

SENATE COMMITTEE REPORT

FURTHER:

5/15/87

DATE TURNED INTO OFFICE 5/5/88

Mr. President:

FINANCE Committee considered CSHB 143(L&C)

Alaska Securities; efd.

and recommended:

replace with \_\_\_\_\_ CS FOR \_\_\_\_\_ )  same title  
 or adopt \_\_\_\_\_ CS FOR \_\_\_\_\_ )  new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted \_\_\_\_\_

Committee  attached or  adopted fiscal note(s)

new  updated or  previous  
 zero  fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*Gene Duncan*  
*Paul Trish*  
*Pinky Uel*  
*W. Hernd*  
*[Signature]*  
*[Signature]*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Richard Lopez*  
Chairman signature and recommendation

Committee Backup Attached

No. 1

**STATE OF ALASKA 1986 LEGISLATIVE SESSION**  
**FISCAL NOTE**

Bill Version: HB 143  
Publish Date: HOUSE 2/20/87

**REQUEST**

Bill/Resolution No. : \_\_\_\_\_  
Title: An Act assessing civil penalties  
under the Alaska Securities Act.  
Sponsor: Rules Committee  
Requestor: Governor  
Date of Request: \_\_\_\_\_

**FISCAL DETAIL**

Agency Affected: Commerce & Econ. Dev.  
BRU: Banking, Securities & Corporations  
Components: Consumer Protection

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING : (Thousands of Dollars)**

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

**POSITIONS :**

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

**ANALYSIS :** Attach a separate page if necessary

Prepared by: Edward C. Watkins  
Division: Banking, Securities & Corporations

Phone: 465-2521  
Date: November 20, 1986

Approved by Commissioner: \_\_\_\_\_  
Agency: Commerce & Economic Development

Date: 11/19/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE LABOR AND  
COMMERCE COMMITTEE

2

CS FOR HOUSE BILL NO. 143 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the Alaska Securities Act; and  
7 providing for an effective date."

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

9 \* Section 1. AS 45.55.140(a)(5) is amended to read:

10 (5) a security [AN INVESTMENT CONTRACT] issued in connec-  
11 tion with an employee's stock purchase, savings, pension, profit-  
12 sharing, or similar employee's benefit plan [IF THE ADMINISTRATOR IS  
13 NOTIFIED IN WRITING 30 DAYS BEFORE THE INCEPTION OF THE PLAN OR, WITH  
14 RESPECT TO PLANS WHICH ARE IN EFFECT ON MAY 9, 1959, WITHIN 60 DAYS  
15 THEREAFTER, OR WITHIN 30 DAYS BEFORE THEY ARE REOPENED IF THEY ARE  
16 CLOSED ON MAY 9, 1959];

17 \* Sec. 2. AS 45.55.200 is repealed and reenacted to read:

18 Sec. 45.55.200. ORDERS, INJUNCTIONS, AND CIVIL PENALTIES. (a)  
19 If it appears to the administrator that a person has engaged or is  
20 about to engage in an act or practice in violation of a provision of  
21 this chapter or regulation or order under this chapter, the adminis-  
22 trator may

23 (1) in the public interest or for the protection of inves-  
24 tors, issue an order

25 (A) directing the person to cease and desist from  
26 continuing the act or practice;

27 (B) directing the person, for a period not to exceed  
28 three years, to file the annual reports, proxies, consents or  
29 authorizations, proxy statements, or other materials relating to

1 proxy solicitations required under AS 45.55.139 with the adminis-  
2 trator for examination and review 10 working days before a dis-  
3 tribution to shareholders; and

4 (C) voiding the proxies obtained by a person required  
5 to file under AS 45.55.139, including their future exercise or  
6 actions resulting from their past exercise, if the proxies were  
7 solicited by means of an untrue or misleading statement pro-  
8 hibited under AS 45.55.160; or

9 (2) bring an action in the superior court to enjoin the  
10 acts or practices and to enforce compliance with this chapter or  
11 regulation or order under this chapter, and upon a proper showing, the  
12 appropriate remedy must be granted and a receiver or conservator may  
13 be appointed for the defendant or the defendant's assets; the court  
14 may not require the administrator to post a bond.

15 (b) The administrator may issue an order against an applicant,  
16 registered person, or other person who knowingly or intentionally vio-  
17 lates this chapter or a regulation or order of the administrator under  
18 this chapter, imposing a civil penalty of not more than \$2,500 for a  
19 single violation, or not more than \$25,000 for multiple violations, in  
20 a single proceeding or a series of related proceedings.

21 (c) For violations not covered by (b) of this section, the  
22 administrator may issue an order against an applicant, registered per-  
23 son, or other person who violates this chapter or a regulation or  
24 order of the administrator under this chapter, imposing a civil  
25 penalty of not more than \$500 for a single violation, or not more than  
26 \$5,000 for multiple violations, in a single proceeding or a series of  
27 related proceedings.

28 (d) Before issuing an order under (a)(1), (b), or (c) of this  
29 section, the administrator shall give reasonable notice of and an

1 opportunity for a hearing. However, the administrator may issue a  
2 temporary order under (a)(1) of this section pending the hearing,  
3 which remains in effect until 10 days after the hearing is held and  
4 which becomes final if the person to whom notice is addressed does not  
5 request a hearing within 15 days after the receipt of notice.

6 \* Sec. 3. AS 45.55.210(a) is amended to read:

7 (a) In addition to the civil penalties assessed under AS 45.55.-  
8 200, a [A] person who wilfully violates a provision of this chapter  
9 except AS 45.55.160, or who wilfully violates a regulation or order  
10 under this chapter, or who wilfully violates AS 45.55.160 knowing the  
11 statement made to be false or misleading in a material respect or the  
12 omission to be misleading by any material respect, upon conviction, is  
13 punishable by a fine of not more than \$5,000, or by imprisonment for  
14 not less than one year nor more than five years, or both. Upon con-  
15 viction of an individual for a felony under this chapter, imprisonment  
16 for not less than one year is mandatory. However, an individual may  
17 not be imprisoned for the violation of a regulation or order if the  
18 individual proves that the individual had no knowledge of the regu-  
19 lation or order. An indictment or information may not be returned  
20 under this chapter more than five years after the alleged violation.

21 \* Sec. 4. AS 45.55.260(c) is amended to read:

22 (c) For the purpose of this section, an offer to sell or to buy  
23 is made in this state, whether or not either party is then present in  
24 this state, when the offer

25 (1) originates from this state; [OR]

26 (2) is directed by the offeror to this state and received at  
27 the place to which it is directed, or at a post office in this state  
28 in the case of a mailed offer;

29 (3) is for an interest or participation in an oil, gas, or

1 mining right, title, or lease on land in the state, including sub-  
2 merged land, regardless of where the offer is made;

3 (4) is for an interest or participation in payments out of  
4 production under an oil, gas, or mining right, title or lease on land  
5 in the state, including submerged land, regardless of where the offer  
6 is made; or

7 (5) is for an interest or participation in real property  
8 located in the state, or in a domestic corporation or a domestic  
9 limited partnership; jurisdiction under this paragraph may be ex-  
10 ercised only when the exercise is not inconsistent with the consti-  
11 tution of this state or of the United States.

12 \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

# STATE OF ALASKA

**DEPARTMENT OF COMMERCE &  
ECONOMIC DEVELOPMENT**  
DIVISION OF BANKING, SECURITIES & CORPORATIONS

RECEIVED APR 27 1988  
STEVE COWPER, GOVERNOR

P.O. BOX D  
JUNEAU, ALASKA 99801-0800  
Banking & Securities (907) 465-2521  
Corporation Section (907) 465-2530  
ANCHORAGE  
Corporation Information (907) 563-2161

April 27, 1988

Honorable Rick Halford  
Co-Chairman, Senate Finance  
Committee  
Alaska State Senate  
P.O. Box V  
Juneau, AK 99811

Dear Senator Halford:

Re: CS for HB 143 Amending the Alaska Securities Act

The amendments to the Alaska Securities Act found in CSHB 143 are measures we need now to enhance public investor protection and to instill confidence in Alaska as a safe environment for outside investment.

Since the market "break" in October 1987, we've been experiencing substantial increases in client complaints regarding their inability to obtain records from broker/dealers. The ability to impose civil fines for failing to maintain proper records and for failing to respond to clients' requests will enhance compliance while precluding the necessity of us having to threaten hearing and closure to get broker/dealers' attention and compliance with these requests. This provision is contained in Section 2 of the Committee Substitute for HB 143.

With respect to the "long reach" provisions found in Section 4 involving oil, gas, mining, and other real property offerings where the leasehold interest and/or mining site is located in Alaska, we are experiencing continued abuses. While care is being taken to avoid offering these fraudulent investments to Alaskans, nonetheless, it will become increasingly difficult to raise legitimate capital for bona fide ventures located in Alaska if these frauds are permitted to go unchallenged by us. The latest example is the Trinity Island mining scam which is being perpetrated on the public in the Lower 48, raising the investment funds for a mining operation located on an island off Kodiak where, in fact, no mining has taken place nor any permits have been obtained.

Honorable Rick Halford

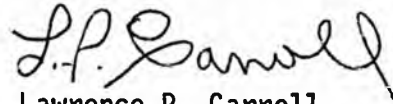
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April 27, 1988

Anything you can do to move CSHB 143 out of the Senate Finance Committee to Rules for calendaring will most certainly be appreciated.

We remain at your disposal should you have any further questions concerning this matter.

Yours very truly,



Lawrence P. Carroll  
Senior Securities Examiner

LPC/sa4159s  
42788b

cc: Willis F. Kirkpatrick