

HB

368

HOUSE COMMITTEE REPORT

①

(11)

Date Referred: February 2, 1990

FURTHER REFERRALS:

Date of Committee Action: 2/14/90

The FINANCE Committee considered:

HB 368

HOUSE BILL NO. 368

CONSTRUCTION STNDS FOR AHFC HOUSING LOANS

"An Act relating to residential housing assistance provided by the Alaska Housing Finance Corporation."

RECOMMENDATIONS:

- [] be replaced with CS HB 3108 (FIN) [] the same title
- [] a new title
- [] have attached amendment(s)
- [] do pass
- [] do not pass
- [] no recommendation
- [] individual recommendations
- [] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [] fiscal impact _____
- [] zero fiscal note _____
- [] zero with analysis _____
- [] fiscal note(s) _____
- [] zero fiscal note(s) _____
- [] zero fn/analysis 1/30/90 / REVENUE

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not
Pass No Rec Amend

<u>[Signature]</u> Hoffinan	<u>[Signature]</u> Koponen		No Rec	
<u>[Signature]</u> Larson	<u>[Signature]</u> Phillips		<input checked="" type="checkbox"/>	
<u>[Signature]</u> Swackhammer	<u>[Signature]</u> Wallis		<input checked="" type="checkbox"/>	
<u>[Signature]</u> Brown	<u>[Signature]</u> Rieger		<input checked="" type="checkbox"/>	
<u>[Signature]</u> Barnes				

[Signature] Hoffman
 Chairman's Signature
[Signature] Larson

STATE OF ALASKA
1990 LEGISLATIVE SESSION

^{CC} BILL VERSION: CSHB 368 (L & C)
PUBLISH DATE: HOUSE 2/2/90

FISCAL NOTE

REQUEST:

Revised Date: _____
 Title: Construction Stds for Housing Eligible for AHFC Financing
 Agency Afford: _____
 BRU: Alaska Housing Finance Corporation
 Sponsor: Rep. Swackhammer
 Committee: _____
 Request: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

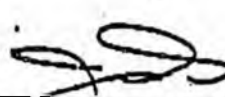
FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Judith DeSpain 
 Division: Alaska Housing Finance Corporation Phone: 561-1900
 Date: 1/30/90

Approved by Commissioner: Hugh Malone
 Agency: Department of Revenue Date: _____

Distribution (by prepare):

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

Adopted

008518

**FISCAL ANALYSIS
SB 368**

The cost to AHFC to implement the provisions of this legislation are negligible, as the onus for ensuring compliance rests with the lender, not AHFC. AHFC activity will be limited to the routine adding and publicizing of a new underwriting requirement which must be met by the lender before a commitment to purchase can be issued.

Inspections will be done by non-AHFC personnel. Costs of inspections ultimately will be borne by borrowers.

Original sponsor(s): REP. SWACKHAMMER, Navarre, Brown, Zawacki

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 368 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to residential housing assistance
7 provided by the Alaska Housing Finance Corporation."

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

9 * Section 1. AS 18.56.088(c) is amended to read:

10 (c) The board may adopt regulations to carry out the purposes of
11 this chapter, and shall adopt regulations necessary for the following
12 purposes:

13 (1) determination of borrower eligibility including, but
14 not limited to, income limitations and the determination of remote,
15 underdeveloped or blighted areas of the state;

16 (2) loan guidelines and terms including but not limited to
17 maximum loan amounts and required loan-to-value ratios, but excluding
18 mortgage loan interest rates;

19 (3) characteristics of housing eligible for loans or pur-
20 chase of loans, including compliance with the requirements of AS 18.-
21 56.300; [AND]

22 (4) the qualifications of loan originators and servicers
23 and the method of allocating amounts available for the purchase of
24 loans; and [.]

25 (5) establishment of a procedure, including a fee schedule,
26 for the commitment for one year or less of money for the purchase of
27 an individual mortgage loan at a specific interest rate.

28 * Sec. 2. AS 18.56 is amended by adding a new section to read:

29 Sec. 18.56.300. CONSTRUCTION STANDARDS FOR HOUSING ELIGIBLE FOR

1 PURCHASE OF LOANS. (a) The corporation may not make or purchase a
2 housing loan for residential housing the construction of which begins
3 after June 30, 1991, unless the seller of the mortgage loan complies
4 with the provisions of this section and unless

5 (1) the unit is in compliance with the construction codes
6 of the municipality, if the unit is located within a municipality that
7 has adopted and enforces construction codes and each of those codes
8 meets or exceeds the comparable standards for similar housing estab-
9 lished by the state building code; or

10 (2) the unit is in compliance with the comparable standards
11 for similar housing established by the state building code

12 (A) if the unit is located

13 (i) within a municipality whose construction
14 codes do not meet the standards for similar housing estab-
15 lished by the state building code;

16 (ii) within a municipality that does not enforce
17 construction codes; or

18 (iii) outside a municipality; or

19 (B) as to each specific code within the construction
20 codes of the municipality that has adopted and enforces con-
21 struction codes if the specific code does not meet or exceed the
22 comparable standard for similar housing established by the state
23 building code.

24 (b) As a condition of a commitment to purchase or approve a loan
25 under this section for residential housing the construction of which
26 begins after June 30, 1991, the corporation shall require inspection
27 of the unit of residential housing that is the subject of the loan.
28 The inspection must be performed by a municipal building inspector or
29 by a person who is approved or certified to perform residential

inspections by the International Conference of Building Officials or the International Association of Electrical Inspectors. The person who makes the inspection shall determine whether the construction conforms to relevant provisions of the construction codes of the municipality or of the state building code, as applicable, at each of the following stages of construction:

- (1) plan approval;
- (2) completion of footings and foundations;
- (3) completion of electrical installation, plumbing, and framing;
- (4) completion of installation of insulation;
- (5) final approval.

(c) An action for damages may not be maintained against

(1) a person performing an inspection under (b) of this section if the claim is based on the person's inspection or failure to inspect for a violation of the construction codes of the municipality or the state building code, as applicable, as a condition of approval of a housing loan under this chapter; or

(2) the corporation for

(A) the negligent inspection or failure to inspect by a person performing an inspection under (b) of this section; or

(B) committing to or approving a housing loan under this chapter without first securing a report based on the inspection made under (b) of this section.

(d) In this section,

(1) "construction codes" means, with reference to a municipality, the building, mechanical, plumbing, and electrical codes, or any of them that have been adopted and are enforced by the municipality;

(2) "state building code" means

(A) for building standards, the standards set out in the version of the Uniform Building Code adopted by the Department of Public Safety under AS 18.70.080, including the provisions of that code applicable to buildings used for residential purposes containing fewer than four dwelling units, notwithstanding the exclusion of those buildings from the Department of Public Safety's jurisdiction made by AS 18.70.080(a)(2);

(B) for mechanical standards, the standards set out in the version of the Uniform Mechanical Code adopted by the Department of Public Safety under AS 18.70.080, including the provisions of that code applicable to buildings used for residential purposes containing fewer than four dwelling units, notwithstanding the exclusion of those buildings from the Department of Public Safety's jurisdiction made by AS 18.70.080(a)(2);

(C) for plumbing standards, the minimum plumbing code adopted by the Department of Labor under AS 18.60.705; and

(D) for electrical standards, the minimum electrical standards prescribed by AS 18.60.580.

* Sec. 3. AS 18.56.300(d)(2)(A) and (B), enacted by sec. 2 of this Act, are intended to assure that, for purposes of determining whether housing the construction of which begins after June 30, 1991, meets the building and mechanical standards under AS 18.56.300(a) and (b), enacted by sec. 2 of this Act, the standards set out in each of the following fully apply to residences containing fewer than four dwelling units, even though those residences are excepted from regulation by AS 18.70.080(a)(2):

(1) the Uniform Building Code, adopted for the state by 13 AAC 50.020(a);

(2) the Uniform Mechanical Code, adopted for the state by 13 AAC

50.020(b).

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House of Representatives

February 3, 1990

SECTIONAL ANALYSIS FOR CS FOR HOUSE BILL 368 (L&C)

SECTION ONE: Incorporates language that refers to new section (AS 18.56.300) that will be added to existing statutes.

SECTION TWO: New section added to AS 18.56.

(a) AHFC may not make or purchase a housing loan for residential housing constructed after June 30, 1991, unless the seller of the mortgage loan complies with the following provisions (as defined under AS 18.56.300):

- (1) Compliance with the construction codes of a municipality, if the building is within a municipality that has adopted and enforces a construction code that meets or exceeds the standards established by the state building code; or
- (2) Compliance with the standards established by the state building code if the residential unit is located within a municipality whose construction code does not meet the standards of the state building code, within a municipality that does not enforce a building code, outside a municipality or if a municipal code does not meet the standards as described in state building codes, then the specific state code will take precedence over the code adopted by a municipality.

(b) Requires that the inspection be performed by a municipal building inspector or by a person who is approved or certified by the International Conference of Building Officials. The person who is conducting the inspections will make a determination whether the construction conforms to municipal construction or state building codes at each of these stages of construction:

- (1) Plan approval;
- (2) Completion of footings and foundations;
- (3) Completion of electrical, plumbing and framing;
- (4) Completion of installation of insulation; and
- (5) Final approval.

(c) A hold harmless clause that protects the person conducting the inspection from claims for damages if the claim is based on the person's inspection or failure to inspect for a violation of the municipal code or the U.B.C. as a condition of approval of a housing loan.

(d) Definitions:

(1) Construction code refers to a municipality, the building, mechanical, plumbing and electrical codes or any of them that have been adopted and enforced by the municipality.

(2) State building code refers to the minimum building and mechanical code adopted by regulation by the Department of Public Safety under A.S. 18.70.080; minimum plumbing code adopted by the Department of Labor under A.S. 18.60.705; and the minimum electrical standards prescribed by A.S. 18.60.580.

REPRESENTATIVE
C.E. "SWACK" SWACKHAMMER

Alaska State Legislature



House of Representatives

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SUMMARY OF LABOR AND COMMERCE AMENDMENTS TO HB 368

- * Page 2, Line 1:
Deleted "LOANS OR"

This deletion refers to the fact that the seller of the mortgage loan, rather than the borrower, is required to comply with the new section under AS 18.56.300.

- * Page 2, Line 2:
Deleted "the effective date of this section"
Inserted "June 30, 1991,"

June 30, 1991, is the date the new construction standards will be effective. Housing constructed before this date is not subject to the new statutes.

- * Page 2, Line 3:
Deleted "borrower"
Inserted "seller of the mortgage loan"

The impetus to insure the inspections are undertaken falls on the seller of the mortgage loan (basically the lending institutions) rather than the borrower. As AHFC suggested, it did not seem appropriate for the borrower to be held responsible for compliance of a law, when the borrower may have no interest or responsibility whatsoever in the construction of the housing units.

- * Page 2, Line 4, after "section" :

Inserted "and unless"

This change reflects that subsection (b) is eliminated.

Page 2
HB 368 amendment 6-1671Aa
January 25, 1990
Swackhammer

* Page 2, lines 5-8:

Deleted all material.

The change limiting the effect of the new subsection under AS 18.56.300 to mortgages purchased for homes that are constructed after June 30, 1991. This makes subsection (b) obsolete.

* Relettered the following subsections accordingly.

Again, due to the elimination of subsection (b).

* Page 2, line 28:

Deleted "approval of"

Inserted "a commitment to purchase or approve"

Suggested language change by AHFC. When acting as a secondary lender, AHFC does not make the loan.

* Page 2, line 28, after "loan":

Inserted "for residential housing that is constructed after June 30, 1991,"

Language to clarify that the bill impacts only those residential housing projects that are constructed after June 30, 1991.

* Page 3, line 16:

Deleted "(c)"

Inserted "(b)"

Reference to amendment that eliminated subsection (b) on page 2.

REPAIRS DEEMED NECESSARY BY AHFC TO MAKE PROPERTIES
"SAFE AND SANITARY"

1. NHN Josephine Dr., Nikiski
Tr. 2B Blk 4 McCaughey Sub.

Repairs

1. Install handrails on decks	- \$	490.00
2. Replaced 3 bedroom windows to meet fire escape requirements	-	2,400.00
3. Drywall installed around breaker box to cover exposed wires	-	140.00
4. Correct improperly installed floor with only 6-8" of crawlspace resulting in dryrot	-	<u>26,000.00</u>
TOTAL	-	\$29,030.00

2. 37840 Dawn Dr., Ridgeway
Carver Sub.

Repairs

1. Smoke detectors	- \$	50.00
2. Correct failing wood foundation not designed properly	-	<u>5,250.00</u>
TOTAL	\$	<u>5,300.00</u>

3. 36100 Kimberly Ct., K-Beach
Hall Sub.

Repairs

1. Correct rear deck improperly installed resulting in frost heaves	- \$	80.00
2. Replace siding that was torn off back of house when deck heaved and pulled off house	-	120.00
3. Correct grading where within 6" of wood siding	-	150.00
4. Install foundation vents	-	120.00
5. Correct handrails to be safe	-	160.00
6. Replace sagging roof improperly	-	<u>10,970.00</u>
TOTAL		\$11,600.00

4. NHN Cottonwood, Nikiski
Lake Salamatoff Sub.

Repairs

1. Rebuild spiral stairs to meet code requirements	- \$	400.00
2. Rebuild unsafe exterior decks	-	1,270.00
3. Install crawlspace vents	-	150.00
4. Correct wood to dirt contact on siding	-	360.00
5. Repair plumbing violations per State Plumbing inspection 36 violations. Repair.	-	<u>6,670.00</u>
TOTAL	\$	<u>8,850.00</u>

5. NHN Bennet Ct., K-Beach
Hall Sub.

Repairs

1. Crawlspace vents	- \$	35.00
2. Exposed wiring to well	-	40.00
3. Complete grading to drain from house	-	545.00
4. Comple back porch & steps	-	310.00
5. Exposed wiring in gable ends	-	10.00
6. Correct electrical to be safe	-	1,536.00
7. Correct plumbing to code	-	990.00
8. Replace home-built wood trusses that were failing		<u>9,110.00</u>
TOTAL		<u>\$12,576.00</u>

Total Costs to Repair Above Houses - \$67,356.00

The following is a list of AHFC properties listed by Dick Mueller Realty, Inc. Because of structural problems, these properties are not in a saleable condition.

<u>Address</u>	<u>Problem</u>	<u>Date Listed</u>
000 Lake St., Soldotna	No Legal Access to Property	3-27-87
000 Gary Ct., Nikiski	No foundation, no well	1-13-88
000 Spruce Haven, N.K.	Poor foundation	10-23-87
000 Scout Lake, Sold.	Engineers Report Necessary	5-9-88
000 Lovers Loop, N.K.	Engineers Report Necessary	1-11-88
000 Sharkathmi, Sold.	Engineers Report Necessary	5-12-88
107 Walker Lane, Kenai	Engineers Report Necessary	11-29-88*
000 N. Spur Rd., N.K.	Engineers Report Necessary	12-1-88**
000 Riverview, Kenai	Unfinanceable, on bluff	6-20-88
000 Misty Place, Sold.	Residential in Commercial	11-28-86
000 Nichols, N.K.	Engineers Report Necessary	4-10-87
000 Marlene, N.K.	Community Well w/contaminant	9-13-87

*Property listed, then taken off market because of condition

**Property not listed yet, repairs have been finished, cost \$10,000+. Financing uncertain because of location in commercial area.

NOTE: Add on at least 6 months holding costs by servicing lender on the above properties and 3 months for holding by Dick Mueller Realty, Inc. before a listing could be signed.

USING APPROX. HOLDING COSTS ABOVE, THE TOTAL HOLDING COSTS TO AHFC ON THESE PROPERTIES SINCE THEY HAVE BEEN ACQUIRED AFTER FORECLOSURES, ADDING HOLDING AND LISTING TIME, IS APPROX. \$750,000.00. (Approx. cost per property per year \$20,000)

-6 of these have had offers rejected, 3 all cash. (MGIC has accepted, AHFC rejected in most cases.)
 -On Sebald, AHFC is now deciding if they want to remove the structure. (Gary Ct.)

(MGIC Insured - 9

(Non-Insured - 2

Rep. C. T. Swackhammer

RE: Legislation to require professional plan review and inspection of AHFC financed construction to protect the public safety.

Dear Rep. Swackhammer,

Recent economic conditions have resulted in numerous foreclosures on residences financed by the Alaska Housing Finance Corporataion. Responsible action by various realtors who are marketing these houses for resale has revealed several instances of substandard and unsafe construction. As a consequence, large capital expenditures by AHFC have been required to bring these houses into conformance with normally accepted standards for durability and safety.

THE PROBLEM

I have been personally involved in the renovation of several such structures and have been amazed at the poor quality of construction and the waste of natural resources that was financed by AHFC. In many instances, structures less than 5 years old have required major structural renovation such as removing and replacing entire roof systems including trusses, decking, and roof coverings. Other instances have involved tearing out entire basement floors in order to replace decayed wood and prevent structural collapse.

Since public funds are involved, I believe that the State of Alaska has a dual responsibility to prevent the construction of of substandard AHFC structures in the future. First, the cost of bringing these structures up to acceptable standards 'after the fact' usually costs several times as much as it would have cost to do it right in the first place. Secondly, and by far more importantly, I believe that the State of Alaska has a fiduciary responsibility to the public to ensure that housing that is financed with public money is reasonably safe and has a normal service life. I am sure that research into this matter would reveal many legal precedents that firmly establish the right of the public to expect that housing financed in part by public funds will be safe and secure. By allowing substandard housing to be constructed under the auspices of AHFC financing, I believe that the State of Alaska will eventually be held liable for death and personal injury resulting from collapse of such structures, in addition to the current costs of associated with the renovation of substandard structures.

A SOLUTION

Great strides can be made towards providing safer, more durable housing by adopting a generally accepted set of performance standards for AHFC financed construction and by requiring the implementation of those standards through a consistent plan review and construction inspection program by qualified Professional Engineers and Architects. Many municipalities in Alaska have adopted the Uniform Building Code to establish minimum life safety, durability and structural engineering requirements.

The effectiveness of the adoption of minimum standards is readily seen when the damage from the recent California earthquake, where relatively few structures failed and less than 200 people were killed, is compared to the damage caused by the 1985 Mexico City earthquake and the 1988 Armenian earthquake where absolute destruction was widespread and deaths numbered in the tens of thousands.

THE FUTURE

Alaska is growing and as it grows we are using the resources to build the infrastructure upon which future generations will depend. Shortcuts today will shortchange our children. As responsible citizens it is our duty to make the highest and best use of limited resources for the benefit of those that follow. Now is the time to begin the process of insuring that our efforts of today will last to serve generations to come.

Please feel free to call me at 283-3583 during business hours or at 283-9506 after hours to discuss this further.

Sincerely,



Wm. J. Nelson, PE