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SENATE FINANCE COMMITTEE REPORT

DATE: 4/18/90

FURTHER:

DATE TURNED INTO OFFICE: 4/25/90

The Finance Committee considered

SB 480

Relating to limited partnership derivative actions.

and recommended:

- replace with _____ CS _____
- or adopt _____ CS _____
- attached amendment(s)
- _____ letter of intent adopted

- same title
- new title
- technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

Dept/Date:

fiscal note(s) _____

zero fiscal note(s) _____

appropriation-no fiscal note

APPROVES PREVIOUS:

Dept/Date:

fiscal note(s) _____

zero fiscal note(s) DOL Jul 4/9/90

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

J. Duncan

[Signature]

Reacher

Paul Kelly (NO PASS)

1. *John B. [Signature]* No Rec. 2. *Paul Kelly (NO PASS)*
 Co-Chairs, Signatures and Recommendations

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An act relating to limited
partnership derivative actions."
Sponsor: Senator Kodey
Requestor: Senate Judiciary

Agency Affected: Department of Law
BRU: Legal Services
Components: Operations

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						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see the attached analysis.

Prepared by: Richard I. Pegues, Director
Division: Administrative Services
Approved by Commissioner: Richard I. Pegues / FOR /
Douglas B. Baily, Attorney General
Agency: Department of Law

Phone: 465-3672
Date: April 9, 1990
Date: April 9, 1990

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 480

This bill amends the state's Uniform Limited Partnership Act, AS 32.10, to permit a limited partner to bring an action to recover a judgment in the partnership's favor, if general partners with authority to bring the action have refused to bring the action, or if an effort to bring the action is not likely to succeed. Because the bill deals with private sector actions it will not have a fiscal impact on the Department of Law or on other departments or agencies of government.

BY SEN. RODEY

1 IN THE SENATE

2

SENATE BILL NO. 480

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 limited partnership derivative
7 actions."

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

9 * Section 1. AS 32.10.060 is amended by adding a new subsection to
10 read:

11 (b) A limited partner does not participate in the control of the
12 business within the meaning of (a) of this section by taking the
13 action required or permitted by law to bring or pursue a derivative
14 action under AS 32.10.245.

15 * Sec. 2. AS 32.10 is amended by adding a new section to read:

16 Sec. 32.10.245. DERIVATIVE ACTIONS. (a) A limited partner may
17 bring an action in the right of a limited partnership to recover a
18 judgment in the partnership's favor if general partners with the
19 authority to bring the action have refused to bring the action or if
20 an effort to cause the general partners to bring the action is not
21 likely to succeed.

22 (b) In a derivative action, the plaintiff must be a partner at
23 the time of bringing the action and

24 (1) must have been a partner at the time of the transaction
25 of which the plaintiff is complaining; or

26 (2) the plaintiff's status as a partner must have devolved
27 upon the plaintiff by operation of law or under the terms of the
28 partnership agreement from a person who was a partner at the time of
29 the transaction.

1 (c) In a derivative action, the complaint must set out with
2 particularity the effort of the plaintiff to secure initiation of the
3 action by a general partner or the reasons for not making the effort.

4 (d) If a recovery is made by the plaintiff as a result of a
5 judgment, compromise, or settlement of a derivative action or claim,
6 and if the plaintiff is awarded attorney fees or costs, the court
7 shall direct the plaintiff to remit to the limited partnership the
8 portion of the recovery that remains after deduction of the attorney
9 fees and costs.

10 * Sec. 3. AS 32.10.250 is amended to read:

11 Sec. 32.10.250. PARTIES TO ACTIONS. Except as otherwise provid-
12 ed in AS 32.10.245, a [A] contributor, unless the contributor is a
13 general partner, is not a proper party to a proceeding by or against a
14 partnership, except where the object is to enforce a limited partner's
15 right against or liability to the partnership.