

**SB**

**104**

<TARGET><BILL>SB 104</BILL><SUBJECT>SB  
104</SUBJECT><COMM>HRLS27</COMM></TARGET>

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Bannister  
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Final  
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**HOUSE CS FOR CS FOR SENATE BILL NO. 104(RLS)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-SEVENTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE RULES COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): SENATORS FRENCH, Hoffman, Dyson, Wielechowski, Kookesh, Meyer, Ellis, Menard, Paskvan,  
Egan, Thomas, Stedman, Stevens**

**REPRESENTATIVE Gruenberg**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to manufactured homes, including manufactured homes permanently  
2 affixed to land, to the conversion of manufactured homes to real property, to the  
3 severance of manufactured homes from real property, to the titling, conveyance, and  
4 encumbrance of manufactured homes, and to manufacturers' certificates of origin for  
5 vehicles; allowing a deferral of municipal property taxes on the increase in the value of  
6 real property attributable to subdivision of that property; and providing for an effective  
7 date."

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

9 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
10 to read:

11 FINDINGS AND PURPOSE. (a) The legislature finds the legal status of  
12 manufactured homes affixed or to be affixed to real property in the state needs to be clarified.

13 (b) The purpose of this Act is to establish a clear statutory procedure for

1 (1) converting to real property manufactured homes that are affixed to real  
2 property; and

3 (2) severing manufactured homes from real property.

4 \* Sec. 2. AS 06.05.207 is amended by adding a new subsection to read:

5 (c) In this section, "real property" includes a manufactured home that has  
6 become real property under AS 34.85.010. In this subsection, "manufactured home"  
7 has the meaning given in AS 45.29.102.

8 \* Sec. 3. AS 06.15.250 is amended by adding a new subsection to read:

9 (b) In this section, "real property" includes a manufactured home that has  
10 become real property under AS 34.85.010. In this subsection, "manufactured home"  
11 has the meaning given in AS 45.29.102.

12 \* Sec. 4. AS 06.45.060(5)(A) is amended to read:

13 (A) loans to members shall be made in conformity with  
14 regulations adopted by the commissioner, except that

15 (i) a residential real estate loan that is made to finance  
16 the acquisition of a one- to four-family dwelling for the principal  
17 residence of a credit union member that is secured by a first lien on the  
18 dwelling may have a maturity not exceeding 30 years;

19 (ii) a loan to finance the purchase of a manufactured  
20 [MOBILE] home that is secured by a first lien on the manufactured  
21 [MOBILE] home, to be used as the residence of a credit union member,  
22 or for the repair, alteration, or improvement of a residential dwelling  
23 that is the residence of a credit union member must have a maturity not  
24 to exceed 20 years unless the loan is insured or guaranteed under (iii) of  
25 this subparagraph;

26 (iii) a loan secured by the insurance or guarantee of the  
27 federal government, of a state government, or an agency of either may  
28 be made for the maturity and under the terms and conditions specified  
29 in the law under which the insurance or guarantee is provided;

30 (iv) a loan or aggregate of loans to a director or member  
31 of the supervisory or credit committee of the credit union making the

1 loan that exceeds \$20,000 plus pledged shares shall be approved by the  
2 board of directors;

3 (v) loans to other members for which directors or  
4 members of the supervisory or credit committee act as guarantor or  
5 endorser shall be approved by the board of directors when the loans  
6 standing alone or when added to an outstanding loan or loans of the  
7 guarantor or endorser exceed \$20,000;

8 (vi) the rate of interest may not exceed the greater of 15  
9 percent a year or the rate specified in AS 45.45.010(b);

10 (vii) the taking, receiving, reserving, or charging of a  
11 rate of interest greater than is allowed by this paragraph, when  
12 knowingly done, is considered a forfeiture of the entire interest that the  
13 note, bill, or other evidence of debt carries with it, or that has been  
14 agreed to be paid on the note, bill, or other evidence of debt; if a greater  
15 rate of interest has been paid, the person by whom it has been paid or  
16 the person's legal representatives may recover back from the credit  
17 union taking or receiving it the entire amount of interest paid, but the  
18 action must be commenced within two years from the time the usurious  
19 collection was made;

20 (viii) a borrower may repay a loan before maturity in  
21 whole or in part on any business day without penalty;

22 (ix) loans shall be paid or amortized under regulations  
23 adopted by the commissioner that consider the needs or conditions of  
24 the borrowers, the amounts and duration of the loans, the interests of  
25 the members and the credit union, and other factors established in  
26 regulations adopted by the commissioner;

27 (x) the total dollar amount of real estate loans and  
28 manufactured [MOBILE] home loans outstanding may not exceed 25  
29 percent of the assets of the credit union without the written approval of  
30 the commissioner;

31 (xi) a credit union with assets of less than \$3,000,000

1 may make real estate loans with maturities in excess of 15 years only  
2 with the approval of the commissioner;

3 \* **Sec. 5.** AS 06.45.060 is amended by adding a new subsection to read:

4 (b) In this section, "manufactured home" has the meaning given in  
5 AS 45.29.102.

6 \* **Sec. 6.** AS 06.60.990(33) is amended to read:

7 (33) "residential mortgage loan" means a loan that is primarily for  
8 personal, family, or household use and that is secured by a mortgage, deed of trust, or  
9 other equivalent consensual security interest on a dwelling or residential real estate  
10 located in the state; in this paragraph,

11 **(A) "manufactured home" has the meaning given in**  
12 **AS 45.29.102;**

13 **(B) "residential real estate" means real property on which a**  
14 **dwelling is constructed or intended to be constructed, including a**  
15 **manufactured home that has become real property under AS 34.85.010;**

16 \* **Sec. 7.** AS 09.45 is amended by adding a new section to read:

17 **Article 13. General Provisions.**

18 **Sec. 09.45.990. Definitions.** In this chapter,

19 (1) "manufactured home" has the meaning given in AS 45.29.102;

20 (2) "real property" includes a manufactured home that has become real  
21 property under AS 34.85.010.

22 \* **Sec. 8.** AS 28.05.061(a) is amended to read:

23 (a) The Department of Administration shall file, maintain, and appropriately  
24 index records of

25 (1) vehicle registrations under AS 28.10.071(a) - (c);

26 (2) stolen, converted, recovered, and unclaimed vehicles under  
27 AS 28.10.071(d);

28 (3) titles and documents creating and evidencing liens or  
29 encumbrances under AS 28.10.381;

30 (4) abandoned vehicles under AS 28.11.030(c); [AND]

31 (5) driver's license and driving records under AS 28.15.151;

1                   (6) applications under AS 28.10.262 for cancellation of a  
2                   manufacturer's certificate of origin for a manufactured home;

3                   (7) applications under AS 28.10.263 for cancellation of a certificate  
4                   of title to a manufactured home;

5                   (8) applications under AS 28.10.264 for confirmation of the  
6                   nonapplication of AS 28.10 to a manufactured home;

7                   (9) applications under AS 28.10.265 for a certificate of title to a  
8                   severed manufactured home;

9                   (10) manufacturer's certificates of origin accepted for cancellation  
10                   by the department under AS 28.10.262 for a manufactured home; and

11                   (11) certificates of title accepted for cancellation by the  
12                   department under AS 28.10.263 for a manufactured home.

13 \* **Sec. 9.** AS 28.05.061 is amended by adding new subsections to read:

14                   (e) For cancelled manufacturer's certificates of origin, cancelled certificates of  
15                   title, or applications for confirmation filed under (a)(8), (10), or (11) of this section,  
16                   the department's record must state

17                               (1) the name of each owner of the manufactured home;

18                               (2) the date the manufacturer's certificate of origin or the certificate of  
19                   title was accepted for cancellation if the certificate was cancelled under (a)(10) or (11)  
20                   of this section; and

21                               (3) the recording information for the affixation affidavit required by  
22                   AS 28.10.266.

23                   (f) For applications for certificates of title under (a)(9) of this section, the  
24                   department's record must state the name of each owner of the manufactured home and  
25                   the recording information for the severance affidavit recorded under AS 40.17.125.

26                   (g) In this section, "recording information" means the district where the  
27                   affidavit was recorded, and the date and serial numbers of the affidavit's recording in  
28                   the recording district.

29 \* **Sec. 10.** AS 28.10.201(b) is amended to read:

30                   (b) The owner of a vehicle described in AS 28.10.011 as being exempt from  
31                   registration and the owner of a snowmobile or off-highway vehicle may not apply for,

1 nor may the department issue, a certificate of title for the vehicle. However, the  
2 department

3 (1) may issue a certificate of title to the owner of a vehicle exempt  
4 from registration under AS 28.10.011(3), (6), (7), or (10) only upon application by that  
5 owner; and

6 (2) except as provided in (e) of this section, shall issue a certificate of  
7 title to the owner of a manufactured [MOBILE] home upon application, display of  
8 evidence of ownership satisfactory to the department, and payment of a fee of \$100 by  
9 the owner; a certificate of title issued under this paragraph must comply with  
10 AS 28.10.231.

11 \* **Sec. 11.** AS 28.10.201 is amended by adding a new subsection to read:

12 (e) The department may not issue a certificate of title to a manufactured home  
13 if an application for the manufactured home has been filed under AS 28.10.262 -  
14 28.10.264.

15 \* **Sec. 12.** AS 28.10.211(c) is amended to read:

16 (c) When an application for title refers to a new vehicle, the application must  
17 be accompanied by a "manufacturer's certificate [STATEMENT] of origin" and other  
18 information reasonably required by the department.

19 \* **Sec. 13.** AS 28.10.211 is amended by adding a new subsection to read:

20 (f) The holder of a manufacturer's certificate of origin for a manufactured  
21 home may deliver the certificate to any person to facilitate conveying or encumbering  
22 the manufactured home, and a person who receives the manufacturer's certificate of  
23 origin holds it in trust for the person delivering it.

24 \* **Sec. 14.** AS 28.10.221 is amended by adding a new subsection to read:

25 (d) Except as provided in AS 28.10.263, the department may not suspend or  
26 revoke a certificate of title to a manufactured home based on the fact that the  
27 manufactured home is affixed in any manner to real property.

28 \* **Sec. 15.** AS 28.10.261 is amended by adding a new subsection to read:

29 (c) Notwithstanding another provision of law to the contrary, a certificate of  
30 title to a manufactured home issued by the department is prima facie evidence of the  
31 facts appearing on it, even if the manufactured home is affixed in any manner to real

1 property.

2 \* **Sec. 16.** AS 28.10 is amended by adding new sections to article 2 to read:

3 **Sec. 28.10.262. Cancellation of manufacturer's certificate of origin for**  
4 **manufactured home.** (a) If a manufactured home is permanently affixed to real  
5 property under AS 34.85.150, or if the owner intends to permanently affix the  
6 manufactured home to real property under AS 34.85.150, the owner may submit to the  
7 department an application requesting that the department cancel the manufacturer's  
8 certificate of origin for a manufactured home and update the department's records  
9 under AS 28.05.061.

10 (b) The application under (a) of this section must comply with AS 28.10.266.

11 (c) Subject to AS 28.05.041, if the department is satisfied that the application  
12 filed under (a) of this section complies with (b) of this section, the department shall  
13 cancel the manufacturer's certificate of origin for the manufactured home, update the  
14 department's records under AS 28.05.061, and issue a written acknowledgment that  
15 the department has cancelled the certificate of origin under this section. The  
16 department shall deliver the written acknowledgment to the owner of the  
17 manufactured home and to a person identified under AS 28.10.266(12).

18 (d) When the department has cancelled the manufacturer's certificate of origin  
19 under (c) of this section, the manufactured home is not subject to this chapter.

20 **Sec. 28.10.263. Cancellation of certificate of title to manufactured home.**

21 (a) If a manufactured home is permanently affixed to real property under  
22 AS 34.85.150, or if the owner intends to permanently affix the manufactured home to  
23 real property under AS 34.85.150, the owner may submit to the department an  
24 application requesting that the department cancel the certificate of title to a  
25 manufactured home and update the department's records under AS 28.05.061.

26 (b) The application under (a) of this section must comply with AS 28.10.266.

27 (c) Subject to AS 28.05.041, if the department is satisfied that the application  
28 filed under (a) of this section complies with (b) of this section and that there are no  
29 outstanding liens or encumbrances filed against the manufactured home under  
30 AS 28.10.381, the department shall cancel the certificate of title to the manufactured  
31 home, update the department's records under AS 28.05.061, and issue a written

1 acknowledgment that the department has cancelled the certificate of title under this  
2 section. The department shall deliver the written acknowledgment to the owner of the  
3 manufactured home and to a person identified under AS 28.10.266(12).

4 (d) ~~When the department has cancelled a certificate of title under (c) of this~~  
5 section, the manufactured home is not subject to this chapter.

6 **Sec. 28.10.264. Confirmation of nonapplication of chapter.** (a) The owner  
7 of a manufactured home may submit an application to the department requesting that  
8 the department indicate on the department's records that the manufactured home is not  
9 subject to this chapter if

10 (1) the manufactured home is permanently affixed to real property  
11 under AS 34.85.150, or the owner intends to permanently affix the manufactured  
12 home to real property under AS 34.85.150; and

13 (2) the manufactured home

14 (A) is not covered by a manufacturer's certificate of origin or a  
15 certificate of title;

16 (B) is covered by a manufacturer's certificate of origin, but the  
17 owner of the manufactured home, after diligent search and inquiry, is unable to  
18 produce the certificate of origin; or

19 (C) is covered by a certificate of title, but the owner of the  
20 manufactured home, after diligent search and inquiry, is unable to produce the  
21 certificate of title.

22 (b) The application under (a) of this section must comply with AS 28.10.266  
23 and be accompanied by a bond or cash deposit described in (c) of this section.

24 (c) The bond that accompanies the application under (b) of this section must  
25 be in the form prescribed by the department and executed by the applicant. The  
26 amount of the bond or cash deposit that accompanies the application under (b) of this  
27 section must be equal to one and one-half times the value of the manufactured home as  
28 determined by the department and must be conditioned to indemnify former owners,  
29 secured parties, and subsequent purchasers of the manufactured home and their  
30 successors against loss resulting from a defect in or undisclosed security interest on  
31 the title of the applicant. An injured party may bring a court action against the bond or

1 cash deposit for a breach of the conditions of the bond or cash deposit, but the liability  
2 of the bond surety or the department may not exceed the amount of the bond or cash  
3 deposit. The department shall return the bond or cash deposit at the end of three years  
4 after the submission under (b) of this section, except that service on the department of  
5 notice that an action is pending against the bond or cash deposit extends that period  
6 until 45 days after a final decision in the action on the bond or cash deposit.

7 (d) If the department is satisfied that the application filed under (a) of this  
8 section complies with (b) of this section, the department shall, subject to  
9 AS 28.05.041, indicate under AS 28.05.061 on the department's records that the  
10 manufactured home is not subject to this chapter and shall provide to the owner a  
11 written confirmation that the owner of the manufactured home has submitted an  
12 application that complies with (b) of this section and that the manufactured home is  
13 not subject to this chapter. The department shall deliver the written confirmation to the  
14 owner of the manufactured home and to a person identified under AS 28.10.266(12).

15 (e) When the department has provided a written confirmation under (d) of this  
16 section, the manufactured home is not subject to this chapter.

17 **Sec. 28.10.265. Certificate of title to severed manufactured home.** (a) The  
18 owner of a manufactured home may submit an application to the department  
19 requesting that the department issue a certificate of title to a manufactured home and  
20 update the department's records under AS 28.05.061 if

21 (1) the manufactured home was permanently affixed to real property  
22 under AS 34.85.150;

23 (2) an affixation affidavit was recorded for the manufactured home  
24 under AS 40.17.125; and

25 (3) after the occurrence of (1) and (2) of this subsection, the  
26 manufactured home was severed from the real property to which it was affixed.

27 (b) The application under (a) of this section must comply with AS 28.10.266.

28 (c) Subject to AS 28.05.041, if the department is satisfied that the application  
29 filed under (a) of this section complies with (b) of this section, the department shall  
30 issue a certificate of title to the manufactured home under AS 28.10.231 - 28.10.241,  
31 update the department's records under AS 28.05.061, and issue to the owner and to a

1 person identified under AS 28.10.266(12) a written acknowledgment that the  
2 department has issued a certificate of title under this section.

3 (d) When the department has issued a certificate of title under (c) of this  
4 section, the manufactured home is subject to this chapter.

5 **Sec. 28.10.266. Application provisions.** An application under AS 28.10.262 -  
6 28.10.265 must provide

7 (1) the name, residence, and mailing address of the owner of the  
8 manufactured home;

9 (2) a description of the manufactured home, including the name of the  
10 manufacturer, the make, the model name, the model year, the manufacturer's serial  
11 number for the manufactured home, and other information required by the department  
12 about the manufactured home;

13 (3) whether the manufactured home is new or used;

14 (4) for an application under AS 28.10.262 - 28.10.264, the date of  
15 purchase by the owner of the manufactured home and the name and address of the  
16 person from whom the home was acquired;

17 (5) for an application under AS 28.10.262 - 28.10.264, the name and  
18 address of any person who holds a lien or an encumbrance against the manufactured  
19 home and the order of apparent priority;

20 (6) a statement signed by the owner, stating

21 (A) any facts or information known to the owner that could  
22 reasonably affect the validity of the title to the manufactured home or the  
23 existence or nonexistence of a lien or encumbrance on it; or

24 (B) that the owner does not know any facts or information that  
25 could reasonably affect the validity of the title to the manufactured home or the  
26 existence or nonexistence of a lien or encumbrance on the manufactured home;

27 (7) subject to AS 28.10.268, for an application under AS 28.10.262 -  
28 28.10.264, a certified copy of an affixation affidavit that complies with AS 34.85.060  
29 and that has been recorded under AS 40.17.125 for the manufactured home;

30 (8) for an application under AS 28.10.265, a certified copy of a  
31 severance affidavit that complies with AS 34.85.120 and that has been recorded under

1 AS 40.17.125 for the manufactured home;

2 (9) for an application under AS 28.10.262, the original manufacturer's  
3 certificate of origin;

4 (10) for an application under AS 28.10.263, the original certificate of  
5 title;

6 (11) for an application under AS 28.10.264 or 28.10.265, a declaration  
7 that complies with AS 28.10.267;

8 (12) if desired by the applicant, the name and mailing address of one  
9 person, in addition to the owner, to receive a written acknowledgment from the  
10 department under AS 28.10.262, 28.10.263, or 28.10.265 or a written confirmation  
11 under AS 28.10.264; and

12 (13) other information and documents the department reasonably  
13 requires

14 (A) to identify the owner of the manufactured home;

15 (B) to determine the existence or nonexistence of liens or  
16 encumbrances on the manufactured home;

17 (C) for an application under AS 28.10.262 - 28.10.264, to  
18 enable the department to determine whether the owner satisfied the applicable  
19 requirements of AS 34.85.010; and

20 (D) for an application under AS 28.10.265, to enable the  
21 department to determine whether the owner of the manufactured home is  
22 entitled to a certificate of title.

23 **Sec. 28.10.267. Declaration.** (a) The declaration required by  
24 AS 28.10.266(11) must be made under oath or affirmation by an attorney authorized  
25 under AS 08.08 to practice law in the state or an agent of a title insurance company  
26 entitled under AS 21.66 to transact a title insurance business in this state.

27 (b) The declaration must state that the manufactured home is free and clear of  
28 all liens and encumbrances and

29 (1) any facts or information known to the attorney or agent that could  
30 reasonably affect the validity of the title to the manufactured home or the existence or  
31 nonexistence of a lien or encumbrance on the manufactured home; or

1 (2) that the attorney or agent does not know any facts or information  
2 that could reasonably affect the validity of the title to the manufactured home or the  
3 existence or nonexistence of a lien or encumbrance on the manufactured home.

4 **Sec. 28.10.268. Time of satisfaction.** If a person delivers an application under  
5 AS 28.10.262 - 28.10.264 for a manufactured home to the department within 30 days  
6 after an affixation affidavit for the manufactured home is recorded under  
7 AS 40.17.125, and if the application is accepted by the department, the requirements  
8 of AS 28.10.262 - 28.10.264 are considered to be satisfied on the date the affixation  
9 affidavit is recorded, and, if the manufactured home is conveyed or encumbered on  
10 and after that date, the manufactured home shall be conveyed and encumbered as real  
11 property.

12 **Sec. 28.10.269. Definitions.** In AS 28.10.201 - 28.10.269, unless the context  
13 indicates otherwise,

14 (1) "affixation affidavit" means an affixation affidavit under  
15 AS 34.85.060;

16 (2) "severance affidavit" means a severance affidavit under  
17 AS 34.85.120.

18 \* **Sec. 17.** AS 28.10.371 is amended by adding new subsections to read:

19 (b) Notwithstanding (a) of this section, a lien on a manufactured home for the  
20 purchase of the manufactured home is valid against judicial lien creditors and  
21 execution creditors on and after the date the lien attaches under AS 45.29 against the  
22 manufactured home.

23 (c) Notwithstanding (a) of this section, the holder of a lien on a manufactured  
24 home may deliver a lien release document to a person to facilitate conveying or  
25 encumbering the manufactured home. A person receiving the lien release document  
26 holds the document in trust for the lienholder.

27 \* **Sec. 18.** AS 28.10.381 is amended by adding a new subsection to read:

28 (c) Except as otherwise provided in AS 28.10.262, 28.10.263, and AS 34.85,  
29 after a certificate of title to a manufactured home has been issued and while the  
30 manufactured home is subject to a lien or encumbrance under (a) of this section,

31 (1) the department may not cancel the manufacturer's certificate of

1 origin for the manufactured home under AS 28.10.262, or cancel the certificate of title  
2 to the manufactured home under AS 28.10.263; and

3 (2) the validity and priority of the lien or encumbrance continues.

4 \* **Sec. 19.** AS 28.10.391 is amended by adding a new subsection to read:

5 (e) Notwithstanding another provision of this section, the creation or  
6 termination of a lien or encumbrance with respect to a manufactured home that has  
7 been converted to real property under AS 34.85.010 is governed by the laws that apply  
8 to real property.

9 \* **Sec. 20.** AS 28.10.661(2) is amended to read:

10 (2) "vehicle" includes mobile homes for the purposes of provisions  
11 relating to certificates of title; in this paragraph, "mobile home" means a  
12 manufactured home.

13 \* **Sec. 21.** AS 28.10.661 is amended by adding a new paragraph to read:

14 (3) "manufactured home" has the meaning given in AS 45.29.102.

15 \* **Sec. 22.** AS 29.45 is amended by adding a new section to read:

16 **Sec. 29.45.051. Tax deferral for certain subdivided property.** (a) A  
17 municipality may by ordinance permit deferral of payment of taxes on all or a portion  
18 of the increase in assessed value directly attributable to

19 (1) the subdivision of a single parcel of property into three or more  
20 parcels; and

21 (2) any improvements made to the property necessitated by its  
22 subdivision.

23 (b) A deferral from taxation allowed under (a) of this section shall be limited  
24 to a maximum period of five years. A municipality may by ordinance provide for the  
25 deferral of payment of taxes permitted under (a) of this section to be of a shorter  
26 duration.

27 (c) Subject to (b) of this section, a municipality may also by ordinance provide  
28 that

29 (1) the deferral is terminated when

30 (A) a lot in the subdivision is sold; or

31 (B) a residential or commercial building is built on a lot in the

1 subdivision; or

2 (2) the deferral continues for the unsold lots in the subdivision after

3 (A) a lot in the subdivision is sold; or

4 (B) a residential or commercial building is constructed on a lot  
5 in the subdivision.

6 \* **Sec. 23.** AS 29.45.070 is amended to read:

7 **Sec. 29.45.070. Mobile homes.** Mobile homes, trailers, house trailers, trailer  
8 coaches, and similar property used or intended to be used for residential, office, or  
9 commercial purposes and permanently affixed [ATTACHED] to real property  
10 under AS 34.85.150 [THE LAND OR CONNECTED TO WATER, GAS,  
11 ELECTRIC, OR SEWAGE FACILITIES] are classified as real property for tax  
12 purposes unless expressly classified as personal property by ordinance. This section  
13 does not apply to house trailers and mobile homes that are unoccupied and held for  
14 sale by persons engaged in the business of selling mobile homes. In this section,  
15 "mobile home" has the meaning given to "manufactured home" in AS 45.29.102.

16 \* **Sec. 24.** AS 34.03.360 is amended by adding a new paragraph to read:

17 (23) "mobile home" has the meaning given to "manufactured home" in  
18 AS 45.29.102.

19 \* **Sec. 25.** AS 34.70.200(3) is amended to read:

20 (3) "residential real property" means real property whose primary  
21 purpose is to provide a single-family dwelling, or two single-family dwellings in one  
22 building, including a manufactured home that has become real property under  
23 AS 34.85.010; in this paragraph, "manufactured home" has the meaning given in  
24 AS 45.29.102;

25 \* **Sec. 26.** AS 34.80.090(6) is amended to read:

26 (6) "residential real property" means real property on which there are  
27 one to four attached or detached dwelling units, or any number of apartments if the  
28 apartments are in a horizontal property regime formed under AS 34.07 or any number  
29 of units if the units are in a common interest community created under AS 34.08;  
30 "residential real property" includes a manufactured home that has become real  
31 property under AS 34.85.010; in this paragraph, "manufactured home" has the

1            **meaning given in AS 45.29.102:**

2            \* **Sec. 27.** AS 34 is amended by adding a new chapter to read:

3                            **Chapter 85. Manufactured Home Property Act.**

4                            **Sec. 34.85.010. Real property characterization.** A manufactured home  
5 becomes real property if

6                                    (1) the home is permanently affixed to land under AS 34.85.150;

7                                    (2) an affixation affidavit has been recorded under AS 40.17.125;

8                                    (3) the ownership interests in the manufactured home and in the real  
9 property to which the manufactured home is permanently affixed are identical, except  
10 as provided by AS 34.85.040; and

11                                    (4) the manufactured home is

12    (A) covered by a manufacturer's certificate of origin that the  
13 owner of the manufactured home is able to produce, and the department has  
14 cancelled the manufacturer's certificate of origin under AS 28.10.262;

15    (B) covered by a certificate of title that the owner of the  
16 manufactured home is able to produce, and the department has cancelled the  
17 certificate of title under AS 28.10.263; or

18    (C) not covered by a manufacturer's certificate of origin or a  
19 certificate of title, or if the manufactured home is covered by a manufacturer's  
20 certificate of origin or a certificate of title but the owner of the manufactured  
21 home, after diligent search and inquiry, was unable to produce the  
22 manufacturer's certificate of origin or certificate of title, and the department  
23 has provided a written confirmation under AS 28.10.264.

24                            **Sec. 34.85.020. Effect of real property characterization.** (a) When a  
25 manufactured home becomes real property under AS 34.85.010, a mortgage, deed of  
26 trust, lien, or security interest that can attach to land, buildings erected on land, or  
27 fixtures affixed to land or buildings attaches to the manufactured home in the same  
28 manner as if the manufactured home were built from ordinary building materials on  
29 the land where the manufactured home is located.

30                                    (b) If the title to a manufactured home is transferred after the manufactured  
31 home becomes real property under AS 34.85.010, title to the manufactured home,

1 together with the land to which the converted manufactured home is affixed, shall be  
2 transferred by deed or other form of conveyance that is effective to transfer an interest  
3 in real property.

4 (c) When a manufactured home becomes real property under AS 34.85.010,  
5 the manufactured home is governed by the laws applicable to real property in effect on  
6 the date the manufactured home satisfies AS 34.85.010.

7 **Sec. 34.85.040. Ownership interest exception.** If the owner of a  
8 manufactured home is not the owner of the real property on which the manufactured  
9 home is located, the requirement under AS 34.85.010(3) that the ownership interests  
10 be identical is satisfied if the owner possesses the real property under

11 (1) a lease in a recordable form that has a term that continues for at  
12 least 20 years after the date of execution of the affixation affidavit; and

13 (2) the lessor of the real property consents.

14 **Sec. 34.85.060. Affixation affidavit requirements.** An affixation affidavit  
15 must provide

16 (1) the name of the manufacturer, the make, the model name, the  
17 model year, the dimensions, and the manufacturer's serial number of the manufactured  
18 home;

19 (2) whether the manufactured home is new or used;

20 (3) a statement that the person executing the affidavit is

21 (A) the owner of the real property described in the affixation  
22 affidavit; or

23 (B) not the owner of the real property described in the  
24 affixation affidavit, and the person

25 (i) is in possession of the real property under a lease in  
26 recordable form that has a term that continues for at least 20 years after  
27 the date of execution of the affidavit; and

28 (ii) the lessor of the real property consents;

29 (4) if (3)(B)(ii) of this section applies, the consent of the lessor of the  
30 real property endorsed on or attached to the affidavit and acknowledged or proved in  
31 the manner required for the conveyance to be recorded;

1 (5) the street address and the legal description of the real property to  
2 which the manufactured home is or shall be permanently affixed;

3 (6) if the manufactured home is not covered by a certificate of title, a  
4 statement by the owner to that effect;

5 (7) an owner's statement under AS 34.85.070;

6 (8) a statement whether or not the manufactured home is subject to a  
7 lien or encumbrance;

8 (9) if the manufactured home is subject to a lien or encumbrance, a  
9 statement giving the name and address of each person who holds a lien or  
10 encumbrance on the manufactured home, including each holder of a lien or  
11 encumbrance shown on a certificate of title issued by the department, the original  
12 principal amount secured by each lien and encumbrance, and a statement that

13 (A) the lien or encumbrance shall be released; or

14 (B) each lien or encumbrance on the manufactured home has  
15 been released and proof of the release;

16 (10) if the manufactured home is not covered by a manufacturer's  
17 certificate of origin or a certificate of title, a statement by the owner of the  
18 manufactured home that the manufactured home is not covered by a manufacturer's  
19 certificate of origin or a certificate of title and that the owner of the manufactured  
20 home will apply to the department under AS 28.10.264;

21 (11) a statement that the manufactured home is or will be permanently  
22 affixed to the real property; and

23 (12) the name and address of a person designated for filing the  
24 certified copy of the affixation affidavit with the department.

25 **Sec. 34.85.070. Owner's statement for affixation affidavit.** (a) An owner's  
26 statement for an affixation affidavit must comply with (b) or (c) of this section.

27 (b) If a manufactured home is covered by a manufacturer's certificate of  
28 origin, the owner of the manufactured home shall

29 (1) state that the manufactured home is covered by a manufacturer's  
30 certificate of origin, provide the date the manufacturer's certificate of origin was  
31 issued, provide the manufacturer's serial number, state that the original manufacturer's

1 certificate of origin for the manufactured home is annexed to the affixation affidavit  
2 and is endorsed to the owner of the manufactured home, and state that the owner of the  
3 manufactured home will surrender the manufacturer's certificate of origin for  
4 cancellation under AS 28.10.262; or

5 (2) state that the owner of the manufactured home, after diligent search  
6 and inquiry, has been unable to produce the original manufacturer's certificate of  
7 origin for the manufactured home and shall apply to the department under  
8 AS 28.10.264.

9 (c) If a manufactured home is covered by a certificate of title, the owner of the  
10 manufactured home shall

11 (1) state that the manufactured home is covered by a certificate of title,  
12 provide the date the title was issued and the title number, and state that the owner shall  
13 surrender the title for cancellation under AS 28.10.263; or

14 (2) state that the owner, after diligent search and inquiry, has been  
15 unable to produce the certificate of title to the manufactured home and shall apply to  
16 the department under AS 28.10.264.

17 **Sec. 34.85.080. Effect on liens and encumbrances.** Permanently affixing a  
18 manufactured home to real property or recording an affixation affidavit under  
19 AS 40.17.125 does not impair the rights of a holder of, or the character of, a lien or  
20 encumbrance on a manufactured home under AS 28.10.381 unless an application to  
21 cancel the title is filed with the department under AS 28.10.263 and the lien or  
22 encumbrance is released under AS 28.10.401.

23 **Sec. 34.85.090. Filing affixation affidavit with department.** When a person  
24 designated in an affixation affidavit to file the affixation affidavit with the department  
25 receives a certified copy of the recorded affixation affidavit, the person shall deliver  
26 the certified copy of the affixation affidavit to the department for filing under  
27 AS 28.10.262 - 28.10.264.

28 **Sec. 34.85.100. Use of affidavit.** (a) Except as provided in AS 34.85.010,  
29 34.85.020, 34.85.090, and AS 40.17.125, an affixation affidavit is not necessary or  
30 effective to convey or encumber a manufactured home or to change the character of a  
31 manufactured home to real property.

1 (b) A conveyance of land on which a manufactured home is located must  
2 recite that the conveyance does not affect the title to the manufactured home and that  
3 the transfer or encumbrance of the manufactured home can only be made under  
4 AS 28.10 if

5 (1) an affixation affidavit has not been recorded for the manufactured  
6 home; or

7 (2) a severance affidavit has been recorded for the manufactured home.

8 (c) An agreement that waives the requirements of (a) or (b) of this subsection  
9 is void.

10 **Sec. 34.85.110. Severance of manufactured home.** If an affixation affidavit  
11 has been recorded for a converted manufactured home and if the converted  
12 manufactured home is severed from the real property to which it was affixed, each  
13 person having an interest in the real property shall record a severance affidavit in the  
14 recording district where the affixation affidavit was recorded.

15 **Sec. 34.85.120. Severance affidavit.** The severance affidavit must contain or  
16 be accompanied by

17 (1) the name, residence, and mailing address of the owner of the  
18 manufactured home;

19 (2) a description of the manufactured home, including the name of the  
20 manufacturer, the make, the model name, the model year, the dimensions, and the  
21 manufacturer's serial number of the manufactured home;

22 (3) whether the manufactured home it is new or used;

23 (4) the serial numbers and date when the affixation affidavit was  
24 recorded;

25 (5) a statement

26 (A) of any facts or information known to the person signing the  
27 affidavit that could reasonably affect the validity of the title to the  
28 manufactured home or the existence or nonexistence of a lien or encumbrance  
29 on the manufactured home; or

30 (B) that the person signing the affidavit does not know any  
31 facts or information that could reasonably affect the validity of the title to the

1 manufactured home or the existence or nonexistence of a lien or encumbrance  
2 on the manufactured home;

3 (6) a declaration made under oath or affirmation by an attorney  
4 authorized under AS 08.08 to practice law in the state or an agent of a title insurance  
5 company entitled under AS 21.66 to transact a title insurance business in this state that  
6 the manufactured home is free and clear of all liens and encumbrances, and

7 (A) stating any facts or information known to the attorney or  
8 agent that could reasonably affect the validity of the title to the manufactured  
9 home or the existence or nonexistence of a lien or encumbrance on the  
10 manufactured home; or

11 (B) that the attorney or agent does not know any facts or  
12 information that could reasonably affect the validity of the title to the  
13 manufactured home or the existence or nonexistence of a lien or encumbrance  
14 on the manufactured home; and

15 (7) the name and address of the person designated to file the certified  
16 copy of the severance affidavit with the department under AS 28.10.265.

17 **Sec. 34.85.130. Filing of severance affidavit.** On receipt of a certified copy of  
18 the severance affidavit by the person designated in the affidavit for filing with the  
19 department, the person shall file the certified copy with the department under  
20 AS 28.10.262 - 28.10.264.

21 **Sec. 34.85.140. Affidavit form and acknowledgment.** (a) An affixation  
22 affidavit and a severance affidavit must be acknowledged in the same manner as a  
23 conveyance of real property and must be in a form that may be recorded under  
24 AS 40.17.

25 (b) The department shall establish by regulation the forms for an affixation  
26 affidavit and a severance affidavit.

27 **Sec. 34.85.150. Permanently affixed.** A manufactured home is permanently  
28 affixed when it is

29 (1) anchored to real property by attachment to a permanent foundation;

30 (2) constructed in accordance with applicable state and local building  
31 codes and manufacturer's specifications as provided in the Model Manufactured Home

1 Installation Standards of the federal Department of Housing and Urban Development  
2 (24 C.F.R. 3285); and

3 (3) connected to a residential utility, including water, gas, electricity,  
4 sewer, or septic service.

5 **Sec. 34.85.190. Definitions.** In this chapter, unless the context requires  
6 otherwise,

7 (1) "affixation affidavit" means an affixation affidavit under  
8 AS 34.85.060;

9 (2) "department" means the Department of Administration;

10 (3) "manufactured home" has the meaning given in AS 45.29.102;

11 (4) "permanently affixed" means when a manufactured home is  
12 permanently affixed under AS 34.85.150;

13 (5) "severance affidavit" means a severance affidavit under  
14 AS 34.85.120.

15 **Sec. 34.85.195. Short title.** This chapter may be cited as the Manufactured  
16 Home Property Act.

17 \* **Sec. 28.** AS 40.17 is amended by adding a new section to read:

18 **Sec. 40.17.125. Recording affidavits related to manufactured homes.** (a) A  
19 recorder shall record an affixation affidavit and a severance affidavit if the affidavit  
20 meets the requirements for recording under AS 40.17.030 and is offered for recording  
21 in the recording district where the real property to which the manufactured home  
22 affixed is located.

23 (b) A recording officer shall place on the recorded affidavit

24 (1) the indexing information for the recorded affidavit; and

25 (2) an indication that the recorded affidavit was recorded.

26 (c) In this section,

27 (1) "affidavit" means an affixation affidavit or a severance affidavit;

28 (2) "affixation affidavit" has the meaning given in AS 34.85.190;

29 (3) "manufactured home" has the meaning given in AS 45.29.102;

30 (4) "recorded affidavit" means an affidavit recorded under this section;

31 (5) "severance affidavit" has the meaning given in AS 34.85.190.

1 \* **Sec. 29.** AS 45.10.220(2) is amended to read:

2 (2) "goods" means personal chattels purchased primarily for personal,  
3 family, or household use and not for commercial or business use, but does not include  
4 money or, except as provided in the next phrase, chose in action; "goods" includes  
5 [BUT IS NOT LIMITED TO] merchandise certificates or coupons issued by a retail  
6 seller to be used in their face amount instead of cash in exchange for goods or services  
7 sold by the seller and goods, including a manufactured home, that, at the time of  
8 sale or subsequently, are to be so affixed to real property as to become a part of it,  
9 whether or not severable from it; in this paragraph, "manufactured home" has the  
10 meaning given in AS 45.29.102;

11 \* **Sec. 30.** The uncoded law of the State of Alaska is amended by adding a new section to  
12 read:

13 TRANSITION: REGULATIONS. The Department of Administration shall adopt  
14 regulations necessary to implement this Act. The regulations must take effect under AS 44.62  
15 (Administrative Procedure Act) on January 1, 2013.

16 \* **Sec. 31.** The uncoded law of the State of Alaska is amended by adding a new section to  
17 read:

18 SAVING CLAUSE. This Act may not be interpreted to impair a right or claim  
19 existing under law before January 1, 2013, of a person claiming an interest in a manufactured  
20 home. In this section, "manufactured home" has the meaning given in AS 45.29.102.

21 \* **Sec. 32.** The uncoded law of the State of Alaska is amended by adding a new section to  
22 read:

23 SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the application  
24 of it to any person or circumstance, is held invalid, the remainder of this Act and the  
25 application to other persons or circumstances are not affected.

26 \* **Sec. 33.** Section 30 of this Act takes effect immediately under AS 01.10.070(c).

27 \* **Sec. 34.** Sections 22 and 32 of this Act take effect July 1, 2012.

28 \* **Sec. 35.** Except as provided in secs. 33 and 34 of this Act, this Act takes effect January 1,  
29 2013.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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


State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

April 14, 2012

**SUBJECT:** HCS CSSB 104(RLS) relating to manufactured homes and municipal taxes (Work Order No. 27-LS0467\T)

**TO:** Representative Craig Johnson  
Chair of the House Rules Committee  
Attn: Debbie Higgins

**FROM:**  Terry Bannister  
Legislative Counsel

This bill version is being transmitted to you at your request and with the permission of Representative Muñoz .

1. Single subject issue. Please be aware that, with the addition of the municipal subdivision tax section (bill sec. 22), it is possible that the bill may be considered by a court not to be confined to one subject, which would violate the constitutional requirement that a bill be confined to one subject.<sup>1</sup> The Alaska Supreme Court standard is that an "act should embrace some one general subject; and by this is meant, merely, that all matters treated of should fall under some one general idea, be so connected with or related to each other, either logically or in popular understanding, as to be parts of, or germane to, one general subject."<sup>2</sup>

Historically, the Alaska Supreme Court has interpreted Alaska's single subject rule to permit very broad subject matter in one bill without violating the single subject requirement. For example, the Court has held that bills relating to such broad themes as "development of water resources,"<sup>3</sup> "taxation,"<sup>4</sup> "land,"<sup>5</sup> "intoxicating liquor,"<sup>6</sup> and

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<sup>1</sup> Article II, sec. 13, Alaska State Constitution.

<sup>2</sup> State v. First Nat'l Bank of Anchorage, 660 P.2d 406 (Alaska 1982).

<sup>3</sup> Gellert v. State, 522 P.2d 1120 (Alaska 1974).

<sup>4</sup> North Slope Borough v. Sohio Petroleum Corp., 585 P.2d 534, 545 (Alaska 1978).

<sup>5</sup> State v. First Nat'l Bank of Anchorage, 660 P.2d 406 (Alaska 1982).

<sup>6</sup> Van Brunt v. State, 646 P.2d 872 (Alaska App. 1982).

Representative Craig Johnson  
April 14, 2012  
Page 2

"criminal law"<sup>7</sup> are acceptable.<sup>8</sup> However, there was a strong dissent in one case against allowing broad subject matter in a single bill.<sup>9</sup> And in 2010 the Alaska Supreme Court found that a proposed initiative violated the single subject requirement.<sup>10</sup>

In this situation, the bill does address municipal taxation of permanently affixed mobile homes in sec. 23 of the bill. And the new bill sec. 22 addresses municipal taxation of certain subdivided property. However, the amendment does not appear to have another logical or popularly understood connection with the rest of the bill. The subject of "property" would cover the bill and the amendment. But that is a very broad subject, and may be considered broader than the subject of "land" that the court has accepted as a single subject.

2. Use of severability clause. The bill now contains a general severability clause and not one designed to address the single subject issue discussed above. Please be aware that a general severability clause is already provided for this bill by AS 01.10.030. Because of the single subject issue, I recommend adding a severability clause that addresses that issue. It may not work if the bill is challenged, but it might help.

If I may be of further assistance, please advise.

TLB:plm  
12-239.plm

Enclosure

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<sup>7</sup> Galbraith v. State, 693 P.2d 880 (Alaska App. 1985).

<sup>8</sup> Evans v. State, 56 P.3d 1046, 1070 (Alaska 2002).

<sup>9</sup> Yute Air Alaska, Inc. v. McAlpine, 698 P.2d 1173 (Alaska 1985). In his dissent, at page 1182, Justice Moore stated: "This court has mistakenly continued to give the rule such an extremely liberal interpretation that the rule has become a farce."

<sup>10</sup> Croft v. Parnell, 236 P.3d 369 (Alaska 2010).

# FISCAL NOTE

**STATE OF ALASKA**  
**2011 LEGISLATIVE SESSION**

Fiscal Note Number 1  
 Bill Version SB 104  
 (S) Publish Date 4/1/11

Identifier (file name) SB104-DOA-DMV-03-25-11 Dept. Affected Administration  
 Title Manufactured Homes as Real Property Appropriation Motor Vehicles  
 Allocation Motor Vehicles  
 Sponsor Senator French  
 Requester Senate State Affairs OMB Component Number 2348

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2012	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016	FY 2017
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>								
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<b>CHANGE IN REVENUES</b>								
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other (please identify)								
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2011) cost 0.0

**POSITIONS**

Full-time								
Part-time								
Temporary								

Why this fiscal note differs from previous version (if initial version, please note as such)

Not applicable; initial version

Prepared by Whitney Brewster, Director  
 Division Motor Vehicles  
 Approved by John Cramer, Director  
Department of Administration

Phone 907-269-5574  
 Date/Time 3/25/11 4:00 PM  
 Date 3/25/2011

FISCAL NOTE #1

STATE OF ALASKA  
2011 LEGISLATIVE SESSION

BILL NO. SB 104

**Analysis**

This bill will have only a small financial impact on the Division of Motor Vehicles (DMV). DMV will absorb any implementation costs in its operating budget.

# FISCAL NOTE

**STATE OF ALASKA**  
**2012 LEGISLATIVE SESSION**

cost # code

Bill Version CSSB 104(JUD)  
Fiscal Note Number 2  
(S) Publish Date 1/20/12

Identifier (file name) SB104-DOA-DMV-12-6-2011 Dept. Affected Administration  
Title Manufactured Homes as Real Property Appropriation Motor Vehicles  
Allocation Motor Vehicles  
Sponsor Senator French  
Requester Senate Judiciary OMB Component Number 2348

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>FUND SOURCE</b>		(Thousands of Dollars)						
1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>POSITIONS</b>								
Full-time								
Part-time								
Temporary								

<b>CHANGE IN REVENUES</b>								

Estimated **SUPPLEMENTAL (FY12) operating costs** \_\_\_\_\_ (separate supplemental appropriation required)  
(discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY13) costs** \_\_\_\_\_ (separate capital appropriation required)  
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Update for session

Prepared by Whitney Brewster, Director  
Division Motor Vehicles  
Approved by John Cramer, Deputy Commissioner  
Department of Administration

Phone 907-269-5559  
Date/Time 12/1/11 4:30 PM  
Date 12/6/2011

FISCAL NOTE #2

STATE OF ALASKA  
2012 LEGISLATIVE SESSION

BILL NO. CSSB 104(JUD)

**Analysis**

*The effective date of this bill is January 1, 2012.*

This bill will have only a small financial impact on the Division of Motor Vehicles (DMV). DMV will absorb any implementation costs in its operating budget.