

HB

229

<TARGET><BILL>HB 229</BILL><SUBJECT>HB
229</SUBJECT><COMM>HL&C30</COMM></TARGET>

Alaska State Legislature

120 4th Street
State Capitol Room 505
Juneau, Alaska 99801-1182
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REPRESENTATIVE PAUL SEATON
Rep.Paul.Seaton@akleg.gov

MEMORANDUM

FROM: Representative Paul Seaton 

TO: Representative Sam Kito, Chair
House Labor & Commerce

DATE: April 14th, 2017

RE: Scheduling Request for House Bill 229 Oil & Gas Business Bond

We respectfully request that House Bill 229 Oil & Gas Business Bond be scheduled in the House Labor & Commerce at your earliest possible convenience.

Please find the following documents attached.

- HB229 Sponsor Statement 4.14.17
- HB229 Sectional Analysis ver D 4.14.17
- HB229 ver D 4.14.17
- HB229 Supporting Document- Article ADN 4.14.17

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- No request for any specialized Information Services equipment.
 - We will request to have representatives from DCCED at the hearing.

Thank you for your consideration of this request.
Staff contact: Jenny Martin 465-2689 Jenny.Martin@akleg.gov

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Sponsor Statement **HB 229 ver D**

HB 229 suspends until January 1, 2019 the surety bond or cash deposit requirement for oil and gas businesses operating in Alaska. This suspension will provide the Dept. of Commerce, Community & Economic Development additional time to develop the regulations needed for proper implementation of this requirement.

The surety bond requirements in AS 43.70.025 and AS 43.70.028 took effect January 1, 2017, as part of HB 247 which was enacted in 2016. The \$250,000 surety bond was included to protect Alaskan small businesses providing supplies and services from the 90 day recovery period if the oil and gas company files for bankruptcy. Section 547 of the Bankruptcy Code allows a trustee to sue Alaskan small business suppliers on existing debts that the oil and gas business paid during the 90 days before the bankruptcy case was filed. The money collected from Alaskan small businesses can then be given to creditors, including secured creditors, whose debts were unpaid. The surety bond or cash deposit provides some reimbursement protection for Alaskan small businesses.

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HB 229 Sectional Analysis
Version: 30-LS0821\D

*Please note that a sectional analysis of a bill or resolution should not be considered an authoritative interpretation of the measure itself.
The legislation is the best statement of its contents.*

Section 1 (page 1, line 4): A new section is added to suspend operation of AS 43.70.025 and AS 43.70.028 until January 1, 2019. These sections went into effect January 1, 2017 and address surety bonds required for oil or gas businesses and claims against these businesses.

Fiscal Note

State of Alaska
2017 Legislative Session

Bill Version: HB 229
Fiscal Note Number: _____
() Publish Date: _____

Identifier: HB229-DCCED-CBPL-04-21-17
Title: OIL & GAS BUSINESS BOND
Sponsor: SEATON
Requester: (H) Labor & Commerce

Department: Department of Commerce, Community and
Economic Development
Appropriation: Corporations, Business and Professional
Licensing
Allocation: Corporations, Business and Professional
Licensing
OMB Component Number: 2360

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
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

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? 01/01/19

Why this fiscal note differs from previous version:

Not applicable, initial version.

Prepared By:	Janey Hovenden, Director	Phone:	(907)465-2538
Division:	Corporations, Business and Professional Licensing	Date:	04/21/2017 10:45 AM
Approved By:	Catherine Reardon, Director	Date:	04/21/17
Agency:	Division of Administrative Services, DCCED		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2017 LEGISLATIVE SESSION

BILL NO. HB 229

Analysis

HB 229 suspends the surety bond or cash deposit requirement for oil and gas exploration, development, and production businesses operating in Alaska until January 1, 2019. This suspension will provide the Department of Commerce, Community & Economic Development additional time to develop the regulations needed for implementation of this requirement.

If the bill passes a regulations project will be required, but it can be added to a planned regulations project for business licensing so no additional expenditure authority is needed.

The Division of Corporations, Business, and Professional Licensing does not anticipate fiscal impact from this legislation.

Alaska Dispatch News

Thursday, June 30, 2016

Anchorage: ☀ 66F Clear Sky



Energy

Small Alaska firms fighting off money collectors in Buccaneer bankruptcy case

□ Author: **Alex DeMarban** □ Updated: 1 day ago □ Published 2 days ago

Alaska contractors paid by a Cook Inlet oil explorer are now locked in a battle to hold onto that money in a bankruptcy case in the courts since May 2014.

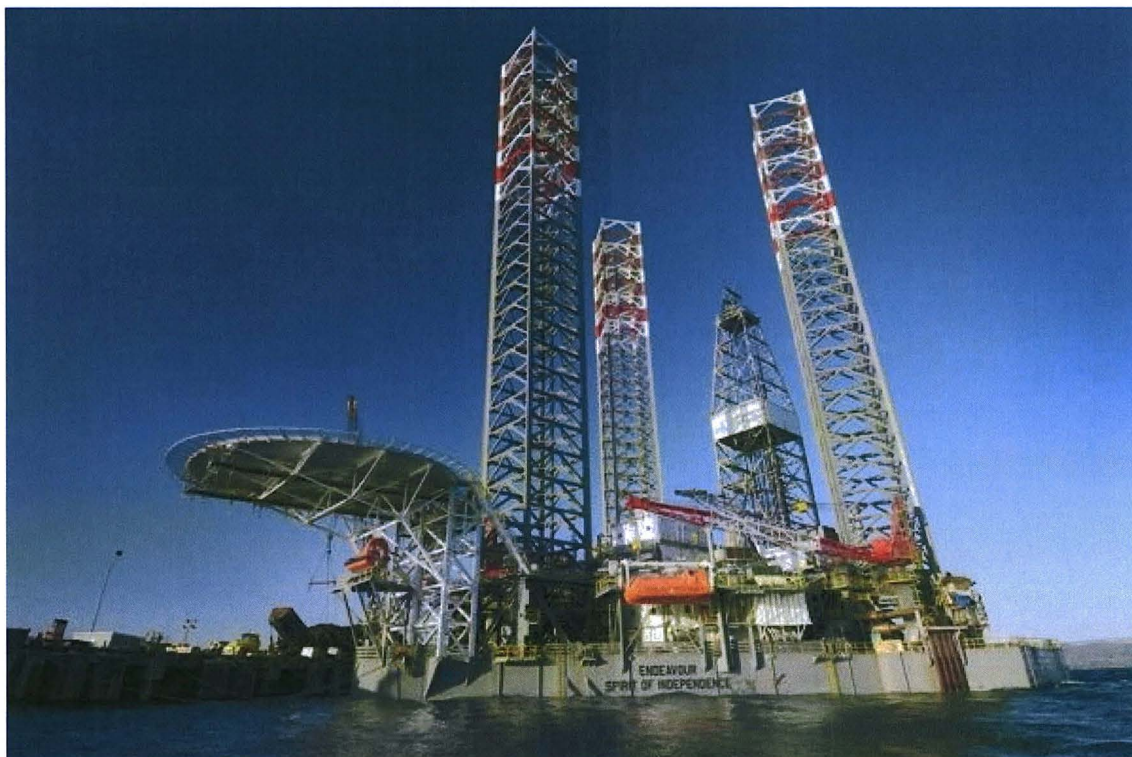
Moore and Moore Services did work for Buccaneer, including providing large emergency shipments of water to make drilling mud during a tense, late-night operation to help prevent a blowout that could have hurt someone, said owner Lloyd Moore.

But now the liquidating bankruptcy trustee is trying to pry back \$70,000 that Moore and Moore earned, said Moore.

"It really knocks you down," said Moore, whose Homer company also provided trash-collection services to Buccaneer. "You work hard to run a good business and pay people good wages and here this comes along and you get hit."

Buccaneer, from Australia, is out of business. But the bankruptcy trustee in the case, Jeffrey Compton of Houston, is trying to recover payments the company made 90 days before it filed for Chapter 11 protection in U.S. Bankruptcy Court in Southern Texas.

Compton did not return phone calls seeking comment.



The Buccaneer jack-up rig "Endeavour, Spirit of Independence" in Homer in 2012. (Jim Lavrakas photo / ADN archive 2012)

The so-called "clawing back" of payments is a legal and common step in large bankruptcy cases, attorneys say. It's designed to allow equitable payment to all creditors and prevent inappropriate payments in the tumultuous days before a filing.

But the process may not feel fair to businesses on the losing side, said David Bundy, an Anchorage bankruptcy attorney. He has helped two Alaska companies settle against Buccaneer, including HomeRun Oil in Homer.

"People are surprised if they need to give back money they thought they could keep," he said.

Shelly Erickson, co-owner of HomeRun Oil, called it a "nasty law."

HomeRun Oil provided diesel fuel to Buccaneer, including to run generators during its search for oil and gas in Cook Inlet. After the bankruptcy filing, HomeRun received a letter saying it needed to return \$125,000 Buccaneer had paid.

Erickson fought the effort, keeping most of that money after settling in October. But she still racked up tens of thousands of dollars in money lost and attorney fees, she said.

"It makes my blood pressure boil," Erickson said. "It wasn't just me. When someone takes that kind of money it leaves the whole community, and it's gone and everyone loses."

Buccaneer had received substantial help from the state, including \$58 million in tax credits, records show.

Other area businesses have also been hit with the payback demand.

Ocean Marine Services, an offshore oil support company with offices in Nikiski and Kirkland, Washington, provided vessel support for Buccaneer's jack-up drilling rig, the Endeavour.

Now the liquidating trustee is trying to recover \$287,000 Buccaneer had already paid, said Joey Willis, president of Offshore Marine Services. A court date for that fight is set up for August in Texas.

"It was a rude awakening," Willis said of the claw-back provision.

Other Alaska companies fighting to keep their money include Port Graham Corp., an Alaska Native corporation, which provided shore-based support services for the drilling rig. The trustee is seeking \$248,000, records show.

The oil-tax reform bill passed by the Legislature in early June includes a provision requiring oil companies to post a \$250,000 surety bond to make sure unsecured creditors receive payment if a company goes bankrupt.

But that amount is not enough, said Erickson.

"That is really low," she said. "They need to have a bond for \$2 (million) or \$3 million because \$250,000 is nothing in a day's work out there."

About the Author

Alex DeMarban