

HB

160

SENATE COMMITTEE REPORT

DATE: 4/23/93

FURTHER: FINANCE *Wanted 4/88*

DATE TURNED INTO OFFICE: 5/6/93

JUDICIARY Committee considered HOUSE BILL NO. 160(title am)

"An Act relating to the time for filing certain civil actions based on a defect in an improvement to real property; and providing for an effective date."

and recommends:

replace with Senate CS HB 160 (JUD)
or adopt previous _____ CS _____ ()
 attaches amendment(s)

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

accompanying SCR for title change...

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
LAW	2-26-93	✓	
COURTS	3-01-93	✓	

Appropriation No Fiscal Note

DO PASS:

OTHER RECOMMENDATIONS:

Suzanne Little No Rec

George Adels

Chris Taylor No Rec
Chair: Signature and Recommendation

WINNER & ASSOCIATES

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4th brand fax transmittal memo 7671	# of pages	2
KENNY LEAF	From	RUSS WINNE
AK. STATE SENATE	Co	WINNER + ASSO
JUDICIARY COMM	Phone#	277-9520
465-3922	Fax#	272-8330

April 28, 1993

Via Facsimile 465-3922

Kenny Leaf
Judiciary Committee
Alaska State Senate
Alaska State Capitol
Juneau, Alaska

Via Facsimile 465-3810

Deborah Luper
Aide to Senator Loren Leman
Alaska State Capitol
Juneau, Alaska

Re: SB 73 and HB 160, Liability of Design/Construction Professionals

Dear Kenny and Deborah:

I am writing on behalf of the Alaska Action Trust. As I relayed by telephone today, Kenny, my comments to Senator Leman's proposed amendment to CSSB 73 (Fin), dated 4/23/93 are as follows:

1. We urge that the bill include the following language that was added earlier by Senate Judiciary as AS 09.10.055(c)(4), but deleted by Senate Finance:

This section does not apply . . . if the defect was not discovered or could not reasonably have been discovered by the person bringing an action for personal injury, death, or property damage within the period of time set out in (a) of this section.

With this amendment, design professionals are immune from suit after ten years unless the victims are totally innocent. Partially negligent victims (who knew or reasonably should have known of the defect) will not be able to sue and collect a part of their damages under comparative negligence.

2. We suggest that if AS 09.17.080 is itself to be amended, it be done generally, rather than by referring only to AS 09.10.055. Accordingly, we suggest that the phrase "immune under AS 09.10.055" be changed to read "immune from suit" wherever it

WINNER COMMENTS ON
PROPOSED AMENDMENT BY LEMAN

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appears in Senator Leman's proposed amendment. It would then apply to other immune parties like the United States and employers.

Please relay the above comments to Senator Taylor and Senator Leman, giving them my best regards. Thank you for your consideration of the above views.

Very truly yours,



Russell L. Winner

cc: Debra C. Gravo
Michael Schneider
Eric Sanders

RE: \ACTION\TRALS-Ipr.LTR

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR LEMAN

TO: CSSB 73(FIN)

Page 1, line 1, after "actions":

Insert "and to apportionment of damages in a civil action"

Page 3, after line 25:

Insert new bill sections to read:

** Sec. 4. AS 09.17.080(a) is amended to read:

(a) In all actions involving fault of more than one party to the action, including third-party defendants and persons who have been released under AS 09.16.040 or determined to be immune under AS 09.10.055, the court, unless otherwise agreed by all parties, shall instruct the jury to answer special interrogatories or, if there is no jury, shall make findings, indicating

(1) the amount of damages each claimant would be entitled to recover if contributory fault and immunity under AS 09.10.055 are [IS] disregarded; and

(2) the percentage of the total fault of all of the parties to each claim that is allocated to each claimant, defendant, third-party defendant, and person who has been released from liability under AS 09.16.040 or found to be immune under AS 09.10.055.

* Sec. 5. AS 09.17.080(c) is amended to read:

(c) The court shall determine the award of damages to each claimant in accordance with the findings, subject to a reduction under AS 09.16.040, and enter judgment against each party liable. The court also shall determine and state in the judgment each party's equitable share of the obligation to each claimant in accordance with the respective percentages of fault, and (e) of this section if applicable.

* Sec. 6. AS 09.17.080(d) is amended to read:

(d) Except as provided under (e) of this section, the [THE] court shall enter

judgment against each party liable on the basis of several liability in accordance with that party's percentage of fault.

* Sec. 7. AS 09.17.080 is amended by adding a new subsection to read:

(e) In an action in which the amount of damages determined under (a)(1) of this section includes an allocation to a party that is immune under AS 09.10.055, the court may not enter judgment against the immune party but shall add the damages allocated to the immune party to each other party's liability in proportion to the relative percentages of fault of the other parties and enter judgment accordingly."

Renumber the following bill sections accordingly.

DATE TURNED INTO OFFICE: 15 APR 1993

JUDICIARY Committee considered SENATE BILL NO. 73

"An Act relating to the time for filing certain civil actions; and providing for an effective date."

and recommends:

replace with _____ CS SB 73 (JUD)
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

Table with 4 columns: Department, Date, Zero, Fiscal. Contains empty rows for data entry.

PREVIOUS FISCAL NOTES

Table with 4 columns: Department, Date, Zero, Fiscal. Contains handwritten entries: Court System (2-8-93, checked), DEPT. OF LAW (2-4-93, checked).

Appropriation No Fiscal Note

DO PASS

OTHER RECOMMENDATIONS: No Rec
Styann Little - do not pass
George J. Febro no Rec.
Rick Helgrod - do pass when amc

Chris L. Taylor No Rec
Chair: Signature and Recommendation

