

H B

368

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 8, 1990

FURTHER REFERRALS: FINANCE

Date of Committee Action: 1/25/90

The LABOR & COMMERCE 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 368 (L+C) 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)

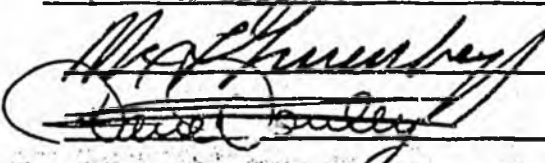
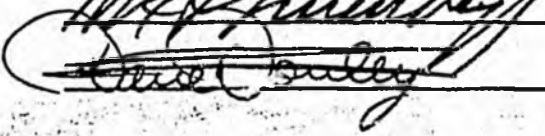
- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

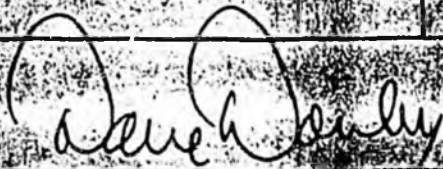
- fiscal note(s) _____
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS.

SIGNING:

(Check approb. column)

	Do Not Pass	No Rec	Amend
	—		
	—		



Chairman's Signature

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: CSHB 368 (L & C)
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: Construction Stds for Housing Agency Affected: Alaska Housing Finance Corporation
Eligible for AHFC Financing
 Sponsor: Rep. Swackhamer Components: _____
 Requester: _____

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 Page: 561-1900
 Approved by Commissioner: Hugh Malone Date: 1/30/90
 Agency: Department of Revenue

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requester
 Office of Management and Budget
 Impacted Agency(ies)

**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.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Construction Standards for
Housing Eligible for Loans
Sponsor: Rep. Swackhammer
Requester: _____

Agency Affected: _____
ARJ, Alaska Housing Finance Corporation
Component: _____

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						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

We have examined this legislation and find no fiscal impact with respect to the Corporation's involvement.

Prepared by: Judith DeSpain Phone: 561-1900
Division: Alaska Housing Finance Corporation Date: 5/8/90
Approved by Commissioner: Hugh Malone Date: _____
Agency: Department of Revenue

Distribution (by preparer):
Legislative Persons
Legislative Sponsor
Requester
Office of Management and Budget
Impacted Agency(ies)

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. SWACKHAMMER

TO: HB 368

Page 2, line 1:

Delete "LOANS OR"

Page 2, lines 2 - 3:

Delete "the effective date of this section"

Insert "June 30, 1991,"

Page 2, line 3:

Delete "borrower"

Insert "seller of the mortgage loan"

Page 2, line 4, after "section":

Insert "and unless"

Page 2, lines 5 - 8:

Delete all material.

Reletter the following subsections accordingly.

Page 2, line 28:

Delete "approval of"

Insert "a commitment to purchase or approve"

Page 2, line 28, after "loan":

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

Page 3, line 16:

Delete "(c)"

Insert "(b)"

HB 368

REPRESENTATIVE
C.E. "SWACK" SWACKHAMMER

Alaska State Legislature



House of Representatives

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312 TYEE STREET
SOLDOTNA, ALASKA 99669
(907) 262-7841

JUNEAU
BOX V
JUNEAU, ALASKA 99811
(907) 465-2689

SUMMARY OF PROPOSED AMENDMENT TO HB 368

Page 2, Line 1:
Delete "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 2-3:
Delete "the effective date of this section"
Insert "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 rules.

* Page 2, Line 3:
Delete "borrower"
Insert "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" :
Insert "and unless"

This change reflects that subsection (b) is eliminated.

* Page 2, lines 5-8:

Delete 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.

* Reletter the following subsections accordingly.

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

* Page 2, line 28:

Delete "approval of"

Insert "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":

Insert "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:

Delete "(c)"

Insert "(b)"

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

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. SWACKHAMMER

TO: HB 368

Page 2, line 1:

Delete "LOANS OR"

Page 2, lines 2 - 3:

Delete "the effective date of this section"

Insert "June 30, 1991,"

Page 2, line 3:

Delete "borrower"

Insert "seller of the mortgage loan"

Page 2, line 4, after "section":

Insert "and unless"

Page 2, lines 5 - 8:

Delete all material.

Reletter the following subsections accordingly.

Page 2, line 28:

Delete "approval of"

Insert "a commitment to purchase or approve"

Page 2, line 28, after "loan":

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

Page 3, J e 16:

Delete "(c)"

Insert "(b)"

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465-3800

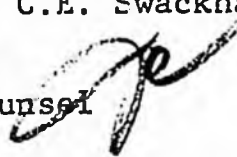
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 20, 1990

SUBJECT: House Bill 368: Response to comments to
Fairbanks ICBO officials

TO: Representative C.E. Swackhammer

FROM: Jack Chenoweth
Legislative Counsel 

I'm not a building code expert, but let me share with you why I think the suggestions on page 2 of the December 6 letter of the Fairbanks ICBO officials urging blanket revisions in code enforcement ought not to be incorporated into this measure.

The legislature has been marvelously inconsistent as to the manner in which it has directed code adoption and enforcement. In AS 18.60.580, the legislature has, by statute, adopted a version of the National Electrical Code. In AS 18.60.705, it has directed the commissioner of labor to adopt a particular version of the Uniform Plumbing Code. As the letter infers, in AS 18.70.080, the legislature has merely said to the commissioner of public safety it is that official's responsibility to determine minimum fire safety provisions; it is on the basis of this authority that certain segments, but not all, of the Uniform Building Code and Uniform Mechanical Code have been adopted.

Perhaps the legislature's inconsistency is intentional; perhaps it is a reflection of political realities or political considerations. Not having had much recent experience with these subjects, I don't know.

Your bill recognizes the existing statutory and regulatory nuances. Since the measure is the vehicle by which you are proposing to improve the standards of AHFC-related housing (and not all buildings and structures), the ICBO request outlined on page 2 is far broader in scope and implications than the subject matter in this measure. If you follow the suggestion urging adoption of all sections of applicable

Representative C.E. Swackhammer
Page 2
January 20, 1990

codes, the legislation would have to be recast in both its title and substantive content.

Let me also say a word about trying to respond to the suggestion that "the most recent version" of a particular code be followed. The building, mechanical, etc. codes in question are "adopted" by national (or international) groups, and it is probably well that they do not automatically become law in this state without either enactment of a statute (as is the case with AS 18.60.580 and 18.60.705) or adoption or readoption of a regulation (as would have to be done under AS 18.70.080). Current administrative law and practice is to deny an agency the right to adopt regulations that say that future amendments as they become effective are also being adopted. The agency must go through the adoption or amendment process. This serves the purpose of giving notice to affected parties of the pending proposed changes and of allowing periodic opportunity for meaningful review of the proposed changes before they become effective. The practice, I suggest, should guide the legislature in its handling of code adoption and amendment considerations.

On the other hand, enactment of your bill should not result in no practical improvement to the situation you are trying to address. If, as is noted in the last paragraph of page 1 of the letter, the absence from the Uniform Building Code adopted by the commissioner of public safety of chapters 23 through 29 excludes any standards applicable to "floor, roof, wall, and structural frame design requirements intended to resist snow, wind, and earthquake loads . . .," it would mean that no standards applicable to residential housing are in place under the Uniform Building Code.

To correct what may be a serious omission in the legislation, the legislature would need to adopt, for purposes of AHFC loan review and approval, the specific provisions recommended by the officials. These provisions either should be specifically referenced in the definition of state building code applicable to building and mechanical standards or the commissioner should be directed to adopt these missing pieces or eliminate the exemptions, as applicable.

I therefore recommend that your staff:

(1) promptly respond to the officials' invitation to "be of any help in furthering the bill" by asking them to identify the specific provisions applicable to residential

Representative C.E. Swackhammer
Page 3
January 20, 1990

housing that need to appear in law in order to make this a workable and useful piece of legislation;

(2) secure from the officials their interpretation or citation of "the exemptions for small residential dwellings" (letter of December 6 at page 2, lines 3 and 4) so that you may determine whether or not you want to eliminate that exemption.

Accurate written responses may make my drafting task go a lot faster.

If this information is not forthcoming from the officials who provided the letter, then it should be elicited in testimony on the bill during deliberations by the Labor and Commerce Committee. The changes you want to make could then be accommodated during bill mark-up.

The current building code and mechanical code references appear in 13 AAC 50.020(a) and (b). If further refinement of the legislation is requested or required, does your office have copies of these volumes?

*

Do you wish to do anything in response to the reference to the "uniform fire code" reference (letter of December 6, page 2, paragraph 2)? There is no reference to fire code in HB 368 as introduced.

*

Thank you for the opportunity to comment. If this memorandum prompts questions, please contact me.

JBC:lmb
L9/064

HB 368



Alaska Northern Chapter of ICBO

P.O. Box 73437 • Fairbanks, Alaska 99707-3437

December 6, 1989

Representative C. E. Swackhammer
312 Tyee Street
Soldotna, AK 99699

Ref: "An act relating to residential housing assistance
provided by the Alaska Housing Finance Corporation.

Dear Rep. Swackhammer:

We have received a draft of your proposed bill establishing construction standards for AHFC financed housing. Sylvester "Sam" Neal, Director of the Division of Fire Prevention / Department of Public Safety, has asked that we review your bill and forward our comments to you.

Your efforts are desperately needed to insure that the houses financed by AHFC are properly constructed. Members of our organization have inspected numerous repossessed houses in the Fairbanks area which have had serious plumbing, electrical and structural deficiencies and which violated some of the basic standards pertaining to life safety.

Your bill can significantly improve the situation identified, but not without more specific language regarding codes. The bill's reference to the "State Building Code" as found in AS 18.70.080 as the minimum building and mechanical standards is simply inadequate and fails to provide the protection intended.

Few people are aware of the fact that the Department of Public Safety has not adopted significant portions of the Uniform Building Code. Specifically, Chapters 23 through 29, (Engineering Regulations - Quality and Design of the Materials of Construction) are not included. These portions of the code address floor, roof, wall and structural frame design requirements intended to resist snow, wind and earthquake loads in masonry, wood, concrete, steel and foundation construction. Also, AS 18.70.080 exempts all residential construction from single family through four-plexes.

In light of these facts, we recommend the following:

1. The Department of Public Safety, under AS 18.70.080, should adopt all sections of the applicable codes and remove the exemptions for small residential dwellings. This is probably the most straight-forward approach and is what many citizens perceive to be the case now.

If the Department of Public Safety is not able to adopt all sections of the codes in a complete and timely manner, then:

2. This bill should require housing units to comply with the Uniform Building Code, Uniform Mechanical Code, Uniform Plumbing Code, Uniform Fire Code and National Electrical Code. (List each of these documents individually in the bill).

Or, as a third alternative:

3. To allow conformance to the standards of the nearest municipality which has currently adopted and enforces the aforementioned building codes. This would allow construction and inspection to standards which are familiar to the residents of the local area, and as well, offer a regional source for code interpretation and information.

Or, as a fourth alternative:

4. Include within the bill provisions for the utilization of the CABO One and Two Family Dwelling Code as the standard for residential building construction. Though not as comprehensive as the previously mentioned codes, this compact document offers condensed provisions for building, plumbing, mechanical, and electrical construction of one and two family dwellings.

We are very encouraged to see that you are concerned with the problems of substandard housing in Alaska and the cost to all Alaskans that these problems entail. We are pleased that you are taking action by introducing legislation to address these issues.

If we can be of any help in the furthering of this bill, please do not hesitate to contact us.

Sincerely yours,



Del Allison, President
Phone 456-8468



Vince Meurlott, Code Development Committee
Phone 459-6720



HB368

520 East 34th St.
Anchorage, AK 99503
(907) 561-1900

P.O. Box 101020
Anchorage, AK 99510

January 22, 1990

The Honorable Dave Donley
Chairman
House Labor and Commerce Committee
P.O. Box V
Juneau, Alaska 99811

RE: HB 368

Dear Representative Donley:

I am pleased to offer comments on House Bill 368, which adds a new section AS 18.56.300 entitled CONSTRUCTION STANDARDS FOR HOUSING ELIGIBLE FOR LOANS OR PURCHASE OF LOANS.

In general, we agree that the philosophy and concept of building code compliance are sound. Certainly, it makes good sense from an underwriting perspective to ensure that the housing product financed meets a minimum standard of structural integrity and safety, enhancing the economic life of the property and thus protecting the Corporation's investment.

There are, however, some technical issues in the bill that we would like to call to your attention for possible refinement.

1. Section 18.56.300 (a) reads in part that AHFC may not make or purchase a loan after the effective date unless the borrower complies with the provisions of this section.

It does not seem appropriate for the borrower to be held responsible for compliance when he or she in most cases has no interest or responsibility in the construction of the housing.

Further, AS 18.56.900(12) defines "residential housing" very broadly, encompassing duplexes, triplexes, four-plexes, condominiums, etc. It is difficult to comprehend how a borrower could be held responsible if a unit of any of these types were involved.

The Honorable Dave Donley
January 22, 1990
Page 2

2. Section 18.56.300(c) specifies that AHFC shall require inspection of the unit of residential housing as a condition of a loan approval.

The section outlines five states of construction, each of which requires inspection by an "authorized" inspector. As written, it is unclear whether AHFC's approval is required at each stage of construction completion, or on final inspection only. AHFC's involvement in the inspection process is problematic from the standpoint of potential liability in the event of a future structural failure or similar event.

3. The bill does not address the cost involved in providing the required inspection. Is it to be assumed that added cost is ultimately to be passed on to the purchaser of the unit? A related issue is the impact on local building code enforcement programs and staffing.
4. We question how viable this requirement may be in rural communities. Although an ICBO-certified inspector may perform the inspection, it is likely in rural areas that these individuals will also be builders or contractors, thus raising the potential for conflict of interest or falsified certification documents.

Thank you for the opportunity to offer constructive comment on this proposed legislation. If I can provide further information or technical assistance in this matter, please do not hesitate to call.

Sincerely,



Thomas C. Behan
Chief Executive Officer/Executive Director

lb

cc: The Honorable Paul Fischer

HB 368

REPRESENTATIVE
C.E. "SWACK" SWACKHAMMER

Alaska State Legislature



1001 / 2021091

JUNEAU

BOX V

JUNEAU, ALASKA 99811

(907) 465-2689

House of Representatives

MEMORANDUM

TO: Rep. Dave Donley
House Labor and Commerce Committee

FROM: Rep. C.E. Swackhammer *Swack*

DATE: January 12, 1990

RE: Request for House Bill 368 Hearing

Please consider this request to hear House Bill 368, an act relating to residential housing assistance provided by the Alaska Housing Finance Corporation.

This proposed legislation was introduced to insure that houses financed by AHFC are properly constructed, thereby protecting consumers from buying a house that has deficiencies which pertain to life safety.

After researching this issue, it is apparent that some legislative action is required to protect both the home owner and the lending institutions.

A sectional analysis is provided with this memorandum.

If you have any questions in regards to this bill, please contact either Tom Wright of my staff or myself.

Thank you for considering this request.

CES/tw

JAN 1 1990

REPRESENTATIVE
C.E. "SWACK" SWACKHAMMER

Alaska State Legislature



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House of Representatives

January 12, 1990

SECTIONAL ANALYSIS FOR HOUSE BILL 368

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 unless the borrower complies with the provisions of the new language (as defined under AS 18.56.300).

(b) Outlines the new conditions under which AHFC may make or approve purchase of a loan for the construction of a new unit of residential housing. These conditions include:

(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.

(c) 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.

(d) 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.

(e) 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.