

SB 392

SENATE FINANCE COMMITTEE REPORT

DATE: 4/10/92

FURTHER:

DATE TURNED INTO OFFICE: 4-28-92

The Finance Committee considered SENATE BILL NO. 392

"An Act relating to appearances in civil actions and making an exception from the requirement of representation by an attorney for appearances on behalf of nonprofit housing corporations in certain civil actions."

and recommends:

replace with _____ CS _____ (FINANCE)

or adopt previous _____ CS _____ (_____)

attaches amendment(s)

same title
 new title
 technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES: Dept/Date

zero fiscal notes _____

fiscal notes _____

appropriation--no fiscal note

PREVIOUS FISCAL NOTES: Dept/Date

zero fiscal notes Court System 4-8-92

fiscal notes _____

DO PASS:

[Handwritten signatures]

OTHER RECOMMENDATIONS:

1. *[Signature]*
Co-Chair: Signature/Recommendation

2. _____
Co-Chair: Signature/Recommendation

FISCAL NOTE

STATE OF ALASKA
1992 LEGISLATIVE SESSION

No. 1

Bill Version: SB 392

(S) Publish Date: 4-10-92

Revision Date: _____ Department Affected: Alaska Court System
 Title: An Act relating to appearances in BRU: Trial Courts
civil actions... Components: _____
 Sponsor: Rodey
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 000 | 000 | 000 | 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 93	FY 94	FY 95	FY 96	FY 97	FY 98
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

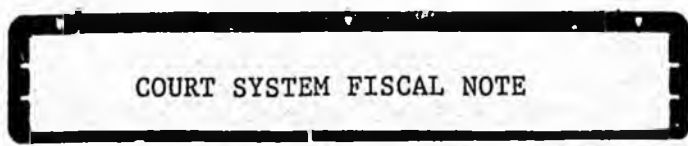
Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)
 No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-8228
 Division: Alaska Court System Date: 04/08/92

Approved by: Arthur H. Snowden, II, Administrative Director Date: 04/08/92
 Agency: Alaska Court System

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).



SENATE BILL NO. 392

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY SENATOR RODEY

Introduced: 2/10/92
Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to appearances in civil actions and making an exception from the
2 requirement of representation by an attorney for appearances on behalf of nonprofit
3 housing corporations in certain civil actions."

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

5 * Section 1. PURPOSE. This Act amends existing law to authorize corporations to be represented
6 in civil actions by persons other than attorneys when explicitly authorized by law and specifically allows
7 a nonprofit housing corporation acting as a landlord to be represented in a forcible entry and detainer
8 action by an officer or employee of the corporation who is not an attorney. The bill is intended to
9 reduce some of the costs of legal representation for nonprofit housing corporations in forcible entry and
10 detainer actions.

11 * Sec. 2. AS 09.45 is amended by adding a new section to read:

12 Sec. 09.45.158. APPEARANCE IN ACTION. A nonprofit housing corporation may
13 designate an officer or employee of the corporation who is not an attorney to commence and
14 maintain an action under AS 09.45.060 - 09.45.160 on behalf of the corporation against a tenant

1 or person in possession. When, under this section, a nonprofit corporation appears by an officer
2 or employee of the corporation who is not an attorney, the written proceedings shall be in the
3 name of the person representing the corporation and that person is the sole representative of the
4 corporation as between the corporation and the adverse party.

5 * Sec. 3. AS 22.20.040 is amended to read:

6 Sec. 22.20.040. APPEARANCE [IN PERSON OR BY ATTORNEY]. (a) An action or
7 proceeding may be prosecuted or defended by a party in person or by attorney. However,

8 (1) [EXCEPT THAT] the United States [OR A CORPORATION, EITHER
9 PUBLIC OR PRIVATE,] shall appear by an attorney in all cases; and

10 (2) a corporation, either public or private, shall appear by an attorney in all
11 cases unless an exception to the corporation's appearance by an attorney has been explicitly
12 made by law.

13 (b) When [WHERE] a party appears by attorney, the written proceedings shall be in the
14 name of the attorney, who is the sole representative of the client as between the client and the
15 adverse party.

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

March 13, 1992

SUBJECT: Senate Bill 392, relating to appearances by attorneys for corporations in civil actions, sectional analysis (Work Order No. 7LS-1905A)

TO: Senator Pat Rodey
ATTN: Katie Drennan

FROM: Jack Chenoweth
Legislative Counsel

Current law (AS 22.20.040) requires that, in civil actions, a corporation--public or private--must be represented by an attorney--that the corporation's "appearance" must be by an attorney.

Bill section 3, an amendment to AS 22.20.040, restates that requirement (separating the two instances in which representation or appearance must be by an attorney--that is, when the party is the United States or a corporation), then revises the requirement to permit an exception to appearance by an attorney for a corporation when an exception has been "explicitly made by law."

An exception to the requirement is made by the new material added by bill section 2. Specifically, a nonprofit housing corporation may designate one of its officers or employees to represent it in maintaining a forcible entry and detainer action under AS 09.45.060 - 09.45.160 against a tenant or person in possession. (Forcible entry and detainer actions may be referred for disposition to the state's District Court. See Alaska Rule of Civil Procedure 85(b).) The bill section further directs that, as with appearances by attorney, when a proceeding goes forward under the exception, the officer or employee who is designated to represent the nonprofit housing corporation is the party responsible for the pleadings and is the sole representative of the corporation whom he or she represents.

The material set out in bill section 1 provides a short summary of the principal features of the measure and the reason for its introduction.

JBC:pl
92-175.plm

Patrick M. Rodey
Senator

Alaska State Legislature



Senate

3111 C. St., Suite 510
Anchorage, Alaska 99503
(907) 561-7618

During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-3793

RECEIVED 4/16 1992

DATE: April 15, 1992

TO : ✓ Senator Pat Pourchot, Co-Chair
Senator Jay Kerttula, Co-Chair
Senate Finance Committee

FROM: Senator Pat Rodey, Sponsor

RE : Senate Bill 392-An Act relating to appearances in
civil actions and making an exception from the
requirement of representation by an attorney for
appearances on behalf of nonprofit housing
corporations in certain civil actions

I respectfully request that the Committee consider scheduling the above-referenced bill as soon as possible.

This proposal would remove the inequity in existing law which requires non-profit housing corporations to hire an attorney in forcible entry and detainer (FED) actions. As set forth in AS 22.20.040..."An action or proceeding may be prosecuted or defended by a party in person or by an attorney, except that the United States or a corporation, either public or private, shall appear by an attorney in all cases."

Since the tenants of nonprofit housing corporations are generally low income and unable to pay, the attorney's fees oftentimes must be absorbed by the corporation. Senate Bill 392 would help to reduce the costs of legal representation for nonprofit housing corporations by authorizing corporations to be represented in civil actions by someone other than an attorney and specifically allows (in FED actions) a nonprofit housing corporation to be represented by an officer or employee of the corporation who is not an attorney.

April 15, 1992

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Re: Senate Bill 392

Provided herein for your consideration are:

- 1) Sectional analysis of Senate Bill 392
- 2) Position paper from the Tlingit-Haida Regional Housing Authority **supporting** the proposal
- 3) Position paper from the Anchorage Neighborhood Housing Services **supporting** the bill
- 4) **Zero fiscal note** from the Court System

I would appreciate your consideration of having the bill scheduled for a hearing in the Senate Finance Committee as soon as possible.

Anchorage
Neighborhood
Housing
Services, Inc.
3700 Woodland Drive
Suite 500
Anchorage, AK 99517
(907) 243-1555
FAX (907) 243-3214



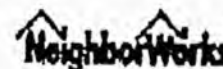
DATE: March 4, 1992
TO: House Labor and Commerce Committee
RE: House Bill 531 / SB 392

BILL PURPOSE
Concerning Nonprofit Representation In Court In Certain Civil Procedures

The purpose of this bill would be to allow nonprofit housing providers the ability to represent themselves in court for Forcible Entry and Detainer (FED) action. Presently, under Alaska Statute, private property owners and property managers may represent themselves in civil action taken for the purposes of forcible entry and detainer under the Alaska Landlord Tenant Law. Corporations are specifically required by statute to be represented by an attorney at all times, regardless of the size of the civil action.

A number of housing providers in the state are nonprofit agencies whose purposes are to provide affordable housing for renters and consequently provide attendant property management services.

Although the task of requiring civil action for eviction purposes is oftentimes unpleasant, it is a necessary fact of property management. Oftentimes, the individual with the most background and knowledge concerning this process is the on-site resident manager. Under Alaska Landlord Tenant Law, an FED action is primarily a proforma matter and the requirement for attorney representation in this action is costly and redundant. This measure will provide a more effective means for civil proceedings in this type of action and provide cost savings to consumers.





Tlingit-Haida Regional Housing Authority

P.O. Box 32237 • Juneau, Alaska 99803-2237 • (907) 780-6868 • Fax: 780-6895



UB 5932
3.9.95

POSITION STATEMENT ON HOUSE BILL 531

My name is Jacqueline L. Johnson and I am the Executive Director of the Tlingit Haida Regional Housing Authority and also the President of the Association of Alaskan Housing Authorities. I am personally in support of this bill and have received endorsement of support from Kim Johnson, Director of Bristol Bay Housing Authority; John Guinn, Director of AVCP Housing Authority and William C. Williams, Director of Interior Regional Housing Authority.

As a employee of the Tlingit Haida Housing Authority for over ten years, I have represented the housing authority many times in the eviction process not knowing I did not have the authority to do so. My decision to support this house bill is based up on the following reasons:

1. Housing authorities provide low income housing. Any costs incurred in the eviction process, such as attorney fees, are passed onto the client who is facing eviction and who most likely was being evicted because they could not make rental payments.

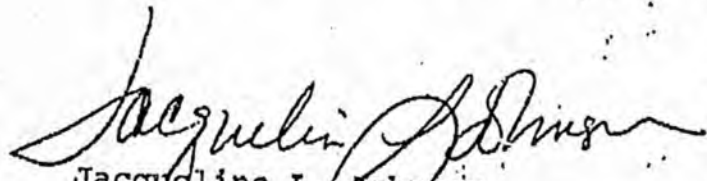
2. Most of our clients only source of affordable housing is in the programs that the Regional Housing Authorities provide. To get back into our housing programs, once evicted, the client must clear all past debts with any housing authority. Excessive eviction costs only prohibit the client from acceptable affordable housing at a later date.

3. Since many of our clients are basically judgement free, meaning they have very few resources to attach even if we received a judgement for the costs, the Housing Authority still has to pay its bills. Therefore, the additional costs get incorporated into the administrative fee and passed on to all participants.

4. For most clients, the eviction procedure is intimidating and even more so when they have to deal with an attorney. Our housing authority provides counseling services and when I represent our housing authority, I feel it is an extension of our services to explain to the client what is going to happen in the court room, what the judge is going ask of me and of them, and most of all, let them know that just because they are having this problem now does not mean that they can not resolve it. I also let them know that I am willing to work with them and assist them. Hopefully, it then becomes a learning experience rather than a road block.

House Bill 531
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Your support of this bill will not only assist housing authorities to feasibly enforce their own collection policies but will assist low income clients in receiving standard affordable housing.


Jacqueline L. Johnson
Executive Director