

HB

170

<TARGET><BILL>HB 170</BILL><SUBJECT>HB
170</SUBJECT><COMM>HJUD30</COMM></TARGET>



Representative Sam Kito

Alaska State Legislature

Sponsor Statement House Bill 170

"AK Securities Act; Penalties; Crt. Rules"

House District 33

Downtown Juneau
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Chair
House Labor &
Commerce

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Member
House Health &
Social Services

Member
House Rules

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House Bill 170 modifies AS 45 by adding a new chapter, AS 45.56, relating to the Alaska Securities Act. The proposed updates would modernize and streamline the state's outdated securities laws to recognize industry changes and to support new means of raising capital, while enhancing investor protections and remedies. By adopting relevant provisions of the Uniform Securities Act (2002), this new Alaska Securities Act would incorporate proven successful practices in the industry but maintain Alaska-specific provisions relevant to the unique features of the state. Moreover, the updates would eliminate redundant or outdated references and practices.

Currently, AS 45.55 governs securities transactions in the state. Since its adoption in 1961, there have only been three relevant changes to our securities law. In 1999, a portion of the existing law was revised after the passage of the National Securities Markets Improvement Act of 1996. In 2014, ch. 46, SLA 2014 eliminated several filing requirements for certain securities exemptions. In 2016, SB 126 opened 'crowdfunding' to Alaskans for in-state business venture funding up to \$1,000,000 but otherwise left the majority of the Alaska Securities Act unchanged; it remains outdated. By example, the current version of the Alaska Securities Act limits official notification of certain dates to telegram or telephone, but not electronic means, and continues to list stock exchanges that have merged with other entities or no longer exist. The financial industry has changed dramatically in the last 15 years and an entire overhaul of the Alaska Securities Act is necessary to put the state's laws governing securities transactions in line with other regulatory regimes.

Using the Uniform Securities Act as a springboard for changes to the Alaska Securities Act, our state benefits from a time-tested regulatory regime that has been adopted and used in at least 20 other states. By incorporating provisions proven to improve the regulation of the securities industry in other states into our laws, the state and persons doing business here will benefit. With the Uniform Securities Act as the basic framework also provides familiarity to many industry professionals that are familiar with the Alaska Securities Act. Using the Uniform Securities Act as the starting point, the bill incorporates several Alaska-specific provisions aimed at protecting and supporting the public and industry.

HB 170 updates enforcement provisions by increasing penalties for those who violate the Alaska Securities Act, allowing restitution to be ordered to compensate victims for their losses, protecting vulnerable Alaskans by providing a safe harbor for those who would financial exploit them as well as providing for enhanced civil penalties against violators who financially harm them. Further, the bill directs that a small portion of civil penalties may be used to provide investor education to Alaskans.

The bill also modifies existing provisions related to the treatment of Alaska Native Claims Settlement Act (ANCSA) proxy solicitations in the existing chapter, AS 45.55. These limited modifications do not change any substantive law, but instead leave the existing laws regulating ANCSA proxy solicitations in its own chapter.

Thank you for your consideration of this legislation.



Representative Sam Kito

Alaska State Legislature

Sectional Analysis House Bill 170

"AK Securities Act; Penalties; Cr. Rules"

SECTIONS 1 – 14 (pp. 1-11) include the corresponding changes to statutes that refer to former AS 45.55 provisions that have been moved to AS 45.56.

SECTIONS 15 – 24 (pp. 11-14) modify AS 45.55 as necessary to delete references to statutes that have no bearing on the Alaska Native Claims Settlement Act corporations because of the enactment of AS 45.56.

SECTION 25 (p. 15) proposed new Chapter AS 45.56.

Article 1. General Provisions (p. 15)

Sec. 45.56.105. Securities registration requirement – same as current law (AS 45.55.070). Securities must be registered before offer or sale unless federally covered or exempt.

Article 2. Exemptions from Registration of Securities (pp. 15-30)

Sec. 45.56.205. Exempt securities – generally the same as current law (AS 45.55.900(a)) with a few additions including securities issued by an insurance company; certain options, warrants and rights that are not federal covered securities; certain cooperatives and equipment trust certificates.

Sec. 45.56.210. Exempt transactions – similar to current law (AS 45.55.900(b)), reorganized with additions reflecting transactions allowed under the Uniform Securities Act of 2002 (USA).

Sec. 45.56.220. Small intrastate securities offerings (referred to as "crowdfunding") – allows for offerings within Alaska of up to \$1,000,000 with a maximum single investment of \$10,000, incorporated into the Alaska Securities Act by SB 126 (2016).

Sec. 45.56.230. Disqualifier – prohibits persons who have been subject to regulatory action or participated in certain crimes from using exemptions from the registration requirement.

Sec. 45.56.240. Waiver and modification – broadens the administrator's authority to waive or change requirements or conditions for exemptions.

Sec. 45.56.250. Denial, suspension, revocation, condition, or limitation of exemptions – same as current law, although the appeal rights and hearing information is moved to Article 6.

Article 3. Registration of Securities and Notice Filing of Federal Covered Securities. (pp. 30-42)

No significant changes to registration provisions from AS 45.55. Material changes noted by section.

Sec. 45.56.305. Securities registration by coordination – registration statement must be on file with the Administrator for 20 days (may be reduced by regulation). References to prompt notice by telegram are deleted.

Sec. 45.56.310. Securities registration by qualification – adds a new requirement that registrants disclose pending litigation that may materially affect the issuer or litigation that is known to be contemplated but not yet filed.

Sec. 45.56.320. Securities registration filings – allows the administrator to set escrow time by regulation or order for certain securities issued to a promoter or to other persons at a price substantially less than the public offering price.

Sec. 45.56.330. Notice filing of federal covered securities – adds fees for late filings.

Sec. 45.56.340. Viatical settlement interests – combines current AS 45.55.120 and AS 45.55.905(c) to explain the joint regulation of these interests by the Securities and Insurance statutes.

Sec. 45.56.350. Waiver and modification – the administrator's waiver authorities are consolidated in this section instead of throughout the chapter.

Sec. 45.56.360. Denial, suspension, and revocation of securities registration – adds requirement to establish regulations explaining what conduct may be fraud upon purchasers; unreasonable discounts, compensation, profits (including options, etc.) and terms that are unfair, unjust or inequitable.

Article 4. Broker-dealers, Agents, Investment Advisers, Investment Adviser Representatives, and Federal Covered Investment Advisers. (pp. 42-70)

Firm, salesperson, and adviser registration (licensing) provisions are reorganized into one article, making it more user-friendly than current law. Notable changes are listed below.

Sec. 45.56.405. Broker-dealer registration requirement and exemptions – includes a new exemption to facilitate ongoing broker-customer relationships with customers who have established a second or other residence and clarifies the number of transactions a broker-dealer may effect annually (3) if not registered in Alaska.

Sec. 45.56.410. Limited registration of Canadian broker-dealers and agents – changes annual renewal to December 31 from December 1 for easier state and firm processing.

Sec. 45.56.420. Registration exemption for merger and acquisition broker – this new provision exempts merger and acquisition brokers from registration (licensing) requirements because these transactions are typically between knowing parties with adequate legal counsel and scrutiny. The exemption is not available if the broker actually handles the securities exchanged in the transaction, otherwise represents an issuer or public shell company, or is subject to an SEC action.

Sec. 45.56.430. Agent registration requirement and exemptions – the rewrite of this section includes a statement of the types of business covered here instead of in a definitional section.

Sec. 45.56.435. Investment adviser registration requirement and exemptions – includes a per client exemption similar to the broker-dealer exemption in Sec. 45.56.405.

Sec. 45.56.440. Investment adviser representative registration requirement and exemptions – these provisions mirror the broker-dealer agent requirements in Sec. 45.56.430.

Sec. 45.56.445. Federal covered investment adviser notice filing requirement – these provisions are not separately stated in the current law.

Sec. 45.56.450. Registration by broker-dealer, agent, investment adviser, and investment adviser representative – combines provisions in current statute and regulations and extends the automatic registration from 30 to 45 days unless the registration is denied.

Sec. 45.56.455. Succession and change in registration of broker-dealer or investment adviser – clarifies that an organizational change can generally be completed by amendment instead of a new registration (for instance a sole proprietorship moving to a limited liability company).

Sec. 45.56.460. Termination of employment or association of agent and investment adviser representative and transfer of employment or association – requires the registrant file a notification with the division. Allows for an immediate temporary effective registration with a new firm when there is no new disciplinary information added.

Sec. 45.56.465. Withdrawal of registration of broker-dealer, agent, investment adviser, and investment adviser representative – extends the effective date of registration withdrawal up to 60 days and allows a revocation proceeding to commence within one year.

Sec. 45.56.470. Filing fees – are established and may be paid through a designee by regulation.

Sec. 45.56.475. Post registration requirements – in addition to current requirements, adds the provision for continuing education by regulation.

Sec. 45.56.480. Protecting older and vulnerable adults from financial exploitation – adds a new provision adopting model legislation to protect vulnerable adults from financial exploitation that requires certain individuals to report financial exploitation of an older Alaskan or vulnerable adult to Adult Protective Services and the Administrator. Also allows a broker dealer or investment adviser to delay a financial disbursement if it may result in financial exploitation. Provides immunity for good faith reports and financial disbursement delays.

Sec. 45.56.485. Denial, revocation, suspension, withdrawal, restriction, condition, or limitation of registration – in addition to current provisions, allows the administrator to bar a person or firm from registration including for actions taken by other regulators. Civil penalty for registrants is increased from \$2,500-\$10,000 per violation to up to \$100,000 per violation.

Article 5. Fraud and Liabilities. (pp. 66-69)

Sec. 45.56.505. General fraud – same as current AS 45.55.010.

Sec. 45.56.510. Prohibited conduct in providing investment advice – allows administrator to define prohibited conduct by regulation.

Sec. 45.56.520. Misleading filings – same as current AS 45.55.160.

Sec. 45.56.530. Misrepresentations concerning registration or exemption – same content as AS 45.55.170.

Sec. 45.56.540. Evidentiary burden – similar content to current AS 45.55.900(c) and adds the citation to affirmative defense in criminal law.

Sec. 45.56.550. Filing of sales and advertising literature – same content as AS 45.55.150.

Sec. 45.56.560. Qualified immunity – registered persons are not liable to other registered persons, under state defamation laws, for statements contained in disclosure records required to be filed with the administrator for purposes of licensing and potential discipline.

Article 6. Administration and Judicial Review. (pp. 72-93)

Sec. 45.56.605. Administration – adds a new provision allowing the administrator to develop and implement investor education initiatives and accept grants or donations for investor education.

Sec. 45.56.610. Administrative files and opinions – requires the administrator keep records according to a retention schedule and outlines publicly disclosable documents.

Sec. 45.56.615. Public records; confidentiality – clarifies and specifies record confidentiality.

Sec. 45.56.620. Uniformity and cooperation with other agencies – expands opportunity for coordination with governmental units, regulatory organizations for collaborative efforts including regulation and enforcement to reduce the burden of raising capital by small business.

Sec. 45.56.625. Securities investor education and training fund – creates an investor education and training fund within the general fund. 33% of the money received from civil penalties may be used for investor education and training if appropriated by the legislature.

Sec. 45.56.630. Service of process – same as current AS 45.55.980.

Sec. 45.56.635. Applicability of the chapter – same as current AS 45.55.980.

Sec. 45.56.640. Regulations, forms, orders, interpretative opinions, and hearings – combines existing AS 45.55.950 and 45.55.970 and clarifies that GAAP compliant financial statements may only be required as allowed by federal law.

Sec. 45.56.645. Investigations and subpoenas – similar to existing AS 45.55.910 and allows broader cooperation with other regulators.

Sec. 45.56.650. Administrative enforcement – time period for a respondent to request a hearing after an action is taken is extended from 15 days to 30 days. Civil penalties are increased from \$2,500 for a single violation and \$25,000 for multiple violations to a maximum of \$100,000 for a single violation with no cap for multiple violations. If a victim is an “older person” (a person over 60 years old) or a “vulnerable adult,” the respondent is subject to treble damages. Restitution and actual costs of investigation may be ordered. The administrator may deny the use of securities exemptions under Article 2 and registration (licensing) exemptions under Article 4 if a person violates the Act. The administrator may petition the Superior Court to enforce a final order and the Court may hold a person in contempt for violating an order of the administrator, punishable by up to \$100,000 per violation, in addition to any administrative penalties that were originally assessed.

Sec. 45.56.655. Civil enforcement – the administrator may seek remedies such as asset freezes, an order of rescission, restitution, and civil penalties of up to \$100,000 per violation, and all damages may be trebled if the victim is an “older person” (person over 60 years of age) or “vulnerable adult.”

Sec. 45.56.660. Civil liability – outlines instances where the seller is liable to the purchaser and potential remedies (actual damages including interest as determined by the court); also describes instances where the buyer may be liable to the seller.

Sec. 45.56.665. Rescission offers – outlines the rescission offer process, including a new requirement that the offeror must demonstrate the ability to pay and then actually pay as promised.

Sec. 45.56.670. Criminal enforcement – intentional violations of the Act and fraud are generally punishable as class C felonies punishable by imprisonment under AS 12.55.125, or a fine of up to \$100,000, or both. A person convicted of violation a regulator order may be fined but not imprisoned if the person did not know of the regulation or order. Individuals who intentionally alter or destroy evidence are guilty of a class C felony and may be imprisoned as provided in AS 12.55.125, assessed a fine of not more the \$500,000, or both.

Sec. 45.56.675. Judicial review – appellants have 30 days to request review of a final order.

Article 7. Miscellaneous and Additional General Provisions. (pp. 93-104)

Sec. 45.56.710. Reimbursement of expenses incident to examination or investigation – expands recovery of expenses from current AS 45.55.915 to cover all examination expenses including staff time, travel and per diem.

Sec. 45.56.720. Electronic records and signatures – facilitates filing of electronic records and signatures. Consumers must consent and have the option to withdraw such consent.

Sec. 45.56.730. References to federal statutes – a list of all federal statutes referenced in the Act.

Sec. 45.56.740. References to federal agencies – notes that a reference to an agency of the United States is also a reference to a successor agency.

Sec. 45.56.900. Definitions. Updates federal citations. New definitions include:

- Disqualifier
- Filing
- Institutional investor (reflects federal law)
- Insurance company
- Insured
- International Banking Institution
- Offer to purchase
- Older person – a person that is age 60 or older (from AS 47.65.290(6))
- Price amendment
- Record
- Self-regulatory organization
- Sign
- Vulnerable adult (from AS 47.24.900(21))

Sec. 45.56.995. Short title. This chapter may be cited as the Alaska Securities Act.

SECTIONS 26 – 28 (pp. 104-109). Citations are modified to reflect Chapter 45.56 in place of Chapter 45.55 references; federal law citations are updated.

SECTION 29 (p. 109) – Repeals statutes that are no longer needed in AS 45.55 because they do not apply to Alaska Native Claims Settlement Act corporation proxy solicitations.

SECTION 30 (p. 109) – Amends indirect Court Rules relating to changes in AS 45.56.

SECTION 31 (p. 110) – Allows the department to adopt transition regulations.

SECTION 32 (p. 110) – Amends the law to effect transition and application of AS 45.55 for existing proceedings, existing rights and duties.

SECTION 33 (p. 110-111) – Reviser’s instruction to rename AS 45.55 to Alaska Native Claims Settlement Act Corporations Proxy Solicitations and Initial Issuance of Stock.

SECTION 34 (p. 111) – Conditional effect of certain provisions upon constitutionally required vote of each house.

SECTION 35-36 – January 1, 2018 effective date, except for section 31.



Representative Sam Kito

Alaska State Legislature

Repealer List House Bill 170

"AK Securities Act; Penalties; Crt. Rules"

HB 170 retains statutes applying to ANCSA in AS 45.55 including reporting provisions, investigations, enforcement, penalties, administration, and definitions. All non-ANCSA statutes are repealed and either reenacted or amended under AS 45.56. The list of repealed sections from AS 45.55 is included below for reference. Details of the reenacted and amended language under AS 45.56 is included in the brief sectional analysis.

- 45.55.010: Sales and Purchases
- 45.55.020: Advisory Activities
- 45.55.023: Unethical business practices of state investments advisers, investment adviser representatives, and federal covered advisers
- 45.55.025: Fraudulent, dishonest, and unethical business practices of broker-dealers and agents
- 45.55.027: Additional fraudulent, dishonest, and unethical business practices of agents
- 45.55.028: Practices of broker-dealers and agents considered fraudulent or deceitful
- 45.55.030: Registration requirements; referrals
- 45.55.035: Limited registration of Canadian broker-dealers and agents
- 45.55.040: Registration procedure; notice filings
- 45.55.050: Post-registration provisions
- 45.55.060: Denial, revocation, suspension, cancellation, and withdrawal of registration
- 45.55.070: Registration requirements
- 45.55.075: Federal covered securities
- 45.55.080: Registration by notification
- 45.55.090: Registration by coordination
- 45.55.100: Registration by qualification
- 45.55.110: Provisions applicable to registration and notice filings
- 45.55.120: Denial; suspension; and revocation of registration
- 45.55.150: Sales and advertising literature
- 45.55.155: Viatical settlement interests
- 45.55.170: Unlawful representations concerning registration or exemption
- 45.55.175: Exemptions for certain security sales and offerings
- 45.55.900: Exemptions
- 45.55.905(c): Administration of chapter – Regulation of transactions between viatical settlement providers and subsequent investor
- 45.55.915: Reimbursement of expenses incident to examination or investigation
- 45.55.930: Civil liability to buyers
- 45.55.935(b): Hearings – Administrative law judge may issue a subpoena to compel attendance of any party
- 45.55.970: Administrative files and opinions
- 45.55.980: Applicability of chapter; service of process
- 45.55.990: Definitions
- 45.55.995: Short title

Alaska Securities Act - HB 170

The Division of Banking and Securities (DCCED)

OVERVIEW: HB 170 repeals and reenacts the Alaska Securities Act. This Act provides the legal framework for offering or selling securities in Alaska or to Alaskans including provisions for crowdfunding, registration of the securities and salesforce, taking action against those who violate the Act, and providing education about securities and investments to Alaskans, including citizens, entrepreneurs and industry.

Highlights:

- Separates securities statutes from Alaska Native Claims Settlement Act (ANCSA) related statutes to reduce confusion and improve understanding of each Act.
- Synthesizes with other states' laws to make it easier for businesses, entrepreneurs and investors to understand their rights, responsibilities and opportunities in Alaska. Clarifies disclosure requirements.
- Includes the Innovating Alaska Act (SB 126) passed during the 29th Legislative Session that allows Alaskans to invest up to \$10,000 in Alaskan businesses (crowdfunding).
- Eliminates filings for all in-state exemptions except crowdfunding.
- Deters investment scams using Alaska entities or harming Alaskans through:
 - Increased penalties against those who break the law and scam Alaskans.
 - Trebles penalties against those who harm an older or vulnerable person.
- Requires brokers and advisers to report financial exploitation and provides immunity for good faith reports and financial disbursement delays.
- Facilitates broker/agent continuing education.
- Allows the division to develop and implement investor education initiatives and to accept grants or donation for those specific purposes.
 - 1/3 of civil penalties received may be deposited into an Investor Education Fund (IED);
 - Legislature may appropriate IED funds for investor education and training.
- Recognizes and incorporates current industry terms and standards, as well as updates legal citations (removes telegram notice about effective registrations).
- Facilitates use of electronic records and signatures.
- Improves statutory organization.

Significant Changes to Administrative Enforcement (Division ordered):

- Civil penalties increase from \$25,000 to \$100,000 per violation with no maximum limit.
- Penalties may be trebled when the victim is 60 years of age or older or a vulnerable adult.
- Division may order the bad actor to pay losses to the investor (restitution).
- Division can bar a bad actor from having an Alaska securities license.
- Superior Court can hold a person in violation of a final administrative order in civil contempt, subject to a potential \$100,000 fine per violation.

Significant Changes to Civil Enforcement:

- Provides guidance regarding remedies available including injunctions, asset freezes and receivership.
- Allows for treble penalties where victim is 60 years of age or older or is a vulnerable adult.
- Allows for rescission, disgorgement and restitution.
- Allows for repayment of prejudgment or post judgment interest.
- Separates civil liability from rescission.
- Describes circumstances and remedies where sellers/issuers and purchasers are liable.
- Provides that salespeople who violate the act are liable to their clients, who may recover damages.
- Statute of limitations is generally three years from the date of sale, unless there is fraud.

Significant changes to rescission offers:

- Aggrieved party has 30 days to accept rescission offer and the offeror must actually pay as promised.
- Offeror must demonstrate ability to pay and deliver the rescission offer in a way that ensures receipt.

Criminal Enforcement:

- Five year statute of limitations.
- "Willful violation" is changed to "intentional violation."
- Intentional violation is a Class C felony under AS 12.55.125 and fines up to \$100,000.
- Altering or destroying evidence is a Class C felony.

WHY DOES ALASKA NEED TO UPDATE THE SECURITIES LAW NOW?

13-1095-S, Fortune Oil & Gas, Russell Vera and R. Gerald Bailey: On February 3, 2014, the Division issued a Final Cease and Desist Order that included the current MAXIMUM civil penalty of \$25,000 against Respondents for selling nearly \$3.1 million in unregistered limited partnership interests in Texas oil and gas ventures to Alaskan investors. Dr. Bailey requested a hearing. The hearing was held in a Juneau court in May 2016. On March 14, 2017, the Courts issued an order finding that Mr. Bailey knowingly engaged in the offer and sale of unregistered securities and entered judgment against him for the *maximum amount of \$25,000*. That civil penalty, if paid, will go into the General Fund. Under HB 170, Dr. Bailey's civil liability could be \$300,000 plus over \$3 million in restitution to the victims.

14-1442-S, Global Arena Capital Corp.: On October 23, 2015, the Division issued a Final Cease and Desist Order that included a total civil penalty of \$150,000 against Global Arena and six of its employees for violating the Alaska Securities Act. A Global Arena employee contacted an elderly Alaska halibut fisherman in poor health and sold him junk bonds, although the investor believed he was buying something like a CD. The investigation revealed that the agents were instructed to offer and sell the junk bonds as "safe investments." The fisherman invested \$27,000 in the bonds, which rapidly lost value. The firm even attempted to sell the investor other bonds, including one that would not reach maturity until the investor was 119 years old. The investment lost nearly \$16,000. Global Arena was cited for deceptive and misleading representations and offering unsuitable securities. Currently, the Division can only get money back for a defrauded investor with an agreement with a bad actor to pay restitution directly to the investor. In this case, the Division successfully negotiated with one of the Respondents to pay restitution to the investor.

15-1520-S/15-1520-2-S, Garden State Securities/Garland James: Garland James, previously an agent at Global Arena Capital Corp., went to work for Garden State. He cold-called the same elderly Alaskan fleeced by Global and tried to sell him \$82,000 of a risky biotechnology stock. James was not registered as a broker-dealer agent in Alaska. The Division entered into a consent agreement with Garden State to withdraw its registration in Alaska and pay a \$25,000 civil penalty (maximum) for failing to supervise James. The Division issued a Final Cease and Desist Order assessing James a \$25,000 civil penalty.

12-85-S, Troy Stafford and Patrick Williams: Stafford and Williams formed two Alaska LLCs, GS Capital and WS Seafood. Stafford offered an Alaska resident an opportunity to invest \$40,000 in WS Seafood, promising him a management position at the company. Stafford also stated, falsely, that another corporation had promised a \$10 million loan to assist the endeavors. The investor invested his money. The deal fell through and the investor never received the promised management role. The Division negotiated a settlement with the Respondents, requiring them to offer rescission to the investor, which Respondents agreed to do and promised to pay, even filing a notice of rescission with the Division. Respondents never paid the investor as promised. The Division issued a Cease and Desist order and sought a court order to enforce it.



ANCSA REGIONAL ASSOCIATION
Bringing Together Regional Corporation Presidents and CEOs

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Julie Kitka
President
Alaska Federation of
Natives

March 27, 2017

The Honorable Sam Kito
Chairman, House Labor and Commerce Committee
State Capitol
Juneau, Alaska 99801

Re: House Bill 170 – Alaska Securities Act

Dear Chairman Kito:

On behalf of the ANCSA Regional Association (the Association), we submit this letter regarding the House Labor and Commerce Committee bill HB 170- Alaska Securities Act. We appreciate the hard work your committee is engaged in as it seeks to both keep up with the wide range of issues before it while also contributing to resolving Alaska's core issue of a sustainable fiscal solution. The ANCSA Regional Association represents the Chief Executive Officers of the twelve land-based regional Alaska Native Corporations (ANCs), as well as the President of the Alaska Federation of Natives. Our corporations are owned by over 121,000 Alaska Native people and were formed under the Alaska Native Claims Settlement Act of 1971, 43 U.S.C. § 1601, et. seq. (ANCSA). Our mission is to promote and foster the continued growth and economic strength of the Alaska Native Regional Corporations on behalf of our shareholders. When measured against the top 49 Alaska-owned companies, ANCs account for 75 percent of the revenue earned, 69 percent of Alaskan jobs, and 86 percent of the global employment. Making up 20 of the top 49 Alaska-owned companies, Alaska Native Corporations have become an economic engine of Alaska.

After review of this legislation, we conclude that we do not oppose the bill as currently drafted and introduced, with respect to the statutory renumbering, wherein the ANCSA-specific provisions remain housed in AS 45.55, and the other securities provisions are placed into a new chapter, AS 45.56. We appreciate that the bill separates securities issues from other provisions regarding Alaska Native Claims Settlement Act Corporations Proxy Solicitations and Initial Issuance of Stock provisions in Alaska Statutes 45.55. We do not take a position at this time as to any other substantive provisions of the bill.

As your committee works the bill, please know that we remain available to answer questions on any provision of interest to our members that the committee encounters.

Thank you for your hard work!

Sincerely,
ANCSA REGIONAL ASSOCIATION



Kim Reitmeier
Executive Director

cc: ANCSA Regional Association, Board of Directors
House Labor and Commerce Committee Members
The Honorable Mia Costello, Senator



NASAA

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March 22, 2017

Representative Sam Kito

Chairman

Committee on Labor & Commerce

Alaska House of Representatives

State Capitol, 120 4th St.

Juneau, AK 99801

Representative Adam Woll

Vice-Chairman

Committee on Labor & Commerce

Alaska House of Representatives

State Capitol, 120 4th St.

Juneau, AK 99801

Re: H.B. 170 (The Alaska Securities Act)

Dear Mr. Chairman and Mr. Vice-Chairman:

On behalf of the North American Securities Administrators Association (“NASAA”),¹ I write to express support for H.B. 170, which would enact a number of changes to the Alaska Securities Act. If enacted, H.B. 170 would modernize Alaska’s securities laws in important ways, benefitting Alaskan investors and businesses.

H.B. 170 would amend the Alaska Securities Act (“ASA”)² to enact elements of the Uniform Securities Act of 2002 (“Uniform Act”), updating Alaska’s securities laws to incorporate provisions that have proven successful in many other states. It would also make operational and technical improvements to Alaska’s securities laws – updating it to reflect technological advances such as the internet; and revising the law to eliminate redundant and outdated language, such as references to communications by telegraph and to stock exchanges that no longer exist. Streamlining Alaska’s securities laws will make it more consistent with those of other states, and help Alaska’s securities marketplace become more efficient and accessible to issuers, investors, and other participants.

In addition to updating the ASA, Alaskans stand to benefit from a variety of specific and innovative provisions in the legislation that strengthen protections for Alaskan investors. In short, the legislation will improve the state’s securities laws and strengthen protection for investors.

While H.B. 170 contains provisions that will aid Alaska businesses and innovators, these measures would also take significant steps to strengthen protections for Alaska’s retail investors. The legislation would permit the Alaska Securities Division (“Division”) to impose a bar upon registration, which is currently not allowed under the ASA, even for the most egregious conduct.

¹ The oldest international organization devoted to investor protection, the North American Securities Administrators, Inc. was organized in 1919. Its membership consists of the securities administrators in the 50 states, the District of Columbia, Canada, Mexico, Puerto Rico and the U.S. Virgin Islands. NASAA is the voice of securities agencies responsible for grass-roots investor protection and efficient capital formation.

² The Alaska Securities Act provides the legal framework for the offering or selling of securities within Alaska.

In addition, H.B. 170 would increase the maximum civil penalty for registrants from its current \$2,500-\$10,000 per violation to up to \$100,000 per violation, the maximum administrative penalty from \$25,000 to \$100,000 per violation, and allow for even greater sanctions in cases where the victim is an “older Alaskan” (a person over 60 years old). Further, the legislation would allow the Division to impose restitution costs, assessments to recover the actual costs of an investigation, and would authorize the Division to deny the use of securities exemptions under Article 2 and registration (licensing) exemptions under Article 4 if a person violates the Act. Finally, the legislation would establish a fund for investor education and training, which would be financed using a portion of civil penalties received by the state.

Importantly, the legislation also includes provisions based directly on the NASAA Model Act to Protect Vulnerable Adults from Financial Exploitation (“Model Act” or “Act”).³ The NASAA Model Act gives industry participants and state regulators new tools to help detect and prevent financial exploitation of vulnerable adults. The Act mandates reporting to a state securities regulator and state adult protective services agency when a qualified individual has a reasonable belief that financial exploitation of an eligible adult has been attempted or has occurred. The Act also authorizes disclosure to third parties only in instances where an eligible adult has previously designated the third party to whom disclosure may be made. Finally, the Act directs that disclosures may not be made to the third party if the qualified individual suspects the third party of the financial exploitation.

The Model Act is the culmination of well over a year of work by NASAA, including extensive public and internal comment. The Model Act originated as an initiative of NASAA’s Committee on Senior Issues and Diminished Capacity (“Seniors Committee” or “Committee”), formed in 2014. On September 29, 2015, a draft of the proposed Model Act was released for a 30-day public comment period.⁴ The Committee received and considered comments from various interested parties and considered a similar proposal contained in Regulatory Notice 15-37 issued by the Financial Industry Regulatory Authority (“FINRA”). Furthermore, in light of federal legislation proposed in October 2015, the Committee conducted further internal review in late 2015 and revised several elements of the Model Act. On December 22, 2015, NASAA’s Board of Directors approved the Committee’s request to submit the proposed Model Act to the NASAA membership for consideration. In January, 2016, NASAA members voted to approve the Model Act.

The NASAA Model Act was finalized on January 22, 2016 and four U.S. states enacted the Model Act or similar legislation later that year.⁵ In 2017, as of March 20, the legislation has been introduced and is being actively considered by at least 14 U.S. states, including Alaska.⁶ In

³ Additional information about the NASAA Model Act to Protect Seniors and Vulnerable Adults is available at serveourseniors.org/about/policy-makers/nasaa-model-act/commentary/.

⁴ See Notice of Request for Comments Regarding NASAA’s Proposed Model Legislation or Regulation to Protect Vulnerable Adults from Financial Exploitation (Sept. 29, 2015), available at nasaa.org/37301/notice-of-request-for-comments-regarding-nasaas-proposed-model-legislation-of-regulation-to-protect-vulnerable-adults-fromfinancial-exploitation/.

⁵ The four states are Vermont, Indiana, Alabama, and Louisiana.

⁶ The fourteen states are Alaska, Arkansas, Colorado, Indiana, Kentucky, Maryland, Minnesota, Mississippi, Montana, New Mexico, New York, Oregon, North Dakota, and Texas.

a large majority of states, the legislation has already been approved by legislative committees, and several states have recently passed the bill through one or another body of their legislatures.⁷

In conclusion, NASAA supports H.B. 170. We appreciate the opportunity to comment on the bill, and would be pleased to assist the Committee in any way possible.

Sincerely,

A handwritten signature in cursive script that reads "Mike Rothman".

Mike Rothman
NASAA President and Minnesota Commissioner of Commerce

⁷ Passage by single body: Indiana, North Dakota; Passage by both bodies: Arkansas, Maryland, Mississippi, Montana, and New Mexico.



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

ALASKA SECURITIES ACT

HB 170

Presented to
House Judiciary Committee

April 7, 2017

Kevin Anselm
Director

Division of Banking & Securities
Department of Commerce, Community and Economic Development



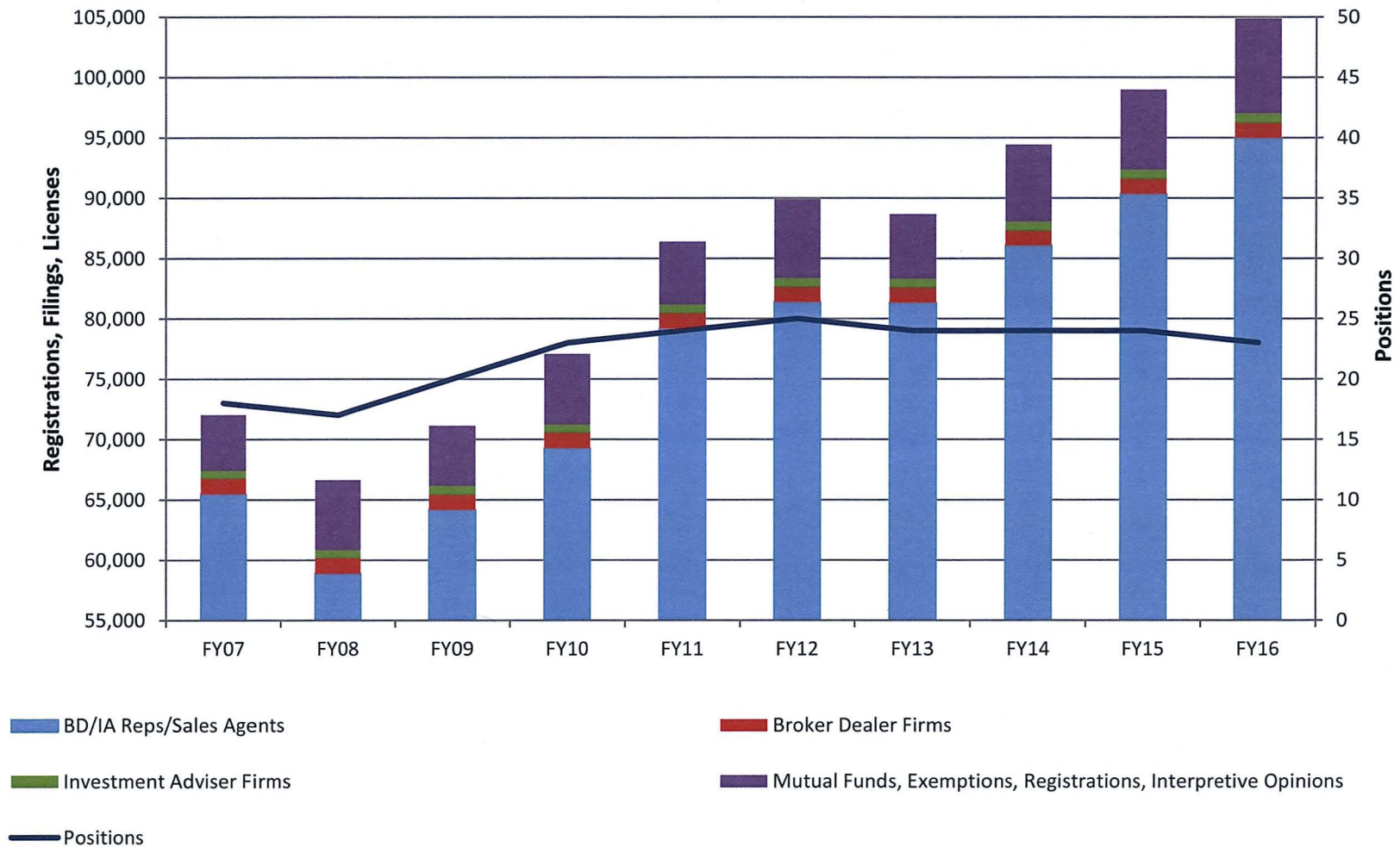
What does the Alaska Securities Act include now?

- Securities broker-dealers, investment advisers, sales agents
- Securities issuers and agents
- Mutual funds, federal covered securities
- Enforcement provisions
- Alaska Native Claims Settlement Act (ANCSA) Corporation and shareholder proxy filings



Securities Registrations, Filings and Licenses

Registrations, Filings, Licenses, and Positions
(Securities)





What will HB 170 do?

- Simplify and bring Alaska's securities laws current with similar provisions as other states' laws to encourage companies, entrepreneurs and investors to do business in Alaska.
- Separate the Securities Act from the Alaska Native Claims Settlement Act.
- Protect older and vulnerable adults from financial exploitation by requiring financial professional to report suspected exploitation and giving the reporting professionals immunity.
- Enhance enforcement provisions, allowing for restitution and increased civil penalties to protect Alaskans, including additional penalties for victimizing vulnerable and older Alaskans.
- Create an Investor Education Fund that allows the Legislature to direct a portion of the civil penalties collected for consumer, investor and marketplace education.
- Allow the Division to require continuing education for investment professionals.



Alaska Native Claims Settlement Act Provisions

- ANCSA provisions remain unchanged in AS 45.55, including the enforcement and administration of related securities laws
- References to exempt ANCSA securities transactions are included in the new Act at AS 45.56.210 (27)



Highlights

- Eliminates filings for all exemptions from registration, *except* crowdfunding
- Updates entity and law references (i.e., no longer includes notice by telegram)
- Includes 'bad actor' disqualifiers
- Improves enforcement and investor protection and education provisions



HB 170

- Article 1. General Provisions - p. 15
- Article 2. Exemptions from the Registration of Securities – p. 15
- Article 3. Registration of Securities and Notice Filing of Federal Covered Securities – p. 30
- Article 4. Broker-dealers, Agents, Investment Advisers, Investment Adviser Representatives and Federal Covered Investment Advisers – p. 42
- Article 5. Fraud and Liabilities – p. 70
- Article 6. Administration and Judicial Review – p. 72
- Article 7. Miscellaneous and Additional General Provisions (includes definitions) –p. 93



45.56.650 Administrative Enforcement Changes

- Extends time for requesting a hearing to 30 days (currently 15 days)
- Civil penalties are increased from \$2,500/\$25,000 to a maximum of \$100,000 per violation
- Penalties can be trebled if the victim is an older or vulnerable Alaskan
- The bad actor can be barred from the securities business in Alaska
- Restitution to a victim can be ordered
- Exemptions from securities registration can be denied
- Administrator may petition court to collect a civil penalty without reopening the case merits
- Persons in violation of an administrative order can be held in civil contempt potentially triggering an additional civil penalty



45.56.655 - .665 Civil Enforcement Changes

- Clarifies actions the administrator may pursue in civil court including asset freezes, receivership
- Includes treble monetary penalties in cases involving older or vulnerable adults
- Allows rescission, disgorgement and restitution orders as well as pre or post-judgment interest
- Provides that salespersons who violate the act are liable to their clients
- Sellers and buyers of securities can be liable for their actions.
- Statute of Limitations is typically 3 years, or 2 years from discovery of fraud.



AS 45.56.670 Criminal Enforcement

- Similar to provisions in current AS 45.55.925
- “Willfully” was changed to “knowingly”
 - Generally a class ‘C’ felony
 - If someone violates the law without knowledge, then guilty of class A misdemeanor
- Increased monetary penalties matching administrative and civil penalties



FY 2016 Securities Enforcement Actions

- In FY 2016, the division issued – 36 final orders
 - 17 – Securities related

The screenshot shows the website for the Division of Banking and Securities. At the top, there is a navigation bar with links for myAlaska, My Government, Resident, Business in Alaska, Visiting Alaska, and State Employees. Below this is the Department of Commerce, Community, and Economic Development logo and the text "Banking and Securities". A search box is located in the top right corner. The main content area features a "Division Quick Links" sidebar on the left with categories like Banking and Securities. The main content area is titled "DIVISION OF BANKING AND SECURITIES ENFORCEMENT ORDERS" and contains a welcome message and instructions on how to use the search function. A background image of a stock market ticker is visible behind the main content area.

State of Alaska > Commerce > Banking & Securities > Enforcement Orders

Division Quick Links

- ▶ Banking and Securities Home Page
- ▶ Alaska Banking Statutes
- ▶ Alaska Banking Admin Code
- ▶ Alaska Securities Statutes
- ▶ Alaska Securities Admin Code
- ▶ Enforcement Orders

Banking

- ▶ Banking Home Page
- ▶ Comparative Statements of Banks and Credit Unions
- ▶ Complaints

Securities

DIVISION OF BANKING AND SECURITIES

ENFORCEMENT ORDERS

Welcome to the Enforcement Orders webpage

Enforcement actions are organized by year. Clicking on the year will show you all orders issued that year. To search for a specific Order you may enter the business name, order number, or other relevant word or phrase into the Search Box in the upper right hand corner of this webpage and click the "search" button. When using the Search Box, make sure the radio button next to DCCED-DBS is selected.

Generally, orders ending with -B are Banking orders, orders ending with -S are Securities orders, and orders ending with -C are Consumer Finance orders.

If you are looking for older orders, or know of a specific order issued by the Division but you

commerce.alaska.gov/web/dbs/enforcementorders

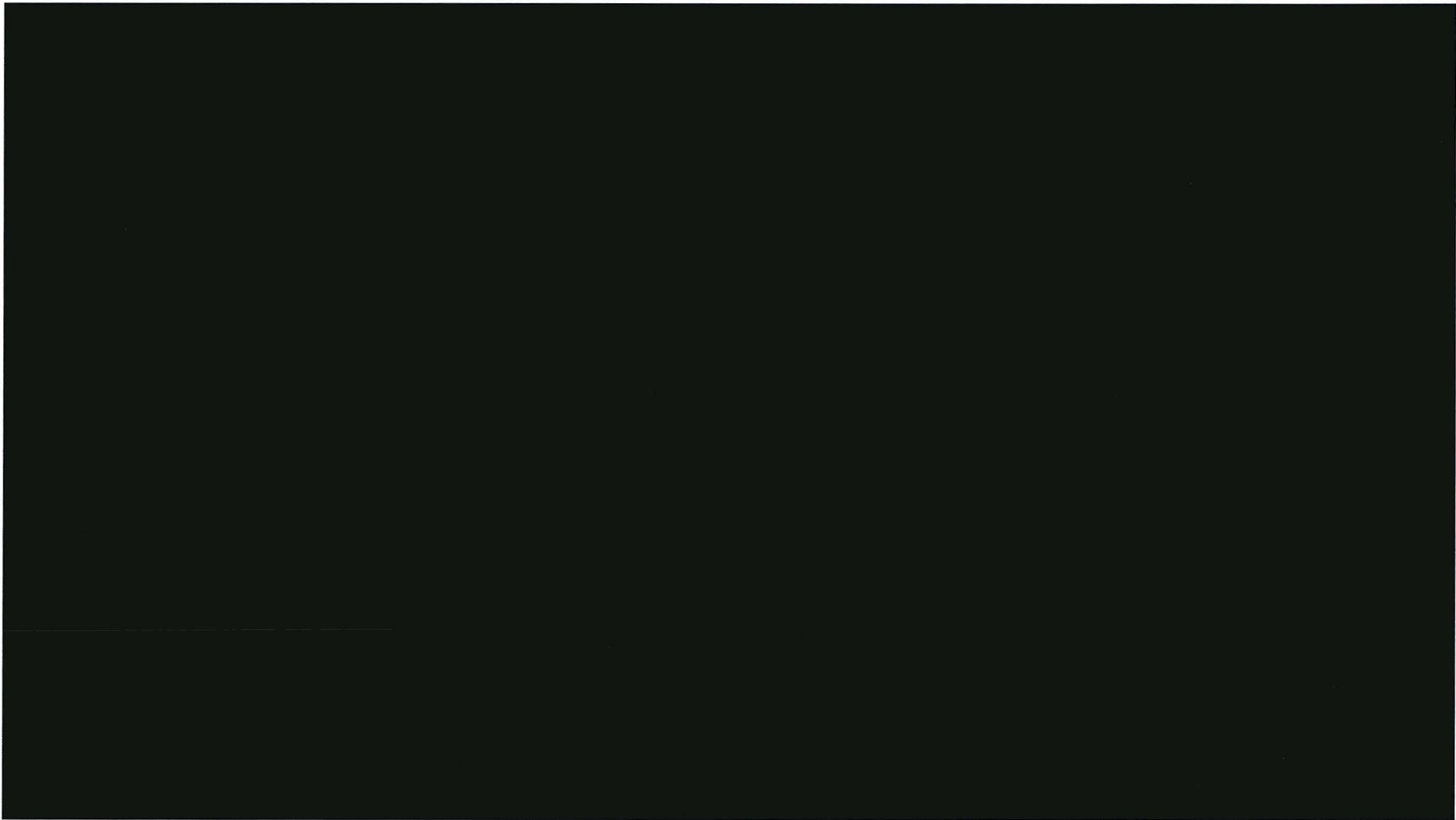


Recent Securities Scams in Alaska

Fortune Oil and Gas, LLC – Texas-based oil and gas scam that resulted in a \$3.1 million loss to Alaskans. Alaska courts just awarded the \$25,000 **maximum** civil penalty in that case.

SOS Disasterplan.com – Alaska business that touted investments in an online disaster preparedness website issued \$540,000 in unregistered/worthless shares.

Global Arena Capital Corp – Unregistered NY firm and six employees cited for soliciting then selling junk bonds to a retired and ailing Alaskan halibut fisherman.



Examiner: *At no time during the first or the second call when they talked to you did they discuss with you the fact that the 16 percent return they were talking about was based on this particular corporate bond and that that bond was rated triple C minus which is one step above default.*

Bill Burk: No. The only thing I can remember is they said I would get 16 to 18 percent interest.



Examiner: *Did they ask you where this money had come from that you were investing?*

Bill Burk: No.

Examiner: *The next question is not really a question. It talks about the account source. And this was a cold call. You had never heard of them before they called you on the telephone.*

Bill Burk: No.



Examiner: *And so those bonds were supposed to mature in 2054.*

Bill Burk: I didn't, I didn't.....

Examiner: *That's what it says on the paperwork there.*

Bill Burk: That's all I know.

Examiner : *What's your current age?*

Bill Burk: 79.

Examiner: *79. Okay.*



Questions?

Kevin Anselm, Director
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465-6816 Juneau
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Division of Banking and Securities' mission:

Protect consumers of financial services and promote safe and sound financial systems

Supporting the Department's mission to:

Promote a healthy economy, support strong communities, and protect consumers in Alaska

**Securities Enforcement Comparison:
Current 45.55 versus Proposed 45.56**

NOTICE ORDERS 2012-PRESENT

Date	Case Name	Description	Enforcement Action by Division	Fine / penalty	Vulnerable adult? (Age 60+ or disabled)	Potential fine/penalty under proposed law [#]	Potential \$ to Investor Education Fund [†]
3/13/2017	Austin Ahmasuk	Respondent sent letter-to-the editor of newspaper without filing the letter or disclosures with the Division. Shareholder also made false and misleading statements in the letter.	Cease and desist order (C&D); \$1,500 penalty	\$1,500.00		N/A	\$500.00
2/8/2017	Codawn Consulting Corporation; Sentinel Capital Corp; Christopher Bryan; Cody Roach; and Craig Wiginton	Respondents solicited Alaska resident regarding investments in potential oil and gas ventures in the gulf coast region. Over two years, Alaska resident sent Codawn and Sentinel a total of \$160,000	C&D; \$125,000 civil penalty	\$125,000.00		\$500,000 plus \$160,000 restitution	\$166,666.00
11/28/2016	Michael Scow	Respondent defaulted on two promissory notes he entered into with Complainant. Respondent spent all money Complainant loaned to him on non-business items.	C&D; \$25,000 civil penalty	\$25,000.00	Yes	\$100,000 plus \$12,000 restitution	\$33,333.33
7/7/2016	Felix Hess	Respondent distributed several proxies solicitations to shareholders that contained false and misleading statements	C&D; Respondent required to pre-file proxy materials for the next three years; \$1,500 civil penalty	\$1,500.00		N/A	\$500.00
6/10/2016	SOSDisasterplan.com, Inc. and Frederick Miller	Respondents sold shares of company to investors. The Company claimed to be providing online disaster preparedness tools. Respondents directed investor money to other non-business purposes.	C&D; \$75,000 civil penalty joint and several (J&S)	\$75,000.00		\$400,000 plus \$50,000 restitution	\$133,333.33

Green = multi-state consent orders not likely to change under new law
Blue = ANCSA orders will not change under new law

[#]potential fine = \$100k x respondents x violations
[†]up to 33% of civil penalty could go to investor ed fund

**Securities Enforcement Comparison:
Current 45.55 versus Proposed 45.56**

Date	Case Name	Description	Enforcement Action by Division	Fine / penalty	Vulnerable adult? (Age 60+ or disabled)	Potential fine/penalty under proposed law [#]	Potential \$ to Investor Education Fund ⁺
4/18/2016	Garland James	Respondent, a broker-dealer agent, who was not registered to sell securities in Alaska, cold-called an 80 year old Alaska resident and attempted to get him to invest in an unsuitable tech stock.	C&D; \$25,000 civil penalty	\$25,000.00	Yes	\$200,000.00	\$66,666.66
3/13/2016	Terry D. Mann, John M. Holm, Lorianne N. Rawson, Manuel Analon, and Charlene Roehl	Group of shareholders distributed a proxy stating that it was removing certain current directors and appointing others, which was a false and misleading statement	C&D; voiding proxies; 2,500 civil penalty (J&S)	\$1,000.00		N/A	N/A
7/30/2015	Global Arena Capital; Barbara Desiderio; Johan Engler; Hector Perez; Jonathan Sheklow; Joshua Turney (Alaska investor)	Respondents sold \$27k in junk bonds to older Alaskan using boiler room tactics and by misrepresenting them as a "safe investment."	C&D; \$150,000 civil penalty Joint and Several (J&S)	\$150,000.00	Yes	\$3,000,000 plus \$27,000 restitution	\$1,000,000.00
4/14/2015	Success Trade Securities	Respondent firm denied broker-dealer (BD) agent registration because of dishonest and unethical conduct.	license denial			permanent bar	
4/14/2015	Fuad Ahmed	Respondent firm denied BD registration because of dishonest and unethical conduct.	license denial			permanent bar	
3/16/2015	Eric Bartoli & St. Andrews Investments (Alaska investor)	Investor gave respondent \$120k in four installments for purchase of bonds and commodities. Respondent provided fraudulent investment return statements which induced investor to give additional money.	C&D; \$50,000 civil penalty (J&S)	\$50,000.00	Yes	\$400,000 plus \$120,000 restitution	\$133,333.33

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**Securities Enforcement Comparison:
Current 45.55 versus Proposed 45.56**

Date	Case Name	Description	Enforcement Action by Division	Fine / penalty	Vulnerable adult? (Age 60+ or disabled)	Potential fine/penalty under proposed law [#]	Potential \$ to Investor Education Fund [†]
1/23/2015	Flatiron Capital Partners LLC; Flatiron Systems, LLC; Spyglass Equity Systems, LLC; Landmark Asset Management, Inc.; and Martin Rybak (Alaska investor)	Unregistered respondents fraudulently sold unregistered securities and sold investors a proprietary stock trading system that did not exist.	C&D; \$125,000 civil penalty (J&S)	\$125,000.00	Yes	\$3,000,000 plus \$1,978.35 restitution	\$1,000,000.00
12/4/2014	Troy Stafford and Patrick Williams (Alaska investor)	Respondent defrauded investor, sold unregistered securities, and then filed fraudulent rescission paperwork with the division.	C&D; \$100,000 civil penalty (J&S)	\$100,000.00		\$1,000,000 plus \$40,000 restitution	\$333,333.34
6/17/2014	Joseph Troiano	Respondent took \$27k of investment for personal use and used Alaska-registered LLCs to commit fraud in other states.	C&D; \$75,000 civil penalty	\$75,000.00	Yes	\$300,000 plus \$179,000 restitution	\$100,000.00
2/3/2014	Fortune Oil & Gas, LTD, Russell L. Vera and R. Gerald Bailey	Respondent used money shows to solicit investors for their four oil drilling projects; 16 Alaskans invested around \$50k each; investments had no registration or notice filing and neither individual respondent was registered as BD or IA in AK.	C&D; civil penalty \$25,000 (J&S)	\$25,000.00	Yes	\$300,000 plus \$3,072,700 restitution	\$100,000.00
12/10/2013	Daniel Digiacomio	Respondent advertised via website for investors (min. \$150k) for unregistered securities; Firm not registered in AK or homestate.	C&D	None			
CONSENT ORDERS 2012-PRESENT. Note: Consent Orders would not likely have a different outcome under the proposed AS 45.56 other than potential money to the investor education fund							
8/14/2016	Steve Potter	Respondent sent letter-to-the-editor of newspaper that was not filed with the Division. The letter also made false and misleading statements.	C&D; \$750 penalty suspended for five years	\$750 suspended for five years		N/A	N/A

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**Securities Enforcement Comparison:
Current 45.55 versus Proposed 45.56**

Date	Case Name	Description	Enforcement Action by Division	Fine / penalty	Vulnerable adult? (Age 60+ or disabled)	Potential fine/penalty under proposed law [#]	Potential \$ to Investor Education Fund [†]
7/20/2016	Neal Palazzo	Respondent, a broker-dealer agent, traded in a client's account without obtaining written discretionary authority.	C&D; \$8,000 civil penalty	\$8,000.00		\$8,000.00	\$2,666.66
7/15/2016	Ferdinand Cleveland	Respondent postend notice of his candidacy for his corporation's board of directors on his Facebook page, but failed to file his solicitation or disclosures with the Division. Respondent withdrew his candidacy and removed all related materials from his Facebook page.	Respondent ordered to comply with all provisions of the Alaska Securities Act. The Division voided proxies solicited by Respondent for the corporation's upcoming meeting.	None		N/A	N/A
6/1/2016	Darren Cleveland	Respondent posted notice of his candidacy for his corporation's board of directors on his Facebook page, but failed to file his solicitation or disclosures with the Division. Respondent late-filed his materials.	Respondent ordered to comply with all provisions of the Alaska Securities Act. The Division voided proxies solicited by Respondent before May 26, 2016.	None		N/A	N/A
5/27/2016	Charles Fagerstrom	Respondent distributed several proxy solicitations anonymously and failed to file them with the Division. Shareholder also made false and misleading statements in the solicitations.	C&D; \$1,500 penalty with an additional \$1,500 suspended for five years. Shareholder was required to issue notice to corporation of order within 48 hours.	\$1,500 with \$1,500 suspended for five years		N/A	\$500.00
2/22/2016	Sitnasuak Native Corporation	Native corporation failed to make required disclosures about a board member's prior employment in 2014 and 2015 annual proxy statements.	C&D; \$1,000 civil penalty and three years prefilling materials with the Division	\$1,000.00		N/A	\$333.33
1/28/2016	Garden State Securities, Inc.	An agent of respondent, who was not registered to sell securities in Alaska, cold-called an 80 year old Alaska resident and attempted to sell him shares in an unsuitable tech stock (see Garland James).	C&D; broker-dealer withdrawal from Alaska; \$25,000 penalty	\$25,000.00	Yes	\$25,000.00	\$8,250.00

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**Securities Enforcement Comparison:
Current 45.55 versus Proposed 45.56**

Date	Case Name	Description	Enforcement Action by Division	Fine / penalty	Vulnerable adult? (Age 60+ or disabled)	Potential fine/penalty under proposed law [#]	Potential \$ to Investor Education Fund [†]
12/3/2015	LPL Financial, LLC	Failure to supervise and follow internal policies and procedures regarding the sale of non-traded REITs	\$10,570.45 civil penalty	\$10,570.45		\$10,570.45	\$3,488.25
11/30/2015	Inland Real Estate Income Trust, Inc.	Sale of unregistered securities (failure to timely notice file).	\$750 civil penalty	\$750.00		\$750.00	\$247.50
11/6/2015	Citigroup Global Markets, Inc.	Respondent failed to register its broker-dealer agents in several jurisdictions and failed to supervise.	\$35,000 civil penalty	\$35,000.00		\$35,000.00	\$11,550.00
11/2/2015	Kenai Natives Association, Inc.	Native corporation failed to file required documents timely and distributed materials containing false and misleading statements to its shareholders.	C&D; \$1,000 fine with \$500 suspended for three years; prefile all proxy solicitation materials 10 days prior to distribution to shareholders for three years	\$1,000.00		N/A	N/A
10/23/2015	Peter Snetzko	Respondent signed off on the sale of \$27k in junk bonds to older Alaskan and directed junior sales people to use boiler room tactics and misrepresent them as a "safe investment."	C&D; pay \$16,675.08 in restitution to Alaskan victim; permanent bar from all industries that the Division regulates plus insurance		yes		
8/20/2015	Russell H. Armstrong (Alaska investors)	Unregistered respondent targeted US postal service employees, while falsely claiming to be an expert in government benefits, affiliated with the USPS. Respondent obtained account information and PIN numbers and invested the money to buy life insurance and annuities in the investor's names in order to earn a commission.	C&D; \$25,000 suspended civil penalty, lifetime revocation of his insurance producer license; lifetime bar from securities, mortgage, and MSB industries in Alaska		yes		
8/11/2015	Northwest Financial Advisors (Alaska investors)	Respondents failed to correctly disclose required information in CRD; lack of supervision.	C&D; \$12,500 civil penalty w/ \$6,250 suspended.	\$12,500.00		\$12,500.00	\$4,166.67
8/7/2015	Ventures Capital Partners, LLC (Alaska investors)	Twice sale of unregistered securities (failure to timely notice file).	\$500 civil penalty	\$500.00		\$500.00	\$166.67

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Current 45.55 versus Proposed 45.56**

Date	Case Name	Description	Enforcement Action by Division	Fine / penalty	Vulnerable adult? (Age 60+ or disabled)	Potential fine/penalty under proposed law [#]	Potential \$ to Investor Education Fund ⁺
7/6/2015	Otter Creek Partners; Christine Dahl	Unregistered investment advisor(IA) allowed employee to work as IA without being registered.	C&D; Dahl \$500 civil penalty; Otter Creek \$1,000 civil penalty	\$1,500.00		\$1,500.00	\$500.00
6/1/2015	Franklin Tax-Free Trust	Sale of unregistered securities (failure to timely notice file).	\$1,000 civil penalty	\$1,000.00		\$1,000.00	\$333.33
6/1/2015	Franklin Strategic Mortgage	Sale of unregistered securities (failure to timely notice file).	\$1,000 civil penalty	\$1,000.00		\$1,000.00	\$333.33
5/22/2015	McKinley Capital	Sale of unregistered securities (failure to timely notice file).	\$5,000 civil penalty	\$5,000.00		\$5,000.00	\$1,666.67
4/6/2015	137 Holdings VII (Alaska investor)	Sale of unregistered securities (failure to timely notice file).	\$500 civil penalty	\$500.00		\$500.00	\$166.67
1/16/2015	David Howard II (Alaska investor)	Unregistered respondent fraudulently sold unregistered securities and sold a proprietary stock trading system that did not exist. Promised refunds for the system's access fee were not produced when the system failed to produce a profit and instead resulted in a loss of investment. A second stock trading system was suggested as a reinvestment when the investor asked for a return of his money. Howard misappropriated \$373k of investors funds during the course of his multi-state scheme.	C&D; \$25,000 civil penalty	\$25,000.00	Yes	\$25,000.00	\$8,333.33
1/9/2015	Ukpeagvik Inupiat Corp and ballot candidate Leavitt (Alaska investors)	Native corporation and board member filed false/misleading proxy materials in 2011 and 2014.	C&D; UIC pay \$1,000; Leavitt pay \$500 suspended	\$1,500.00		N/A	N/A

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**Securities Enforcement Comparison:
Current 45.55 versus Proposed 45.56**

Date	Case Name	Description	Enforcement Action by Division	Fine / penalty	Vulnerable adult? (Age 60+ or disabled)	Potential fine/ penalty under proposed law [#]	Potential \$ to Investor Education Fund [†]
8/15/2014	J.P. Morgan Securities (Alaska investors)	Respondent failed to establish supervision and to ensure registration of its investment personnel; accepted orders through investment personnel that weren't properly registered.	\$51,120 civil penalty	\$51,120.00		\$51,120.00	\$17,040.00
6/20/2014	Jessie Dave Holmes	Unregistered IA activity and misrepresentation.	Lifetime revocation of his insurance producer license; lifetime bar from securities industry				
5/8/2014	Lorrie Saunders-Irwin (Alaska investors)	Respondent created company to help Alaskans get loans for surgical procedures; found investor for \$18k in exchange for a promissory note for \$10k w/ 10% ROI; security not registered, federally covered, or exempt.	C&D; \$5,000 civil penalty w/ \$4,500 suspended	\$5,000.00		\$5,000.00	\$1,666.67
4/17/2014	Abbey Capital Multi Manager Fund, Ltd (Alaska investors)	Sale of \$734k in unregistered securities (failure to timely notice file).	\$4,500 civil penalty	\$4,500.00		\$4,500.00	\$1,500.00
3/24/2014	Sage Financial LLC (Alaska investors)	Respondent provided investment advice to Alaskans w/o registration as IA.	C&D; J&S \$7,500 suspended; permanent bar from financial industry	\$7,500.00		\$7,500.00	\$2,500.00
2/19/2014	VirtualMetrix, Inc. (Alaska investors)	Sale of unregistered securities (failure to timely notice file).	\$500 civil penalty	\$500.00		\$500.00	\$166.67
12/11/2013	James Thomas Gonski	Respondent, a state investment adviser, misrepresented his credentials on the form ADV (disclosure form required of all investment advisers).	C&D; \$12,500 with \$5,000 suspended	\$12,500.00		\$12,500.00	\$4,166.67
12/4/2013	Fractal Medical Solutions, Inc.	Group of doctors sold unregistered securities; solicited investors on website, through brochure, and via other promotional materials.	C&D; offer of rescission to all investors				

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**Securities Enforcement Comparison:
Current 45.55 versus Proposed 45.56**

Date	Case Name	Description	Enforcement Action by Division	Fine / penalty	Vulnerable adult? (Age 60+ or disabled)	Potential fine/penalty under proposed law [#]	Potential \$ to Investor Education Fund ⁺
10/31/2013	RBC Capital Markets, LLC	Failure to register broker-dealer agents and failure to supervise.	\$44,370.17 civil penalty	\$44,370.17		\$44,370.17	\$14,790.06
10/14/2013	UBS Financial Services, Inc.	Respondents failed to monitor registration status of person accepting client orders and maintain order tickets, resulting in sales of securities by unregistered agents.	C&D; \$64,661.51 civil penalty	\$64,661.51		\$64,661.51	\$21,553.84
9/30/2013	Arbor Capital Management, Robert Sheldon and Matthew Kolesky	Respondents failed to file correct info on their Form ADV and to timely renew its notice filing and investment advisor representative registration in Alaska.	C&D; Sheldon and Kolesky pay \$1,000 civil penalty; \$5,000 civil penalty J&S; assent to Division exams for 3 years	\$6,000.00		\$6,000.00	\$2,000.00
8/1/2013	Challenger Mining, LLC	Respondents operated a website that advertised for potential investors to purchase its securities; Securities were unregistered.	C&D; \$500 civil penalty	\$500.00		\$500.00	\$166.67
6/7/2013	Michael Claiborne (Alaska investor)	Respondent worked at Primerica as a BD; he borrowed \$ from a client and also deposited a check intended for \$1,000 deposit into a client's investment account into his personal account.	Permanent bar from the financial industry in AK				
6/6/2013	Qanirtuuq, Inc.	Native corporation failed to file annual reports and proxy materials in 2011 and 2012.	C&D; comply with all statutes and regulations				
5/7/2013	Alaska Gold Venture, LLC (Alaska investors)	Sale of unregistered securities and use of online websites to advertisement for investors in its gold exploration.	C&D; \$3,000 civil penalty (suspended); rescission offer to investors	\$3,000.00		\$3,000.00	\$1,000.00
4/17/2013	Morgan Asset Management and Morgan Keegan and Co (Alaska investors)	BDs sold six funds that were heavily invested in riskier tranches; funds overlapped in holdings, exposing investors to over-concentration; reports filed w/ SEC and investor brochures didn't disclose risks and quality of holdings.	C&D; \$100,000,000 to SEC's fair fund and \$100,000,000 to investors fund; \$3,000 to Alaska; don't create proprietary fund; submit to state regulatory audits; improve training of personnel; independent oversight	\$3,000.00		\$3,000.00	\$1,000.00

Green = multi-state consent orders not likely to change under new law

Blue = ANCSA orders will not change under new law

[#]potential fine = \$100k x respondents x violations
⁺up to 33% of civil penalty could go to investor ed fund

**Securities Enforcement Comparison:
Current 45.55 versus Proposed 45.56**

Date	Case Name	Description	Enforcement Action by Division	Fine / penalty	Vulnerable adult? (Age 60+ or disabled)	Potential fine/penalty under proposed law [#]	Potential \$ to Investor Education Fund [†]
3/15/2013	Sea Lion Corporation	AK Native Corp didn't file annual reports and proxy materials from 10/2007 to 8/2012.	\$2,000 civil penalty; reimburse for investigative costs of \$1,000	\$3,000.00		N/A	N/A
2/19/2013	Touchstone Funds Group Trust (Alaska investors)	Respondent sold federal covered securities in AK w/o filing required notice filing and paying required fees.	\$5,000 civil penalty	\$5,000.00		\$5,000.00	\$1,666.67
1/29/2013	Uvest Financial Services Group, Inc. (Alaska investors)	Respondents, while affiliated with Bankers Life, provided brokerage and investment advisory services out of Bankers Life branch offices, thereby aiding Bankers in their unlawful activities.	\$14,150.94 civil penalty (\$750,000 total settlement); refrain from attempting to recoup payments from dual agents, bankers of customers	\$14,150.94		\$14,150.94	\$4,716.98
12/17/2012	ProEquities, Inc. (Alaska investors)	Respondents, while affiliated with Bankers Life & Casualty, failed to register as BD or IA when engaged in BD/IA activity.	C&D; \$8,207.55 civil penalty (total settlement \$435,000); no attempt to recover fees from Bankers Life, dual agents, or customers.	\$8,207.55		\$8,207.55	\$2,735.85
11/21/2012	Bankers Life & Casualty Company/ BLC Financial Services (Alaska investors)	Respondents, while affiliated with ProEquities, Inc, failed to register as BDs when engaged in BD activity.	C&D; \$19,822.80 civil penalty (total settlement \$9,900,000); licensing and registration fees of \$5,000 to AK for total past fees; \$2,000 to AK for its portion of the state audit funds; engage independent auditor to monitor compliance; lost FINRA membership.	\$26,822.80		\$26,822.80	\$8,940.93
11/13/2012	Gana-A 'Yoo, Limited	AK Native Corp failed to file annual reports and proxy materials since 2008.	C&D; investigation cost of \$500	\$500.00		N/A	N/A
9/13/2012	ICON Funds, Inc. (Alaska investors)	Respondent let its notice filing expire, but continued to sell funds totaling \$317,983.29.	\$4,250 civil penalty	\$4,250.00		\$4,250.00	\$1,416.67

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[#]potential fine = \$100k x respondents x violations
[†]up to 33% of civil penalty could go to investor ed fund

**Securities Enforcement Comparison:
Current 45.55 versus Proposed 45.56**

Date	Case Name	Description	Enforcement Action by Division	Fine / penalty	Vulnerable adult? (Age 60+ or disabled)	Potential fine/penalty under proposed law [#]	Potential \$ to Investor Education Fund ⁺
9/6/2012	Raymond James and Associates (Alaska investors)	Multi-state task force investigation found respondents, acting as BDs, sold auction-rate securities (ARS) without full disclosure of the risks, especially concerns with liquidity; Company failed to adopt policies and procedures to ensure reps and IAs were adequately trained.	AK \$6,521.93 (total settlement - \$1,750,000); customers bought ARS and provide Notice to Eligible Investors (had a purchase offer option), including specific customer assistance provisions; not charge customers for return of ARS.	\$6,521.93		\$6,521.93	\$2,173.98
8/20/2012	Doppelganger Productions, LLC (all Alaska investors)	Improperly sold unregistered securities by engaging two agents, who were paid finder's fees.	\$500 civil penalty	\$500.00		\$500.00	\$166.67
5/17/2012	E*Trade Securities (Alaska investors)	Respondent sold ARS, with financial advisors misrepresenting the liquidity; financial advisors lacked training and adequate supervision in advising on ARS.	C&D; \$11,363.94 to AK (AK share of \$5,000,000 total settlement); ordered dedicated toll-free telephone assistance line and website; pay investors who rec'd sub par payments, plus interest; reimbursement for loans secured by ARS when auction failed.	\$11,363.94		\$11,363.94	\$3,787.98
1/30/2012	Merrill Lynch, Pierce, Fenner & Smith, Inc. (Alaska investors)	Respondent failed to register its broker-dealer agents in several jurisdictions.	C&D; \$295,450 (\$26,563,094.50 in fines and penalties to be divided among 50 states).	\$295,450.00		\$295,450.00	\$97,498.50
			Total	\$1,487,239.29		\$9,901,239.29	\$3,301,023.18

(not including restitution)

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THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

**Department of Commerce, Community,
and Economic Development**

DIVISION OF BANKING AND SECURITIES

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April 11, 2017

The Honorable Matt Claman
Chair, House Judiciary Committee
State Capitol, Room 118
Juneau, AK 99801

Representative Claman,

During House Judiciary on April 11, 2017 there was considerable discussion regarding Section 45.56.670 of House Bill 170. This letter is intended to clarify and provide additional information as to the origin of that section and the provisions therein.

The majority of the proposed AS 45.56.670 is taken directly from existing law AS 45.55.925. Due to the necessity of lifting the entire Securities Act out of the ANCSA Statutes, it is difficult when reviewing the bill to recognize what is new language and what is old language. For the sake of clarity, the language in the new bill and in the existing statute is laid out below, with the language regarding violation of regulations in bold.

Existing language:

Sec. 45.55.925. Criminal penalties.

(a) In addition to the civil penalties assessed under AS 45.55.920, a person who wilfully violates a provision of this chapter except AS 45.55.030(e), 45.55.040(h), 45.55.075, or 45.55.160, **or who wilfully violates a regulation or order under this chapter**, or who wilfully violates AS 45.55.160 knowing the statement made to be false or misleading in a material respect or the omission to be misleading by any material respect, upon conviction, is punishable by a fine of not more than \$5,000, or by imprisonment for not less than one year nor more than five years, or both. Upon conviction of an individual for a felony under this chapter, imprisonment for not less than one year is mandatory. However, **an individual may not be imprisoned for the violation of a regulation or order if the individual proves that the individual had no knowledge of the regulation or order**. An indictment or information may not be returned under this chapter more than five years after the alleged violation.

Updated language:

Sec. 45.56.670. Criminal enforcement.

(a) A person who intentionally violates this chapter, **a regulation adopted under this chapter**, or an order issued under this chapter, except AS 45.56.550 or the notice filing requirements of AS 45.56.330 or 45.56.445, is guilty of a class C felony punishable by imprisonment under AS 12.55.125 or by a fine of not more than \$100,000, or by both. **A person convicted of violating a regulation or order issued under this chapter may be fined, but may not be imprisoned, if the person did not know of the regulation or order.**

Representative Claman

April 11, 2017

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As you can see, the substantive changes include changing wilfully to intentionally, and the increase in maximum fines. We welcome further discussion from the committee regarding whether this type of regulatory authority is within the scope of what the Legislature wishes to delegate, and wanted to make it clear to the committee that under the current statutes, this practice is already authorized.

Thank you for taking the time to review House Bill 170, I look forward to further hearings on this bill as we work to modernize The Alaska Security Act for the benefit of our state.

Sincerely,

A handwritten signature in blue ink that reads "Kevin Anselm". The signature is written in a cursive style with a prominent initial "K".

Kevin Anselm

Director

Sec. 02.20.060. Enforcement and penalties.

(b) A person who ~~violates this chapter~~, or a regulation adopted under this chapter, is punishable, upon conviction, for each offense by a fine of not more than \$500, or by imprisonment for not more than six months, or by both.

Sec. 03.47.035. Penalty.

A person who ~~violates this chapter~~ or a regulation adopted under this chapter is guilty of a class B misdemeanor.

Sec. 03.58.060. Enforcement.

(a) If the department determines that a person is violating a provision of this chapter, or a regulation adopted under this chapter, the department shall order the person to stop the violation and to refrain from future violations.

(b) If a person ~~violates this chapter~~ or a regulation adopted under this chapter, the person is liable to the state for

(1) a civil fine established by the department by regulation plus the state's estimated costs of investigating and taking appropriate administrative and enforcement actions for the violation, including attorney fees;

(2) an additional civil penalty of three times the value of the product knowingly sold in violation of this chapter.

(c) The provisions of this section are in addition to the remedies available under AS 45.50.471 - 45.50.561 and federal statute and regulation

Sec. 06.55.601. Suspension and revocation; receivership.

(a) The department may suspend or revoke a money services license, place a money services licensee in receivership, or order a money services licensee to revoke the designation of an authorized delegate if

(1) the money services licensee ~~violates this chapter~~ or a regulation adopted or an order issued under this chapter;

Sec. 06.55.605. Civil penalties.

The department may assess a civil penalty against a person who ~~violates~~ ~~this~~ ~~chapter~~ or a regulation adopted or an order issued under this chapter in an amount not to exceed \$1,000 each day for each day the violation is outstanding.

Sec. 08.06.090. Penalty.

A person who ~~violates~~ ~~this~~ ~~chapter~~ or a regulation adopted under this chapter is guilty of a class B misdemeanor.

Sec. 08.36.070. General powers.

(a) [See delayed amendment note]. The board shall

(1) provide for the examination of applicants and the credentialing, registration, and licensure of those applicants it finds qualified;

(2) maintain a registry of licensed dentists, licensed dental hygienists, and registered dental assistants who are in good standing;

(3) affiliate with the American Association of Dental Boards and pay annual dues to the association;

(4) hold hearings and order the disciplinary sanction of a person who ~~violates~~ ~~this~~ ~~chapter~~, AS 08.32, or a regulation of the board;

Sec. 08.62.155. Disciplinary sanctions.

(a) The board may take disciplinary action against a person licensed under this chapter under AS 08.01.075.

(b) The board may impose a civil fine not to exceed \$5,000 on a marine pilot organization recognized by the board if the organization ~~violates~~ ~~this~~ ~~chapter~~ or a regulation adopted under this chapter. The board may also suspend or revoke the recognition of a pilot organization that fails to comply with its articles, bylaws, and rules, so as to no longer satisfy the minimum standards for recognition by the board.

Sec. 08.63.050. Powers and duties of the board.

(a) The board shall

(1) establish objective examination requirements and training and education requirements for persons who apply for a license to practice marital and family therapy;

(2) examine applicants and issue licenses to qualified applicants;

(3) establish continuing education requirements for license renewal;

(4) adopt a code of ethical practice for marital and family therapy;

(5) hold hearings and order the disciplinary sanction of a person who »violates« »this« »chapter« or a regulation of the board;

Sec. 08.65.030. Duties and powers of board.

(a) The board shall

(1) examine applicants and issue certificates to those applicants it finds qualified;

(2) adopt regulations establishing certification and certificate renewal requirements;

(3) issue permits to apprentice direct-entry midwives;

(4) hold hearings and order the disciplinary sanction of a person who »violates« »this« »chapter« or a regulation of the board;

Sec. 08.71.055. Powers and duties.

The department shall have the following powers and duties:

(1) to issue licenses to applicants;

(2) to renew licenses;

(3) to hold hearings and order disciplinary sanctions against a person who »violates« »this« »chapter« or the regulations of the department;

Sec. 14.48.130. Complaints.

(c) If, based on the evidence at a hearing, the commission finds that a postsecondary educational institution or its agent, or both, has engaged in an act or

practice that ~~violates this chapter~~ or regulations adopted under this chapter, the commission

Sec. 16.43.170. Transfer of entry permits.

(g) A person may request the commission to transfer an entry permit due to an execution on a permit holder's interest in that permit if the execution is to enforce a lien recorded with the commission under AS 25.27.230 (c). The request shall be made in the form and manner provided in this chapter and regulations adopted under this chapter. The commission may deny a request for transfer of an entry permit due to an execution of a holder's interest in that permit if

(1) the execution does not comply with legal requirements or otherwise is not valid;

(2) the transfer ~~violates this chapter~~ or regulations adopted under this chapter;

Sec. 17.06.060. Enforcement and penalties.

(a) If the department determines that a person is violating a provision of this chapter, or a regulation adopted under this chapter, the department shall order the person to stop the violation and to refrain from future violations.

(b) If a person ~~violates this chapter~~, a regulation adopted under this chapter, or an order issued under (a) of this section, the person is liable to the state for

Sec. 19.27.120. Penalty for violation.

A person who ~~violates this chapter~~, or a regulation adopted under it, is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$50 nor more than \$1,000.

Sec. 21.22.140. Injunctions.

If it appears to the director that an insurer or a director, officer, employee, or agent of an insurer has violated or is about to ~~violate~~ this chapter or a regulation adopted or an order issued by the director under this chapter, the director may apply to the superior court in the judicial district in which the principal office of the insurer is located or if the insurer has no office in this state then to the superior court in the first judicial district for an order enjoining the insurer or a director, officer, employee, or agent of the insurer from the violation, and for other relief as the nature of the case

and the interests of the insurer's policyholders, creditors and shareholders or the public may require.

Sec. 34.55.022. Investigations and proceedings.

(a) The department may

(1) make necessary public or private investigations inside or outside this state to determine whether a person has violated or is about to ~~violate~~ this chapter or a regulation or order under this chapter or to aid in the enforcement of this chapter or in the adoption of regulations and forms under this chapter;

Sec. 38.35.180. Suits to enjoin or recover damages for defaults.

(a) When in the judgment of the commissioner a person has violated or is about to ~~violate~~ a provision of this chapter or an obligation, condition, or provision of a right-of-way lease, the attorney general, on advice of the commissioner, shall seek a prohibition or mandatory injunction from the superior court to remedy the violation.

Sec. 41.17.136. Directives.

(a) Upon a determination that a planned or ongoing activity violates or would ~~violate~~ this chapter or a regulation adopted under it, the state forester shall notify the respondent in writing and direct the respondent to halt or avoid the violation or to repair or correct any damage resulting from the violation. The written notification must include a summary of the basis for the directive.

Sec. 42.05.571. Civil penalties.

(a) In addition to all other penalties and remedies provided by law, a public utility and every person, and their lessees or receivers appointed by a court in any way subject to the provisions of this chapter, together with their officers, managers, agents, or employees that either ~~violate~~ or procure, aid, or abet the violation of any provision of this chapter, or of any order, regulation, or written requirement of the commission are subject to a maximum penalty of \$100 for each violation. Each act of omission as well as each act of commission shall be considered a violation subject to the penalty.

Sec. 45.55.910. Investigations and subpoenas; confidentiality.

(a) The administrator may

(1) make public or private investigations inside or outside this state considered necessary to determine whether a person has violated or is about to ~~violate~~ any provision of this chapter or a regulation or order under this chapter, or to aid in the enforcement of this chapter or in the adopting regulations and forms under this chapter;

Sec. 45.55.920. Orders, injunctions, and civil penalties.

(b) The administrator may issue an order against an applicant, registered person, or other person who knowingly or intentionally ~~violates~~ ~~this~~ ~~chapter~~ or a regulation or order of the administrator under this chapter, imposing a civil penalty of not more than \$2,500 for a single violation, or not more than \$25,000 for multiple violations, in a single proceeding or a series of related proceedings.

(c) For violations not covered by (b) of this section, the administrator may issue an order against an applicant, registered person, or other person who ~~violates~~ ~~this~~ ~~chapter~~ or a regulation or order of the administrator under this chapter, imposing a civil penalty of not more than \$500 for a single violation, or not more than \$5,000 for multiple violations, in a single proceeding or a series of related proceedings.

Sec. 45.57.050. Investigations and subpoenas.

(a) The department in its discretion may

(1) make public or private investigations inside or outside this state as it considers necessary to determine whether a person has violated or is about to ~~violate~~ a provision of this chapter or an order under this chapter;

Sec. 46.03.850. Compliance order.

(a) When, in the opinion of the department, a person is violating or is about to ~~violate~~ a provision of this chapter, AS 46.04, or AS 46.14, or a regulation or lawful order of the department, or a permit or certificate, or a term or condition of a permit or certificate issued by the department under this chapter, AS 46.04, AS 46.14, the department may notify the person of its determination by personal service or certified mail. The determination and notice do not constitute an order under AS 46.03.820.

Sec. 47.05.250. Civil penalties.

(a) The department may assess a civil penalty against a provider who ~~violates~~ ~~this~~ ~~chapter~~, AS 47.07, or regulations adopted under this chapter or AS 47.07.

Sec. 05.10.140. Suspensions for violations.

A contestant who participates in a sham or fake boxing contest or sparring match or exhibition or who ~~violates~~ ~~a~~ ~~regulation~~ of the commission shall be penalized as follows:

(1) for the first offense the contestant shall be restrained by order of the commission for a period of at least three months from participating in a contest held under the provisions of this chapter, with the suspension taking effect immediately after the occurrence of the offense;

(2) for a second offense the contestant shall be permanently suspended from participation in a contest held under the provisions of this chapter

Sec. 06.55.601. Suspension and revocation; receivership.

(4) an authorized delegate is convicted of a violation of a state or federal anti-money laundering statute, or ~~violates~~ ~~a~~ ~~regulation~~ adopted or an order issued under this chapter, as a result of the money services licensee's wilful misconduct or wilful blindness;

Sec. 08.40.380. Penalties.

(a) A person who knowingly violates AS 08.40.210 - 08.40.490, or who knowingly ~~violates~~ ~~a~~ ~~regulation~~ or order of the department or a code listed in AS 08.40.490(3)(A) that was in effect at the time that the installation or repair was made, is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$5,000.

Sec. 16.10.455. Cost recovery fisheries.

(f) A person who ~~violates~~ ~~a~~ ~~regulation~~ adopted under (b) of this section is guilty of a violation under AS 16.05.722 or a misdemeanor under AS 16.05.723. A person who ~~violates~~ ~~a~~ ~~regulation~~ adopted by the Department of Revenue under (c) of this section is guilty of a class A misdemeanor.

Sec. 18.60.160. Violation a misdemeanor.

A person who fails to report a disappearance under AS 18.60.150, or who ~~violates~~ ~~a~~ ~~regulation~~ adopted under AS 18.60.175, is guilty of a misdemeanor.

Sec. 18.60.535. Penalty.

A person who ~~violates~~ ~~a~~ ~~regulation~~, standard, or order of the department adopted or issued under AS 18.60.475 - 18.60.545 is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than \$500, or by imprisonment for not more than one year, or by both. Each day upon which a violation occurs constitutes a separate offense.

Sec. 28.32.010. Commercial motor vehicle safety citations.

(b) A peace officer, or an employee of the Department of Public Safety who is authorized by the commissioner of that department to enforce both hazardous materials and commercial vehicle safety regulations, may issue a citation under AS 12.25.175 - 12.25.230 to a person who ~~violates~~ ~~a~~ ~~regulation~~ adopted under AS 28.05.011 (a)(2). An employee of the Department of Public Safety who is authorized by the commissioner of public safety to enforce both hazardous materials and commercial vehicle safety regulations may not take a person into custody under AS 12.25.180 (b).

Sec. 45.55.925. Criminal penalties.

(a) In addition to the civil penalties assessed under AS 45.55.920, a person who wilfully violates a provision of this chapter except AS 45.55.030 (e), 45.55.040(h), 45.55.075, or 45.55.160, or who wilfully ~~violates~~ ~~a~~ ~~regulation~~ or order under this chapter, or who wilfully violates AS 45.55.160 knowing the statement made to be false or misleading in a material respect or the omission to be misleading by any material respect, upon conviction, is punishable by a fine of not more than \$5,000, or by imprisonment for not less than one year nor more than five years, or both. Upon conviction of an individual for a felony under this chapter, imprisonment for not less than one year is mandatory. However, an individual may not be imprisoned for the violation of a regulation or order if the individual proves that the individual had no knowledge of the regulation or order. An indictment or information may not be returned under this chapter more than five years after the alleged violation.

Sec. 45.75.131. Issuance of citations.

(a) A peace officer or an employee of the Department of Transportation and Public Facilities who is authorized by the commissioner of transportation and public facilities to enforce this chapter may issue a citation to a person who

(1) violates a weight, size, or load limitation adopted by the Department of Transportation and Public Facilities under AS 19.10.060 ;

(2) violates the terms of an overweight or oversize vehicle permit issued under AS 19.10.060 (b);

(3) violates regulation adopted under AS 19.10.060 (b) or (c), AS 28.05.011(a)(2), or AS 45.75.050 (b)(5); or

Sec. 46.03.790. Criminal penalties.

(h) Notwithstanding (a) and (d) of this section, a person is guilty of a class A misdemeanor if the person negligently

(1) violates regulation adopted by the department under AS 46.03.020(12);

Sec. 03.05.050. Products in violation of regulations.

(a) An animal, animal product, or agricultural product found by the commissioner, or an individual designated by the commissioner as an inspector, to violate regulation adopted under this chapter is declared to be a public nuisance injurious to the public interest and may not be moved by the person in whose possession it may be except at the specific direction of the commissioner or inspector.

Sec. 03.05.090. Penalties for violations.

(a) A person who violates a provision of this chapter or a regulation, order, or quarantine made under authority of this chapter, or violates a provision of a permit issued under this chapter, or sells seeds failing to meet the labeling requirements, standards, and tests provided for by regulation of the commissioner of natural resources or the commissioner of environmental conservation is guilty of a class A misdemeanor for each offense.

(b) A person who violates an order issued, a regulation adopted, a permit issued, a quarantine imposed, or an embargo ordered under AS 03.05.011, or a person who directs or orders a person to commit the violation, is subject to a civil fine of not more than \$500 for each violation.

Sec. 04.16.150. Licensee responsible for violations.

A licensee may neither knowingly allow agents or employees to violate this title or regulations adopted under this title nor recklessly or with criminal negligence fail to act in accordance with the duty prescribed under AS 04.21.030 with the result that an agent or employee of the licensee violates a law or regulation.

Sec. 05.15.188. Pull-tab sales by vendors on behalf of permittees; vendor registration.

(f) A permittee that uses a vendor to sell pull-tabs on its behalf shall enter into a written contract with that vendor. The department may inspect this contract. If the contract contains provisions that ~~violate~~ this chapter or the regulations adopted under it, the department may declare the contract void, and may suspend or revoke the registration of the vendor and the permit of the permittee.

Sec. 06.01.030. Orders and injunctions; notice and hearings.

(a) Whenever it appears to the department that a person is engaging, has engaged, or is about to engage in an unsafe or unsound practice in conducting the business of a financial institution, or is violating, has violated, or is about to ~~violate~~ a provision of this title or a regulation adopted or order issued under this title, the department may

(1) issue and serve on the person a notice of intent to issue an order directing the person to cease and desist from continuing the act or practice, or imposing a penalty under AS 06.01.035 (e) - (g); or

(2) bring an action in the superior court to enjoin the act or practice.

Sec. 06.01.035. Penalties.

(a) A person who knowingly violates, or causes another person to ~~violate~~, a provision of this title, or a regulation or order of the department under this title, for which a specific remedy is not provided, is guilty of a class A misdemeanor.

(b) A person who, without first receiving a license or certificate of authority from the department, participates in an activity that requires a license or certificate of authority under this title, is guilty of a class A misdemeanor.

(c) A person is guilty of a class C felony if the person, with intent to deceive the department, the commissioner, or a person authorized to examine the affairs of a financial institution, knowingly

(1) makes or causes a false statement or report to be made;

(2) enters a false figure, statement, or entry in the books of a financial institution;
or

(3) makes or circulates a false report or statement about the condition of a financial institution.

(d) A director, officer, or employee of a financial institution who receives a deposit, after having been notified by regulatory authorities that the institution is insolvent and without the department's prior approval, is guilty of a class C felony.

(e) In addition to other penalties applicable under this section, if a person other than a financial institution knowingly or intentionally violates, or causes another person to ~~violate~~, a provision of this title, or a regulation or order of the department under this title, the department may issue an order against the person imposing a civil penalty of not more than \$2,500 a day for a single violation, and not more than \$25,000 for multiple violations that constitute a single proceeding or a series of related proceedings.

(f) In addition to other penalties applicable under this section, if a financial institution knowingly or intentionally violates a provision of this title, or a regulation or order of the department under this title, the department may issue an order against the institution imposing a civil penalty of not more than \$5,000 a day for a single violation, and not more than \$50,000 for multiple violations that constitute a single proceeding or a series of related proceedings.

(g) For violations not covered by (e) or (f) of this section, and in addition to other penalties applicable under this section, if a person, including a financial institution, violates, or causes another person to ~~violate~~, a provision of this title, or a regulation or order of the department under this title, the department may issue an order against the person imposing a civil penalty of not more than \$500 a day for a single violation, and not more than \$5,000 for multiple violations that constitute a single proceeding or a series of related proceedings.

Sec. 06.10.010. Exemption of foreign banks from laws and taxation.

A foreign bank that does not maintain a place of business in this state for the receipt of deposits and that complies with this chapter does not by engaging in this state in any or all of the activities specified in AS 06.10.020 ~~violate~~ the laws of this state relating to doing business or doing a banking business or become subject to any taxation that would otherwise be imposed for doing business or doing a banking business in this state.

Sec. 06.26.510. Board of directors.

(e) Before beginning each term to which a person is elected to serve as a director of a trust company, the person shall submit an affidavit to be filed with the minutes of the trust company stating that the person, to the extent applicable,

(1) accepts the position and is not disqualified from serving in the position;

(2) will not ~~violate~~ or knowingly permit a director, an officer, or an employee of the trust company to ~~violate~~ any law applicable to the conduct of business of the trust company; and

Sec. 06.26.740. Revocation.

(4) the trust company is violating or has violated or the department has reasonable cause to believe is about to ~~violate~~

(A) a law or regulation;

(B) a condition imposed by the department in writing in connection with approving an application or notice under this chapter or granting any other request of the trust company under this chapter;

(C) a written agreement that the trust company entered into with the department;

(D) a cease and desist order issued by the department under AS 06.01.030;

Sec. 06.60.400. Cease and desist proceedings.

(a) Notwithstanding AS 06.01.030 (d) and (e), if the department finds, after notice and opportunity for a hearing, that a person has violated, is violating, or is about to ~~violate~~ any provision of this chapter, a regulation adopted under this chapter, or an order issued under this chapter, the department may publish findings and enter an order requiring the person to cease and desist from committing or causing the violation and any future violation of the same provision or regulation. An order may, in addition to requiring a person to cease and desist from committing or causing a violation, require the person to comply, or to take steps to effect compliance, with a provision or regulation, on terms and conditions and within a time, as the department may specify in the order. An order may require future compliance or steps to result in future compliance, either permanently or for a period of time, as the department may specify.

Sec. 08.29.400. Grounds for denial of license or for disciplinary sanctions.

(a) The board may impose a disciplinary sanction under AS 08.01.075 on a person licensed under this chapter or deny a license to a person when the board finds that the person

(5) violated, or assisted another individual to »violate«, a provision of this chapter or a regulation adopted under this chapter;

Sec. 08.36.365. Rights of dentists.

A dentist licensed in this state may

(1) practice in an association, partnership, corporation, or other lawful entity with other dentists, including specialists;

(2) practice under the name of "dental center" or other descriptive term that does not deceive the public about the nature of the services provided;

(3) supervise research that would otherwise »violate« this chapter or regulations adopted under this chapter when the research does not involve treatment of dental patients if the research is performed by a nonprofit dental research institution chartered by this state or by a dental or dental auxiliary school accredited by the Commission on Accreditation of the American Dental Association, or its successor agency;

(4) supervise research that would otherwise »violate« this chapter or regulations adopted under this chapter when the research involves the treatment of dental patients if the research is performed by a nonprofit dental research institution chartered by this state or by a dental or dental auxiliary school accredited by the Commission on Accreditation of the American Dental Association, or its successor agency, and if the dentist notifies the board in writing, at least 60 days before beginning the treatment, of the intended practices or procedures and the board does not disapprove the research.

Sec. 08.54.720. Unlawful acts.

(a) It is unlawful for a

(15) person licensed under this chapter to knowingly »violate« a state statute or regulation prohibiting waste of a wild food animal or hunting on the same day airborne;

Sec. 08.64.101. Duties [See delayed amendment note]..

The board shall

(3) after a hearing, impose disciplinary sanctions on persons who »violate« this chapter or the regulations or orders of the board;

Sec. 08.87.200. Prohibited practices.

A certified real estate appraiser may not

(2) wilfully disregard or ~~violate~~ a provision of this chapter or of a regulation adopted by the board under this chapter;

Sec. 18.80.270. Penalty.

A person, employer, labor organization, or employment agency, who or that wilfully engages in an unlawful discriminatory practice prohibited by this chapter, or wilfully resists, prevents, impedes, or interferes with the commission or any of its authorized representatives in the performance of duty under this chapter, or who or that wilfully ~~violates~~ ~~an~~ ~~order~~ of the commission, is guilty of a misdemeanor and, upon conviction by a court of competent jurisdiction, is punishable by a fine of not more than \$500, or by imprisonment in a jail for not more than 30 days, or by both.

Sec. 21.36.470. Violation of viatical settlement provisions prohibited.

A person may not ~~violate~~ the viatical settlement transaction provisions of AS 21.96.110 or regulations adopted under AS 21.96.110.

Sec. 23.10.115. Enforcement by injunction.

If it appears to the commissioner that an employer is engaged in an act or practice that violates or will ~~violate~~ a provision of AS 23.10.050 - 23.10.150 or of a regulation adopted under these sections, the commissioner may bring an action in a competent court to enjoin the act or practice, and to enforce compliance with AS 23.10.050 - 23.10.150 or with the regulation. Upon a proper showing, a permanent or temporary injunction or restraining order shall be granted without bond.

Sec. 24.60.105. Deadlines for filing disclosures; requests to refrain from disclosure.

(d) A person may submit a written request to refrain from making a disclosure that is required by this chapter if making the disclosure would ~~violate~~ state or federal law, including the United States Constitution and the Constitution of the State of Alaska, or a rule, adopted formally by a trade or profession, that state or federal law requires the person to follow. The committee shall approve or deny the request, or require further justification from the person making the request. At the request of the committee or a person authorized to act on behalf of the committee, a person who seeks to refrain from making a disclosure under this subsection shall provide the

committee with justification in writing, and the committee may review the written justification to determine whether it is sufficient.

Sec. 27.21.240. Enforcement.

(j) The commissioner may request the attorney general to institute a civil action for relief, including a permanent or temporary injunction, restraining order, or other appropriate order, if a person

(1) ~~violates an order~~ or notice issued by the commissioner under this chapter;

Sec. 31.05.160. Injunctive relief.

(a) Whenever it appears that a person is violating or threatening to ~~violate~~ any provision of this chapter, or any regulation or order of the commission, the commission shall bring suit against that person in the superior court of the judicial district where the violation occurs or is threatened, to restrain the person from continuing the violation or from carrying out the threat of violation. In the suit, the court shall have jurisdiction to grant to the commission, without bond or otherwise undertaking, such prohibitory and mandatory injunctions as the facts warrant.

Sec. 45.10.200. Penalty for violation of order or injunction.

A person who ~~violates an order~~ or injunction issued under this chapter is punishable by a fine of not more than \$1,000, or by imprisonment for not more than six months, or by both.

Sec. 46.15.255. Enforcement and costs.

(b) A person who ~~violates an order~~ issued under AS 46.15.180 is liable for all costs of removal, abatement, or installation and for court costs and attorney fees incurred by the state in seeking enforcement of the order.

AMENDMENT

#1

Adopted

OFFERED IN THE HOUSE

TO: HB 170

BY REPRESENTATIVE LEDOUX

- 1 Page 34, lines 18 - 19:
- 2 Delete "by a governmental authority"

AMENDMENT

#2 Adopted

OFFERED IN THE HOUSE

TO: HB 170

- 1 Page 1, line 5, following "agents;":
2 Insert "relating to protecting older and vulnerable adults from financial
3 **exploitation;**"
4
- 5 Page 62, line 12, following "a":
6 Insert "broker-dealer, investment adviser, or"
7
- 8 Page 62, line 14:
9 Following "the":
10 Insert "broker-dealer, investment adviser, or"
-
- 11 Delete "promptly"
12
- 13 Page 62, line 15, following "administrator":
14 Insert "not later than five days after the broker-dealer, investment adviser, or qualified
15 individual develops the reasonable belief that the financial exploitation or attempted financial
16 exploitation has or may have occurred, or is being attempted, except that the broker-dealer,
17 investment adviser, or qualified individual shall notify adult protective services and the
18 administrator immediately upon confirmation of the financial exploitation or attempted
19 financial exploitation of the covered adult"
20
- 21 Page 62, lines 16 - 19:
22 Delete all material and insert:
23 "(b) The requirements of (a) of this section may not be construed to require

1 more than one notification for each occurrence of exploitation or attempted
2 exploitation."
3

4 Page 62, line 20, following the first occurrence of "a":

5 Insert "broker-dealer, investment adviser, or"
6

7 Page 62, line 21, following "a":

8 Insert "broker-dealer, investment adviser, or"
9

10 Page 62, line 22, following "adult":

11 Insert "previously"
12

13 Page 62, line 23:

14 Following "adult,":

15 Insert "as well as any other person allowed under state or federal law or
16 regulation, or the rules of a self-regulatory organization,"

17 Following the second occurrence of "the":

18 Insert "broker-dealer, investment adviser, or"

19

20 Page 62, lines 26 - 28:

21 Delete all material.
22

23 Reletter the following subsections accordingly.
24

25 Page 63, line 9:

26 Delete the second occurrence of "person"

27 Insert "individual"
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29 Page 63, line 16:

30 Delete "results"

31 Insert "status"

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Page 63, line 17, following "administrator":

Insert ", and provides additional status updates to the administrator and adult protective services upon request"

Page 63, line 18:

Delete "(e)"
Insert "(d)"

Page 63, line 31:

Delete "(e), (f), or (g)"
Insert "(d) or (e)"

Page 64, line 2:

Delete "person"
Insert "adult"

Page 64, lines 4 - 7:

Delete all material.

Reletter the following subsections accordingly.

Page 64, following line 18:

Insert a new subsection to read:
"(h) A broker-dealer, investment adviser, or qualified individual acting in good faith and exercising reasonable care under (a) - (g) of this section is immune from administrative or civil liability for a notification, disclosure, disbursement delay, or record sharing under (a) - (g) of this section."

Reletter the following subsections accordingly.

1 Page 65, line 12:

2 Delete "investment adviser,"

AMENDMENT #3 Adopted

OFFERED IN THE HOUSE
TO: HB 170

BY REPRESENTATIVE CLAMAN

1 Page 92, lines 13 - 15:

2 Delete ", a regulation adopted under this chapter, or an order issued under this chapter,
3 except AS 45.56.550 or the notice filing requirements of AS 45.56.330 or 45.56.445,"

4

5 Page 92, lines 16 - 18:

6 Delete "A person convicted of violating a regulation or order issued under this chapter
7 may be fined, but may not be imprisoned, if the person did not know of the regulation or
8 order."

Conceptual Amendment to Amendment #3

Delete line 3

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version:	HB 170
Fiscal Note Number:	1
(H) Publish Date:	3/29/2017

Identifier: HB170-DCCED-DBS-03-13-17
 Title: AK SECURITIES ACT; PENALTIES; CRT. RULES
 Sponsor: LABOR & COMMERCE
 Requester: (H) Labor and Commerce

Department: Department of Commerce, Community and
 Economic Development
 Appropriation: Banking and Securities
 Allocation: Banking and Securities
 OMB Component Number: 2808

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018	Included in	Out-Year Cost Estimates				
	Appropriation Requested	Governor's FY2018 Request	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES	FY 2018	FY 2018					
Personal Services							
Travel							
Services							
Commodities							
Capital Outlay							
Grants & Benefits							
Miscellaneous							
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time							
Part-time							
Temporary							

Change in Revenues

None							
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? **Yes**
 If yes, by what date are the regulations to be adopted, amended or repealed? **01/01/18**

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By:	Kevin Anselm, Director	Phone:	(907)269-4157
Division:	Banking and Securities	Date:	03/13/2017 12:00 PM
Approved By:	Catherine Reardon, Director	Date:	03/17/17
Agency:	Division of Administrative Services, DCCED		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION**Analysis**

This bill modifies the Alaska Statutes to create a new chapter, AS 45.56, as the new Alaska Securities Act. The legislation will modernize and streamline outdated securities laws to reflect industry changes while enhancing investor protections and remedies. The division anticipates filing new regulations as soon as practical to concur with the January 1, 2018 effective date.

While some of the securities and licensing filing types eliminated in this legislation required fees, there have been few such filings in the last number of years so the changes will result in little or no revenue decrease. Several new filing types give the division the authority to assess fees by regulation and may result in a very small future revenue increase.

The bill increases the monetary limit for civil penalties. Since civil penalties are not predictable and are not used to fund division operations, there is no fiscal impact to the division.

The Division of Banking and Securities (division) does not anticipate fiscal impact from this legislation.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version:	HB 170
Fiscal Note Number:	2
(H) Publish Date:	3/29/2017

Identifier: HB170-DHSS-SDSA-03-17-17
 Title: AK SECURITIES ACT; PENALTIES; CRT. RULES
 Sponsor: LABOR & COMMERCE
 Requester: House Labor and Commerce

Department: Department of Health and Social Services
 Appropriation: Senior and Disabilities Services
 Allocation: Senior and Disabilities Services Administration
 OMB Component Number: 2663

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2018 Appropriation Requested	Included in Governor's FY2018 Request	Out-Year Cost Estimates					
			FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimated SUPPLEMENTAL (FY2017) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2018) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? no
 If yes, by what date are the regulations to be adopted, amended or repealed? n/a

Why this fiscal note differs from previous version:

Not applicable; initial version.

Prepared By:	Duane Mayes, Director	Phone:	(907)269-2083
Division:	Senior and Disabilities Services	Date:	03/17/2017 12:00 PM
Approved By:	Shawnda O'Brien, Asst. Commissioner	Date:	03/17/17
Agency:	Health and Social Services		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION**Analysis**

This proposed legislation includes new AS 45.56.480, *Protecting vulnerable adults from financial exploitation*. This legislation establishes a definition of both vulnerable adults and those who are required to report on alleged financial exploitation, and lays out the criteria for when reporting is required. The Division of Senior and Disabilities Services has oversight of the Adult Protection Program, to which all such reports of alleged financial exploitation would be made. This new mandatory reporting requirement to the Adult Protection Program may increase the total number of reports received and forwarded to staff for investigation. However, Sec. 45.56.480(e)(2)(C), mandating the reporting of an internal review of the suspected or attempted financial exploitation of the eligible adult to Adult Protective Services, alleviates some burden from Adult Protective Service investigators and provides the evidence necessary for Adult Protection to make a determination if financial exploitation did or did not occur.

Therefore, the division anticipates this legislation will be cost neutral.