

LEG. FINANCE - BILLS 1983 - 1984 1984

HB 705 cont.; HB 710 1984

pretense of knowledge when knowledge there is none."

Id. at 83-84 (citations omitted).

[6] The policy favoring liability for innocent misrepresentation is found on a recognition that purchasers should be entitled to rely on a broker's representations. As our opinion notes:

Real estate brokers and their agents hold themselves out to the public as having specialized knowledge with regard to housing, housing conditions and related matters. The public is entitled to and does rely on the expertise of real estate brokers in the purchase and sale of its homes. Therefore there is a duty on the part of real estate brokers to be accurate and knowledgeable concerning the product they are in the business of selling—that is, homes and other types of real estate. Courts have held in many cases that purchasers are entitled to rely on real estate brokers' statements.

Lyons v. Christ Episcopal Church, 71 Ill. App.3d 257, 27 Ill.Dec. 559, 389 N.E.2d 623, 628 (1979) (dissenting opinion).

[7] We find this reasoning persuasive. Parties to real estate transactions frequently do not deal on equal terms. Real estate brokers are licensed professionals, possessing superior knowledge of the realty they sell and the real estate market generally. Prospective purchasers recognize this expertise and tend to rely on a broker's representations. Just as purchasers are entitled to rely on an owner's representations, *Cousineau v. Walker*, 613 P.2d 608 (Alaska 1980), purchasers should be entitled to rely on the broker's representations. Any other rule would permit brokers to use misleading statements in selling the property, yet remain immune from liability by simply remaining ignorant of the property's true characteristics. Accordingly, we hold that a purchaser who relies on a material misrepresentation, even though innocently

made, has a cause of action against the broker originating or communicating the misrepresentation. See Restatement (Second) of Torts § 552C(1) (1977).

In our view, the consequences of recognizing a cause of action in this situation are entirely beneficial. The presence of a cause of action against the broker would tend to lessen the likelihood of transactions tainted by misinformation and confusion. Additionally, recognizing a cause of action against the broker would provide another source of recovery to the purchaser of defective property. Frequently, the owners may move away, leaving the broker as the only reachable defendant. As between the broker who communicated the misrepresentation, and the purchaser whose only fault was to rely on the broker, we think it preferable that the broker bear any loss caused by misrepresentation. Brokers, in turn, can protect themselves from liability by investigating the owner's statements, or by disclaiming knowledge, by requiring the seller to sign at the time of listing a statement setting forth representations which will be made, certifying that they are true and providing for indemnification if they are not.⁷ See *Goldman v. Hart*, 134 Ga. App. 422, 214 S.E.2d 670 (1975).

[8] Having determined that a cause of action in innocent misrepresentation exists, it is apparent that the judgment below must be affirmed. Bevins does not contest that the listing he prepared mentioned a 100 foot well, that this listing would reasonably lead buyers to assume the well was good, that the Ballards so relied, and that the well was, in actuality, inadequate. These facts establish liability under an innocent misrepresentation theory. See Restatement (Second) of Torts § 552C(1) (1977). The decision below is therefore AFFIRMED.⁸

COMPTON, J., not participating.

7. Some listing agreements contain indemnification provisions, entitling the broker to indemnity from the owner should the broker's communication of the owner's representations engen-

der liability. See, e.g., *Barnes v. Lopez*, 25 Ariz.App. 477, 544 P.2d 694, 698-99 (1976).

8. This case is distinguishable from *Stepanov v. Gavrilovich*, 594 P.2d 30 (Alaska 1979), where-

STATE OF ALASKA
THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 9, 1984

SUBJECT: Sectional Analysis of HB 705

TO: Representative Al Adams
Chairman, House Finance Committee

FROM: *LH* Linn H. Asper
Legislative Counsel

You have asked for a sectional analysis of HB 705, relating to the real estate surety fund.

Section 1 makes technical changes in the provisions for payments by real estate licensees to the real estate surety fund and adds real estate salesmen to the list of people who must contribute to the fund.

Section 2 changes the procedure for making a claim against the real estate surety fund so that the claim is brought in court rather than before the real estate commission. Under the new language an award may not be made if a claim is based only on an innocent misrepresentation by a real estate licensee.

Section 3 provides for a court hearing on a claim made against the real estate surety fund and states elements of the claim that the claimant must establish.

Section 4 establishes what the court has to find after the hearing in order to make an award against the fund and establishes a higher burden of proof for a claimant in certain limited circumstances.

Section 5 allows the real estate commission to move to dismiss the claim if the commission believes that a claim is without merit.

Section 6 adds new sections that allow the court to make an award from the fund and allow the ~~commission~~ ^{commission} to prorate the award among judgment debtors if the court does not do so.

Representative Al Adams

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Section 7 moves the \$10,000 per transaction award limit from AS 08.88.470 to 08.88.475(b).

Section 8 makes technical changes in AS 08.88.490 to reflect the fact that claims against the real estate surety fund are to be made in court proceedings rather than before the real estate commission.

Section 9 enacts language to make it clear that the fact that an award is made from the real estate surety fund to a claimant does not absolve the real estate licensee who is involved in the claim from responsibility in a disciplinary action brought by the real estate commission.

Section 10 adds a definition of "final judgment" for purposes of judicial proceedings on real estate surety fund claims.

Section 11 repeals AS 08.88.472, relating to costs of hearings before the commission.

LHA:ojb
J6/012

Industry advocated '74 Legislation
Realized bonds were inadequate
Indemnity vs. E & O

California Model -- Key elements

Judgment	Proof of Recovery Attempt	Surety Fund Payment
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↑	↑	
	'74 Leg. omitted this	

'80 amendment replaced this

3-year experiment that is unacceptable.

Alaska \$300,000 to 50 parties since inception	4000± licensees
Virginia 340,000 to 84 parties	35,000± licensees
Alaska \$100,000 to 20 parties in 1983	4000± licensees
California \$200,000 to 31 in 1983	190,000± licensees

Judgment

32 states with surety fund--only 4 leave decision solely in hands of REC.

21 require court judgment; 18 have bonds

Validates the claim hearing officers have recommended denial of 70%

Ensures due process

Issues not fully argued by opposing a Horney's with neutral judge to decide pts. c.
State entity removed from position of being both judge and jury
proposed bill -- "rationale" law

SB 497- Mobile Home Manufacturers' Bond, an A G supported concept

No other agency in the state awards 3rd party damages without jury trial

Double jeopardy--defending on multiple fronts--would be eliminated

REC = laymen H.D = legal prof -- hard for laymen to overturn points of law.

Proof of Recovery Attempt

Wrongdoer should be the one to pay

Claims now are "no-risk, no-cost incurred"

Only 3 other states can pay legal costs from their surety funds

Indemnifications

Surety Fund represents the industry's willingness to indemnify the unrecoverable judgments and thus relieve the consumer from suffering a loss because of the illegal actions of a licensee.

Late in session, but documented and clear cut, essential to restore the intent & integrity of the funds, and in best interests of all Alaskans.

We urge you to pass this out of committee as introduced.



HB
705

ALASKA ASSOCIATION OF REALTORS[®]

1318 W. Northern Lights Blvd., Suite 104 • Anchorage, Alaska 99503
Telephone 907-272-8016

Attached is a summary of a problem area of vital concern to the real estate industry. The ALASKA ASSOCIATION OF REALTORS is suggesting content for a bill which will address the issue. We seek your consideration and support.

History

From its creation in 1964, as reflected in AS 08.88, the Real Estate Commission's primary purpose has been the protection of the public through the examining and licensing of real estate practitioners. Through 1975, the public's guarantee of monetary relief was a required bond in the amount of \$1000/Salesman and \$5000/broker.

Through the early '70's there were few claims against the bonds; however, the industry realized that the bonding level was not adequately protecting the public's interests. Following the example of twelve other states, (Footnote: 1974 NARELLO Report, page 25) the industry together with the Real Estate Commission actively lobbied for the 1974 legislation (Attachment A: 45.85.010-110 & 08.88.281, .071, & .401) to create a surety fund with a two-fold purpose:

1) to provide indemnification up to \$10,000/transaction for judgments awarded by the courts to persons who suffered financial loss because of a licensee's actions that involved fraud, deceit, misrepresentation, or conversion of trust funds, and

2) to provide funding for real estate education of both the public and the licensees from funds collected in excess of the specified \$250,000 minimum balance in the fund.

The 1974 legislation, which was patterned after the California model, required court action and a judgment against a licensee prior to any disbursement of Surety Fund dollars. However, Alaska's enacted version did not require an attempt to collect money from or attach the assets of the named licensee, nor did it provide for any review by the Commission prior to payment from the fund.

Thus from the 1976 license renewal cycle when the first fees were paid into the surety fund, judges were able to order payment directly from the fund to satisfy a judgment.

These conditions were in effect until 1980 when the statute was amended, initiated by the Legislative Audit Committee during the Sunset Review, to charge the Real Estate Commission with the responsibility to both hear cases and award payments, but without ensuring the full protection of due process and judicial precedent (Attachment B).

The use of hearing officers (as allowed by the Administrative Procedures Act) starting in January 1982 and the regulations adopted by the Commission in December 1982 (effective April 1983) have further attempted to work within the current statute (Attachment C).

- Attachments: A) 1974 Surety Fund Statute
B) 1980 Amended Surety Fund Statute
C) 1982 Surety Fund Regulations

Current Situation

The real estate industry in Alaska consists of some 4000 licensees who support sensible legislation to regulate the industry and to protect the public against illegal real estate practices. This sense of professional responsibility has not changed throughout the 20-year historical summary period outlined above.


Currently there are no filing fees or costs if a claim is denied, nor is the claimant required to exhaust other remedies before receiving satisfaction from the Surety Fund. Thus, the "no-risk" and "no-costs incurred" status of claimants simply encourages claims. Further, the state entity, either contracted or appointed, is in the position of being both judge and jury.

It is the consensus of the industry that a concentrated effort must be made immediately to restore the integrity of the surety fund, both in concept and in actual administration.

Points to Achieve

1. Ensure the rights of all parties to due process through the court system with the determination of a claim's validity and resultant damage assessment in the courts.
2. Maintain the Surety Fund as a resource to be drawn upon only when funds are not collectable from the judgment debtor by any other means.
3. Charge the Real Estate Commission with the responsibility of timely license action on the licensee whose action has resulted in a draw from the Fund.
4. Direct the Real Estate Commission to provide quality education programs to licensees and the public as to licensees' responsibilities under the real estate statutes and regulations.

ALASKA ASSOCIATION OF REALTORS


RITA JO SHOULTZ
President

	1	2	3	4	5	6	7	8	9
1			80	81		82		83	
2	Artel filed	2	57		93		122		30
3	Withdrawn		10		13		5		
4	Revisions	2	47		80		117		28
5									
6	Denied		20 (\$109,000)		36 (\$102,500)		13 (\$53,400)		
7	Proposed Deny								2 (\$11,000)
8									
9	Paid/Recor		5 (\$26,225)		31 (\$2800)				
10	Paid/Unrecor.	2 (\$7,700)	15 (\$6,900)		17 (\$69,800)		2 (\$20,000)		
11									
12	Proposed App.						3 (\$18,000)		
13									
14	App. but Unpd.						2 (\$10,500)		
15									
16	Undecided \$		\$40,400		\$118,200		\$569,600		\$192,100
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84
2/24

D

02-24-84 SURETY CLAIM INVENTORY LIST 8963L

Date filed

Claim

Accounting Costs

PAID--UNRECOVERED COSTS

Gene Tenny	James Pitts	S- 801200-001*	P-JF-05/82	2,710.00	1,031.25
Charles Heaton	James Sullivan	S- 801200-003	P-JF-05/82	5,000.00	243.75
E. Floyd Ross	Tony Calvo	S- 810100-004	P-12/82	0.00	997.10
Darion Powell	Gail McCormick	S- 810100-005	P-JF-05/82	0.00	0.00
Gladys Foris	Daniel Lankford	S- 810100-007	P-Com.	1,693.00	
Keith Hunter	James Sullivan	S- 810100-008	P-JF-05/82	5,000.00	243.75
Louis Sherman	Elbert Patton	S- 810100-009	P-Com.	10,000.00	
Kenneth McDonald	Jerry Woodworth	S- 810100-011	P-Com.	250.00	
James Schmidt	Rod Dunn	S- 810400-024	P-04/83	2,500.00	225.00
Russell Gross	Thomas Hoey	S- 810500-028	P-Com.	0.00	
Ruby Ketola	Gary Motonaga	S- 810600-029	P-Com.	0.00	
Thomas Winter	Mina Odell	S- 810800-037	P-JK-04/82	0.00	1,066.30
Nelson Brown	Robert York	S- 811026-039	P-JK-03/82	500.00	583.57
Alice Corpuz	Judy Rowland	S- 811203-044	P-12/82	3,642.65	542.72
Phillip-Aguirre	Mary Peterson	S- 811204-046	P-04/83	1,500.00	1,348.71
Martin Mulholland	Myrna Johnston	S- 811228-049	P-	1,000.00	1,965.45
Walter Moody	Tom Krenik	S- 811228-051	P-08/83	1,000.00	1,354.27
Marianne Kaemerer	Jonas Arnbrister	S- 820114-002	P-12/82	10,000.00	1,092.15
Josephine Stoll	James Sullivan	S- 820219-011	P-12/82	8,552.00	592.50
Bonnie Yoshitomi	James Sullivan	S- 820330-022	P-04/83	4,700.00	132.37
Leon Erickson	Mary Shelley	S- 820421-028	P-04/83	5,290.00	243.75
Charles Wood	Jerry Jones	S- 820514-032	P-12/82	0.00	406.05
Patrick Hickey	Al Ruzkowski	S- 820514-033	P-12/82	0.00	105.00
Darrell Carpenter	Taylor Gamblin	S- 820517-035	P-04/83	3,634.35	
Leo/Betty Blum	Robert Rink	S- 820603-042	P-12/82	0.00	210.00
Janis Spradlin	Daniel Lankford	S- 820617-043	P-04/83	4,712.24	345.00

Barbara Pearcy	Ginger Cassel	S- 820618-044	P-12/82	500.00	180.00
Karen Leis	Paul Palmer	S- 820629-046	P-12/82	625.00	452.50
Roger Harapat	Dan Grant	S- 820706-049	P-04/83	6,092.00	532.50
Jennifer Shannon	Roy Charlton	S- 821019-073	P-06/83	4,573.00	259.40
Edgar Sipple	Barry Shennum	S- 821021-074	P-06/83	1,000.00	222.50
Randy Burnham	Harry Lewis	S- 821025-075	P-06/83	500.00	615.00
Kenneth Lewis	Robert York	S- 821101-078	P-06/83	10,000.00	326.05
Rita Trombley	Harold Johnson	S- 821202-083	JL-01/83	10,000.00	592.50
Charles Bauer	William Price	S- 830202-011	TB-04/83	10,000.00	466.80
Roy Burkhardt	Michael Buss	S- 830204-013	TB-04/83	10,000.00	242.50

124,974.24## 16,618.44##

PAID--RECOVERED COSTS

E Floyd Ross	Tony Calvo	S-810100-004	P-12/82	10,000.00	
Darion Powell	Gail McCormick	S-810100-005	JF-05/82	10,000.00	1,275.00
Russell Gross	Thomas Hoey	S-810500-028	AREC	1,000.00	0.00
Ruby Ketola	Gary Motonaga	S-810600-029	AREC	4,225.00	0.00
Thomas Winter	Mina Odell	S-810800-037	JK-04/82	1,000.00	0.00
Charles Wood	Jerry Jones	S-820514-032	12/82	800.00	0.00
James Hickey	Alvin Ruszkowski	S-820514-033	12/82	1,000.00	0.00
Leo Blum	Robert Rink	S-820603-042	12/82	1,000.00	0.00

29,025.00## 1,275.00##

APPROVED--UNPAID

Walter Martin	Harold Johnsen	S- 830427-040	JK-01/84	10,000.00
Thomas Bohannon	Anne Weik	S- 830210-017	TB-10/83	500.00

10,500.00##

PROPOSED DECISION--APPROVE: .

John Lymer	Gerald Sudkamp	S- 830117-005	KV-03/83	5,890.00
Jackie Woolf	Michael Buss	S- 830330-030	DP-09/83	2,122.00
W.Keith Graham	Ed Gentile	S- 830412-032	JK-07/83	10,000.00
				18,012.00##

DENIED

Jon Meyer	Donald LeMaster	S- 811200-002	D-12/82	3,600.00	204.70
Daniel Breault	Jennie Wasey	S- 810100-010	Denied	1,500.00	187.50
Odean Lee	Bob Booth	S- 810200-013	Denied	10,000.00	0.00
Lucian Dancaescu	Jack Vandenberg	S- 810300-015	D-12/82	10,000.00	333.60
John King	Jerry Woodworth	S- 810300-018	D-12/82	3,962.58	121.65
Harry Helfner	Gloria Church	S- 810300-019	Denied	10,000.00	0.00
James Foster	Marigal Compton	S- 810300-020	Denied	8,020.00	0.00
Glynn Behrend	Louise Severson	S- 810300-021	Denied	1,500.00	0.00
Tracy Belieu	Nancy Porter	S- 810400-025	JK-03/82	500.00	830.35
David Klingbiel	Onita Higgins	S- 810600-031	Denied	10,000.00	396.25
Allen Price	F. G. Nugent	S- 810600-032	D-12/82	1,949.62	408.88
Terry Eastlake	Porter Kearton	S- 810800-034	Denied	709.85	0.00
Roy Troberg	Ben Shennum	S- 810800-035	Denied	10,000.00	615.07
Florence Elliott	Sherrie Ace	S- 810800-036	Denied	2,000.00	0.00
Robert Steel	Radley Hastings	S- 811103-040	Denied	2,000.00	0.00
Betty Freed	Walter Wood	S- 811110-041	Denied	5,941.35	0.00
William Smith	Eleanor Becker	S- 811117-042	D-09/82	8,995.00	180.06
FedAlaska FCU	Bernd Vockner	S- 811215-047	D-05/83	10,000.00	443.45
John Hazen	Barry Shennum	S- 811215-048	JK-02/83	6,890.00	705.85
Allen Smith	Marilyn Warren	S- 811231-052	D-12/82	1,500.00	171.69
Kurt McAlister	Mason Anderson	S- 820113-001	D-09/82	10,000.00	18.75
Betty Evans	Gloria Beckley	S- 820108-004	D-09/82	10,000.00	112.50
Gene Blair	Mark Phillips	S- 820125-005	D-09/82	3,213.00	75.25
Jose Prado	Rusty Harrington	S- 820127-006	(2)	10,000.00	0.00
Barbara Wilson	Mary Moore	S- 820129-007	JK-02/83	0.00	0.00

Mark Chapman	Harold Newcomb	S- 820216-008	D-12/82	8,000.00	233.40
Max Rabinowitz	James Kuntz	S- 820216-009	Denied	867.17	0.00
James Medcoff	Jodie Thomas	S- 820219-010	Denied	1,000.00	0.00
Michael McBride	Edward Pawelek	S- 820225-013	D-12/82	10,000.00	0.00
Blythe Baker	Tom Hoey	S- 820308-015	D-09/82	527.50	264.75
Steve Day	Peggy Bowen	S- 820308-016	D-09/82	2,000.00	204.30
D. Walls	Rita Shoultz	S- 820312-017	D-12/82	0.00	0.00
George Sampleton	Dana Bachner	S- 820311-018	D-09/82	9,000.00	356.70
Dale Lane	James Suddeth	S- 820311-019	D-09/82	10,000.00	129.75
Danny Simmons	Grace Brown	S- 820316-020	EJ-05/82	7,356.97	446.70
Ross Crane	Greg Cartwright	S- 820322-021	D-12/82	10,000.00	18.75
Albert Devincenu	Paul Palmer	S- 820407-023	D-02/83	3,000.00	117.35
Stan/Sara Smith	James Morrill	S- 820330-024	D-02/83	750.00	75.00
Artell Whitaker	Maurice Matthews	S- 820414-025	D-02/83	3,234.00	157.95
Chris Waterbury	Lee Walker	S- 820505-031	D-04/83	1,000.00	377.10
Brian Millis	Jess Holiday	S- 820525-036	D-12/82	9,600.00	348.00
Mir Javid Karchay	Charles Tanner	S- 820712-053	JK-09/82	3,600.00	37.50
Peter Lyse	Walter Wood	S- 820719-054	D-09/82	6,000.00	452.75
Gene Tenny	James Pitts	S- 820802-058	D-02/83	2,739.43	474.50
Leonard Walker	D Peck/ Beal, Terry	S- 820802-059	D-04/83	507.00	1,030.43
Theodore Glover	Red Mueller	S- 820817-063	HG-10/82	500.00	185.77
Anne Joseph	MaryDee Henderson	S- 820827-065	D-05/83	10,000.00	1,109.40
Patrick Maitland	Brent Heleker	S- 820831-066	D-10/82	9,440.00	0.00
Shirley Summer	Jorgen Lilliebjerg	S- 820907-069	D-02/83	708.00	234.50
Susan Fleming	Beth Allard	S- 821004-070	EJ-02/83 (3)		290.40
Daniel Neil	Jean Butterfield	S- 821014-071	D-04/83	270.00	37.50
Robert Dewees	Jim Jacobs	S- 821019-072	D-04/83	2,035.48	52.50

Clyde Stoker	Barry Shennum	S- 821015-076	D-04/83	1,998.60	153.70
James Henderson	Jim Thomas	S- 821101-077	D-04/83	300.00	37.50
Dan Nicoll	Betty Greely	S- 821112-079	D-04/83	682.50	191.30
Robert MacGill	Curtis Kutil	S- 821117-080	D-04/83	6,707.55	318.50
James Kohler	Richard Erickson	S- 830103-001	PG-01/84	5,290.00	
Jeffery Wesley	Clyde Lower	S- 830202-010	TB-01/84	3,676.00	290.00
Randy Helgeson	Harry Lewis	S- 830208-014	D-11/83	1,240.80	293.50
Ronald Raasch	Ray Walker	S- 830216-019	D-11/83	1,046.20	218.50
Gregory Thomason	Bob Barbutti	S- 830429-037	JK-01/84	10,000.00	318.75
Michael Alley	Bruce Cook	S- 830202-009	D/04/83	10,000.00	298.85
Jerry Henry	Evan Tobler	S- 830210-016	D/04/83	3,200.00	309.70
Mark Heirigs	Pat Wilson	S- 830413-034	D/07/83	6,582.21	
Daniel Painter	Lotti Buscemi	S- 830208-018	D-11/83	1,757.96	32.15
Sally Benedrix	Gail Haunold	S- 830412-033	D-11/83		39.60
Nancy Inglis	Cher Brown	S- 830425-038	D-11/83	10,000.00	18.75
Ruth Dawson	Bill Schlegel	S- 820604-037	EJ-08/82	1,000.00	
Louis Maggio	Dawson Lindbloom	S- 820802-060	HG-10/82(3)		339.21

317,898.77## 14,300.56##

PROPOSED DECISION--DENY:

McFall

Willy Sherman

S-820831-067

HG-02/84

10,000.00

Willie Taylor

Sally Mummy

S- 830427-039

JK-07/83

1,000.00

11,000.00## ##

HEARINGS

Jerry Gallagher	Mary Buness	S- 810100-006	-02/82	4,234.98	
Charles Hobbs	Jan Brechan	S- 810300-016	BS-0 /82	1,105.00	18.75
Randall Rogers	Kenneth Jones	S- 810300-017	RP-02/82	10,000.00	18.75
Joseph Thomas	Les Pace	S- 810500-027	TB-08/83	10,000.00	
Max Bivens	James Anthony	S- 810500-033	JF-02/82	10,000.00	243.75
John Curtis	James Suddeth	S- 811000-038	JK-02/82	3,642.65	154.10
Phillip Aguirre	Mary Peterson	S- 811204-046	AP-04/83	1500.00	1348.71
Leon Chandler	Peter Kinneen	S- 820416-027	JK-08/82	10,000.00	37.50
Douglas McBride	Carol Black	S- 820423-029	JL-08/82	4,290.00	234.50
James DeFrank	Nadene Thorne	S- 820517-034	KV-11/82	10,000.00	112.50
Marilyn Campbell	Nadene Thorne	S- 820607-038	KV-11/82	7,302.00	
Kenneth Ray	George Barth	S- 820609-039	EJ-08/82	1,000.00	
Harold Neese	John Gross	S- 820610-040	EJ-08/82	500.00	57.40
John Faulkner	Nadene Thorne	S- 820610-041	KV-08/82	10,000.00	
Barry Auf der Heide	Debbie Wise	S- 820629-047	KV-11/82	5,213.45	
James Welsch	Nadene Thorne	S- 820630-048	KV-11/82	10,000.00	
Teva Marrow	John Gross	S- 820610-050	Hearing	500.00	
Lowell Mueller	Jackie Dahl	S- 820708-051	JK-09/82	6,979.27	76.75
Virginia Giles	Nancy Richardson	S- 820721-056	BS-09/82	6,372.00	18.75
Joyce Eischen	Russell Briard	S- 820729-057	BS-09/82	5,000.00	
Patrick Stidmon	C Curly, Bogle, Gail	S- 820812-062	HG-10/82	1,000.00	352.97
Roy McFall	Willy Sherman	S- 820831-067	HG-10/82	10,000.00	109.85
William Mulnix	Tom Hoey	S- 821129-082	MB-01/83	1,000.00	
James Estes	Daniel Lankford	S- 821202-085	JL-01/83	9,640.00	37.50
Gary Vanderbrug	Tom Mungle	S- 821206-086	MB-01/83	5,000.00	

Malcolm Miner	Harold Johnsen	S- 821207-087	JL-01/83	10,000.00	
Stacey Lawrence	Carol Syzmanski	S- 821206-089	JL-01/83	1,000.00	
Margaret Cunningham	Andre Marrow	S- 821208-090	JL-01/83	1,000.00	
Peter Burton	Wayne Bass	S- 821208-091	JL-01/83	1,000.00	
John O. Elgee	Ben Hardwick	S- 821221-092	JL-01/83	1,510.90	
Karen Hodge	William Price	S- 821118-093	JL-01/83 (3)		300.00
Rasmus Anderson	Mary Peterson	S- 830112-003	KV-03/83	5,950.00	
Jesse Prince	L.A. Hansen	S- 830117-004	KV-03/83	8,730.00	
Rick McConnell	Pat Ramsey	S- 830117-006	KV-03/83	10,000.00	
Bryl Eddy	Barry Shennum	S- 830117-007	KV-03/83	5,000.00	
William Thompson	Karen Berg	S- 830127-008	KV-03/83	5,000.00	
Charles Lamb	Pat Stephans	S- 830204-012	TB-04/83	7,343.32	383.90
Raymond Aubin	Ike Prieto	S- 830222-020	TB-04/83	1,500.00	316.00
James Pearce	Linda Spencer	S- 830301-021	PW-10/83	800.00	
Alice Hunter	Joseph Jackson	S- 830301-022	PW-10/83	10,000.00	320.50
Robert Huppert	Neal Hausan	S- 830308-023	PW-10/83	10,000.00	
Elisabeth Vischer	Peter Kineen	S- 830308-024	JK-10/83	3,000.00	
Terry Madison	Daniel Twitchell	S- 830314-025	PW-10/83	10,000.00	
Douglas Rowe	Janice Brechan	S- 830314-026	PW-10/83	10,000.00	
LeRoy Mitchell	Gail Haunald	S- 830314-027	PW-10/83	10,000.00	
Johnnie Powell	Hal Bancroft	S- 830318-028	PW-10/83	7,250.00	548.90
Richard Richart	Michael Buss	S- 830412-031	JK-07/83		18.75
Susan Wade	Linda Smith	S- 830414-035	JK-07/83	10,000.00	
Joseph Wall	Don Girvan	S- 830506-041	DM-08/83		
Stanley David	Ken Calhoon	S- 830516-042	BS-09/83	500.00	
Erwin Davis	Karen Smithson	S- 830525-043	DM-08/83	1,583.79	
Elizabeth Lumpkin	Barb Bowden	S- 830525-044	BS-09/83	4,000.00	

John Nixon ...	Ben Waldrop	S- 830601-045	DM-08/83	4,053.86	
Delroy Keller	Patsy Daily	S- 830606-046	DM-08/83	5,000.00	
Jo Rhoades	Linda Boemmel	S- 830606-047	DM-08/83	1,000.00	
Doug Stark	Jim Thomas	S- 830610-048	DM-08/83	9,000.00	1
John Chya	Mary Peterson	S- 830615-049	BS-09/83		
Karen Brown	Mike Tapley	S- 830622-050	DM-08/83	4,000.00	
Pam Hennessey	Paul Wilson	S- 830623-051	BS-09/83	10,000.00	
Barbara Loomis	Dan Rodey	S- 830627-052	DM-08/83	1,000.00	
Robert Faro	Dan Canoy	S- 830629-053	DM-08/83	1,619.50	
Ron Romph	Louis Forstner	S- 830701-054	DM-08/83	5,610.00	
Bryan Horton	Barbara Bowden	S- 830705-055	DM-08/83	1,000.00	
Robert Ameen	Eugene Johnson	S- 830711-056	BS-09/83	10,000.00	
Carl Loschiavo	Robin Bernard	S- 830713-057	BS-09/83	3,500.00	
Marcia Freedman	Brooke Marston	S- 830713-058	BS-09/83	10,000.00	
Steve Bugni	Mary Peterson	S- 830721-059	BS-09/83	10,000.00	
Don Caswell	Phillis Goodman	S- 830721-060	BS-09/83	10,000.00	
William Pallis	Mary Osborn	S- 830801-061	BS-09/83	1,000.00	
D. W. Haas	Mary Buness	S- 830801-062	BS-09/83	1,860.00	
Dawian Kirlin	Michael Buss	S- 830405-063	BS-09/83	625.00	
Lowell Rudder	Max Bevins	S- 830804-064	EJ-10/83	2,500.00	
Suzanne Thompson	Alta Schmidt	S- 830805-065	EJ-10/83		
Glendon Hardman	Marty Margensen	S- 830805-066	EJ-10/83	10,000.00	
Leroy Phillips	Russell Briard	S- 830418-067	JK-10/83	10,000.00	
Franklin Price	Diane Christ	S- 830815-068	JS-09/83	4,000.00	
William Graves	Daniel Lankford	S- 830815-069	TB-09/83	5,000.00	
Suzanne Kincaid	Ken Calhoon	S- 830815-070	JS-09/83	10,000.00	
Roger Multvedt	Helen Morgan	S- 830815-071	JS-09/83	10,000.00	

Thomas Sparks	Ken Calhoon	S- 830818-072	JS-09/83	10,000.00
Marjorie Asiter	Henry Warren	S- 830822-073	JS-09/83	10,000.00
Koeta Imhof	Pat Kruger	S- 830823-074	JS-09/83	3,000.00
Daniel Sheehan	Mary Peterson	S- 830824-075	BS-09/83	5,000.00
Eve Lenfestey	Mickey Sleeper	S- 830825-076	JS-09/83	1,000.00
Mitko Dalkovski	Gail Glad	S- 830826-077	RH-09/83	10,000.00
Chris Monagle	Chris Foster	S- 830826-078	DP-09/83	2,000.00
Daniel Stevens	Bruce Pfau	S- 830816-079	JS-09/83	3,394.21
Carol Duncan	Ken Calhoon	S- 830829-080	JS-09/83	6,000.00
Scott Roland	John Gross	S- 830830-081	JS-09/83	500.00
Eldon Spradling	William Schlegal	S- 830830-082	JS-09/83	10,000.00
Robert Whisenlunt	Gary Munson	S- 830830-083	EJ-1283	
Kenneth Wert	Lola Pederson	S- 830908-083B	EJ-1283	
Thomas Ward	Harold Johnsen	S- 830914-084	EJ-1283	
Patrick Curron	Helen Buss	S- 830914-085	EJ-1283	3,000.00
William Berg	Earlene Hanifen	S- 830928-086	EJ-1283	500.00
Curtis Classon	Hal Hume	S- 830928-087	EJ-1283	3,000.00
James Smith	Gary Cotton	S- 830928-088	EJ-1283	
Sandra Vonda	Gloria Bondi	S- 831007-089	EJ-1283	8,780.00
Hoffman, Roslyn	Calhoon/Boudreaux	S- 831010-090	EJ-1283	1,000.00
Beach, David	Morgan/Burns/Burns	S- 831012-091A	EJ-1283	10,000.00
Ollestad, Onnalee	Palmer/Shennum	S- 831013-092	EJ-1283	1,000.00
Onstatt, Richard	Shennum/Bowden	S- 831013-093	EJ-1283	
Boots, Michael	Chasten/Wood	S- 831004-094	EJ-1283	2,750.00
Beach, David	Morgan/Burns	S- 831004-095B	EJ-1283	10,000.00
Grange, Ray B.	Morgan/Burns/Burns	S- 831017-096	EJ-1283	10,000.00
Chabernaude, Simone	Morgan/Burns	S- 831014-097C	EJ-1283	10,000.00

Nowak, Johannes	John Burns	S- 831019-098D	EJ-1283	10,000.00
Barbara Mauro	John Burns	S- 831020-099E	EJ-1283	10,000.00
Veda Bell	John Burns	S- 831020-100F	EJ-1283	10,000.00
Patrick Bell	John Burns	S- 831020-101G	EJ-1283	10,000.00
Mischler, Janet	Rochon/Taplin	S- 831104-103	HOR	30,000.00+
Maura, Barbara	Morgan/Burns/Burns	S- 831107-105	HOR	10,000.00
Meyer, Elida	Sullivan/Kruger	S- 831107-104	HOR	2,562.00+
Douville, Richard	Rhines, Esther	S- 831208-106A	HOR	500.00
Armstrong	Shennum/Williams	S- 831110-106B	HOR	2,332.00
Davids, Richard	George Barth, Sr	S- 831110-107	HOR	1,150.00
Nowak, Johanne	Morgan/Burns/Burns	S- 831114-108	HOR	5,500.00
Smith, James	Cotton/Lincoln	S- 831116-109	HOR	1,575.00+
Fejes, Claire	Cotton/Cotton/Calh	S- 831116-110	HOR	10,000.00
Knedlik, Stanley	Morgan/Burns	S- 831117-111	HOR	20,675.00
Mudzaid, Resad	Morgan/Burns/Weik	S- 831121-112	HOR	15,000.00
Graves, Wilford	Lankford/Dennis	S- 831122-113	HOR	6,000.00
Belander/Foster	Warner/Pace/Girvan	S- 831130-114	HOR	3,700.00
Watkins, Robert	Johnston, William	S- 831130-115	HOR	1,000.00
Bren, Kenneth	Fowler, Gary	S- 831208-116	HOR	1,232.08
Jones, Kendall	Padgett/Bowden	S- 831209-119	HOR	2,145.00
Morrell, Gary/Bev	Chasten, Clark	S- 831212-120	HOR	4,880.00+
Hadley, Judith	Gay, Don	S- 831216-121	HOR	10,000.00
Williford, Stephen	Bernard/Holliday	S- 831227-123	HOR	20,000.00
<hr/>				
Lentfer, Jack	Valkama, Ralph	S- 840105-001	HOR	3,200.00
Perry, Michael	Jones/Snowden	S- 840105-002	HOR	500.00
Murphy, John	Gaughan/Gaughan	S- 840105-003	HOR	1,000.00
Holderman, David	Jacobs/Coffey	S- 840105-004	HOR	1,000.00

Sparaga, John.	Lastufka/Houston	S- 840105-005	HOR	21,000.00
Smith, William	Priest, Jan	S- 840105-007	HOR	1,000.00
Halle, Louis	Hulce, Violet	S- 840105-008	HOR	10,000.00
Lawyers Title Ins.	Buss, Michael	S- 840105-009	HOR	10,000.00
Godfrey, John	Harold Johnsen	S- 840105-010	HOR	10,000.00
Chotiner, Andrew	Kinneen, Peter	S- 840105-011	HOR	10,000.00
Painter, Michael	Blanchard, Ralph	S- 840105-012	HOR	1,867.00
Burton, Mark	Grundeland, Roy	S- 840105-013	HOR	435.00
Engelke/Scaletta	Schoultz, Rita Jo	S- 840106-014	HOR	10,000.00
Mabey, Raymond	Lilliebjerg, J	S- 840106-015	HOR	10,000.00
Throne, Homer	Ward, Thomas	S- 840111-016	HOR	3,300.00
Michael/Black	Peterson, Mary	S- 840111-017	HOR	10,000.00
Williams, Gary	Divens/Thorson	S- 840117-019	HOR	10,000.00
Upton, Herbert	Palma, Vince	S- 840201-020	HOR	10,000.00
JRK Construction	Cullip, Dale	S- 840201-021	HOR	3,000.00
Dillion, Thomas	Yoshimura, Connie	S- 840201-022	HOR	10,000.00
Craig, Earl	Backus, Donna	S- 840201-025	HOR	605.00
Mullaly, William	Palmer, Lou	S- 840201-028	HOR	10,000.00
Hickle, James	Burns, Helen	S- 840201-029	HOR	10,000.00
Banning, Roger	Burns, John	S- 840210-030	HOR	8,405.00
Dorsher, Roseileen	DiBene, John	S- 840210-031	HOR	629.38
Thompson, Beverly	Augestad, Al	S- 840215-032	HOR	1,000.00
Mullaly, William	Lipson, Ann	S- 840215-033	HOR	4,925.00
Shelley, George	Kruger/Geraci	S- 840215-034	HOR	400.00

WITHDRAWN

Walter Green	Marlene Mungle	S- 810928-003	Withdrawn	917.74	
Rhonda Sleighter	Lars Ekstrand	S- 810200-012	Withdrawn	10,000.00	
James Cone	Walter Bolling	S- 810200-014	Withdrawn	10,000.00	
Lilly Lake	Jerry Woodworth	S- 810400-022	Withdrawn (3)		
Clyde Munn	Jim Ford	S- 810400-023	Withdrawn	10,000.00	
Frank Dahl	Richard Black	S- 810500-026	Withdrawn	10,000.00	
John Wreggit	Clark Chasten	S- 810600-030	Withdrawn	10,000.00	
Roberta Chevalier	Michael George	S- 811202-043	Withdrawn	10,000.00	
Brad Acord	Glen Wilcox	S- 811203-045	Withdrawn	10,000.00	
Lewis Olson	Matt Matthews	S- 811222-050	Withdrawn	631.50	
Lynn Wegener	Bob Conte	S- 820225-012	Withdrawn	99.13	
Leana Culley	Kurt Knecht	S- 820301-014	EJ-05/82	1,245.00	534.00
Maryalyce Sagen	James Arnold	S- 820414-026	Withdrawn	1,000.00	
Charles Wehner	Rita Jo Shoultz	S- 820426-030	Withdrawn	1,000.00	
Donald Sanders	Eleanor Parker	S- 820628-045	Withdrawn	500.00	
Neil Murakami	Nadene Thorne	S- 820712-052	BS-09/82	6,874.00	
Jerrold Larson	Mary Psenak	S- 820719-055	Withdrawn	429.00	56.82
Jean Case;M. Andrew	Bob Monson	S- 820805-061	Withdrawn	1,300.00	190.30
Michael Setzer	Everett Honegger	S- 820816-064	Withdrawn	6,062.88	273.95
John Whitford	Jack Daley	S- 820902-068	Withdrawn	1,000.00	114.00
Lavorne Brunson	Pat Craig	S- 821122-081	DIS-01/84	1,000.00	
Charles Biastoch	Mary Bunes	S- 821202-084	Withdrawn	819.00	
Stacey Lawrence	Bruce Crawford	S- 821208-088	Withdrawn	1,000.00	
Paul Swenning	Carl Wallace	S- 830103-002	KV-03/83	10,000.00	

Alaska USA FCU	Clark Chasten	S- 830208-015	Withdrawn	1,000.00	
Joyce Story	Virginia Kohfield	S- 830323-029	PW-11/83	10,000.00	
Noreeta Clark	Ann Lipson	S- 830419-036	JK-07/83	10,000.00	56.25
Griggs, Robert	Mack/Sleeper	S- 831020-102	HOR	10,000.00	

134,878.25## 1,225.32##

Total Undecided	901,657.39	58.2%
Paid, Unrecovered	124,974.24	8.1%
Paid, Recovered	29,025.00	1.9%
Approved/Unpaid	10,500.00	.7%
PD-Approved	18,012.00	1.2%
Denied	317,898.97	20.5%
PD-Denied	11,000.00	.7%
Withdrawn	134,878.25	8.7%
Appealed	<u>(10)</u>	<u> </u>
Total Decided	<u>646,288.46</u>	<u>41.8%</u>
Total Filed	<u>1,547,945.85</u>	<u>100.0%</u>

- | | Hearing Officers |
|---|--|
| (1) Properly completed form not yet received. | |
| (2) Awaiting clarification of claim by claimant. | T Beebe P Nash |
| (3) Amount not stated. | H Gazaway D Pope |
| (4) PD-Approved: Proposed Decision-Approved. | P Grant R Preston |
| (5) HOR: Hearing Officer requested. | R Holl B Sherman |
| (6) PD-Denied: Proposed Decision-Denied. | E Johnson J Stanley |
| (7) Appealed. | J Katz K Vasser |
| (8) The Mulholland case, S-122881-049, though appealed, was not stayed, so payment was made. The Appeals Court reversed the decision of the Commission, and the award is not recoverable. | J Lohff P Wilcox
D Maloney |
| (9) The undecided total is the sum of the cases with Hearing Officers requested and those with notes 1,2,3, and 5. | |
| (10) The Aguirre-Peterson case, S-811204-046, was paid. Though it has | |

Letters to the editor

Real estate sales legislation

Dear Editor:

As a former public member of the Alaska Real Estate Commission (1976-82), I am concerned about changes being proposed to the laws governing the Real Estate Surety Fund.

On April 3, the House Labor Committee held a teleconference hearing on HB-705, "an act relating to the real estate surety fund." This bill will make substantial changes to the process used to reimburse individuals who are damaged monetarily in a real estate sales transaction when a licensee is involved.

The bill will also change the law so that an individual will only be able to claim damages if the loss is due to intentional misrepresentation. At present the licensee is held responsible even if the misrepresentation is unintentional.

Also, an individual will have to get a judgment in court before a claim against the surety fund can be filed. At present an administrative hearing is required. These are major changes to the law that should have a great deal of public discussion before they are enacted.

I was surprised and then shocked by the action of the House Labor Committee on this bill. It was introduced by the committee on March 28. Eight days later the committee held a teleconference hearing and at the end of the hearing passed the bill from the committee. I understand that it was a unanimous do-pass by the members of the committee present.

Other than the testimony by Elizabeth Johnson, an attorney who has conducted many of the administrative hearings on surety fund claims, the most distinguishing feature of the hearing was what I would describe as the committee's lack of understanding of the bill. I think this will be supported by the report of the hearing if one is prepared.

During the hearing several of the committee members asked that those testifying provide them with written comments so that they could better under-

stand the relations between the comments and the bill. Their action in passing the bill out of the committee with a do-pass recommendation makes these requests ludicrous.

Why was the bill moved so fast? The following is my guess. The language in the bill was developed by the Alaska Association of Realtors. I understand that it was first presented to the state Real Estate Commission for consideration at its last meeting.

I was also told by a current public member on the commission that the commission decided to study the proposal and determine what action it would take on the proposal at the next meeting. This is not an unusual action for the commission.

The proposal next surfaced as HB-705 and a companion bill in the Senate. However before this happened the state Realtors association held its annual cocktail party for legislators in Juneau.

I have seen no problem with the Labor Committee's introduction of HB-705. I also see no problem with the legislators attending the Realtors' annual cocktail party. Realtors are constituents and deserve no less. However, I am shocked that a bill with such potential impact on the public would be moved from the committee with so little regard for public input.

The record will show that of the persons in attendance at the teleconference hearing (persons attended at Fairbanks, Homer and Anchorage), less than 10 per-

cent were not real estate licensees. The hearing was scheduled so fast that it was not even listed on the weekly list of hearings mailed out by the Legislative Affairs office.

Why is the association so interested in getting HB-705 passed? Testimony at the hearing indicated that they think that the surety fund is paying out too many claims under the present system. A comparison was made between the claims paid by the California fund and our fund to emphasize this. They feel that the hearing office is responsible for this.

This is also ludicrous since the hearing office presents findings to the commission (five real estate brokers and two public members) who can adopt, change or reject the findings. Also, so far less than 30 percent of the claims filed against the fund have been paid. The present process gets the job done in less than six months. If HB-705 passes the process will go back to the civil courts and have to compete with other matters on the court calendar.

These proposed changes have the potential of affecting every person who buys or sells real estate in Alaska. It should have much more public discussion. I would also suggest that it is important enough for the state real estate commission to hold a special meeting to hold a public hearing on the changes.

Frank Austin
3839 Apollo Drive

Quotes

"Even if sometimes peace-loving rhetoric is heard from Washington, it is impossible, however hard one tries, to discern behind it any whatsoever signs of readiness to back up these words with practical deeds. In other words, the introduction of new words does not mean a new policy."

— Soviet leader Konstantin J. Chernenko, in a statement in today's Pravda.

"An outstanding man in his time. He contributed tremendously to this state and the world."

— Former Idaho Gov. Cecil Andrus, speaking of former Sen. Frank Church, D-Idaho, who died Saturday.

Offered: 3/26/84
Referred: Labor & Commerce
and Finance

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2

HOUSE BILL NO. 705

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the real estate surety fund."

7

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

8

* Section 1. AS 08.88.455(a) is amended to read:

9

(a) A licensed real estate broker, [OR] associate broker, or

10

salesman when obtaining or renewing a real estate license, in lieu of

11

obtaining a corporate surety bond, shall pay to the commission in

12

addition to the license fee, a surety fund [BOND] fee not to exceed

13

\$125 [, AND A LICENSED SALESMAN, WHEN OBTAINING OR RENEWING A LICENSE,

14

IN LIEU OF OBTAINING A CORPORATE SURETY BOND, SHALL PAY TO THE COMMIS-

15

SION IN ADDITION TO THE LICENSE FEE, A BOND FEE NOT TO EXCEED \$40].

16

After the fund reaches \$250,000 the commission shall by regulation

17

adjust the bond fees so that, taking into account anticipated expendi-

18

tures for claims against the fund and real estate educational pur-

19

poses, the fund is maintained at a level not less than \$250,000.

20

* Sec. 2. AS 08.88.460 is repealed and reenacted to read:

21

Sec. 08.88.460. CLAIM FOR PAYMENT. (a) A person who obtains a

22

final judgment in a court of competent jurisdiction against a person

23

licensed under this chapter, based on fraud, deceit, intentional

24

misrepresentation, or conversion of trust funds directly arising from

25

a transaction for which the judgment debtor is required to be licensed

26

under this chapter, may file an application in the court that enters

27

the judgment for an order directing payment out of the real estate

28

surety fund of an amount equal to the actual loss in the transaction

29

up to \$10,000 of the amount unpaid on the judgment.

1 (b) If a judgment under (a) of this section is a small claims
2 judgment, the judgment creditor shall file the surety fund application
3 in the district court in which the judgment was entered. That court
4 shall then make written findings to determine whether or not the small
5 claims judgment is based on facts that support a recovery under this
6 section. On a favorable determination the court may enter an order
7 directing payment of the small claims judgment from the real estate
8 surety fund.

9 (c) A copy of the application required by this section shall be
10 served on the commission and the judgment debtor by the judgment
11 creditor and proof of service shall be filed with the court.

12 (d) This section does not authorize payment from the real estate
13 surety fund based on a transaction or event involving only innocent
14 misrepresentation on the part of a real estate licensee.

15 (e) An application for payment from the real estate surety fund
16 must be made within one year after the date that the judgment becomes
17 final.

18 * Sec. 3. AS 08.88.465 is repealed and reenacted to read:

19 Sec. 08.88.465. HEARING ON APPLICATION. (a) The court shall
20 conduct a hearing on an application filed under AS 08.88.460 within 30
21 days after service of the application on the commission. If the
22 commission petitions the court and shows good cause, the court may
23 continue the hearing.

24 (b) At a hearing conducted under this section the applicant is
25 required to show that the applicant

26 (1) is not the spouse of the judgment debtor, or the
27 personal representative or agent of the spouse of the debtor;

28 (2) has complied with the requirements of AS 08.88.450 -
29 08.88.500;

1 (3) has obtained a judgment under AS 08.88.460, stating the
2 amount of the judgment and the amount owed on the judgment on the date
3 of the hearing;

4 (4) has made a reasonable attempt to determine whether or
5 not the judgment debtor has assets that may be used to satisfy the
6 judgment;

7 (5) has either been unable to locate assets of the judgment
8 debtor that may be used to satisfy the judgment, or has located assets
9 and has taken the necessary action to apply the assets to the
10 judgment, but the amount realized is not sufficient to satisfy the
11 judgment, stating the amount realized and the outstanding balance on
12 the judgment; and

13 (6) has diligently pursued other remedies against the
14 judgment debtor and anyone else who is liable in the transaction for
15 which recovery from the real estate surety fund is sought.

16 * Sec. 4. AS 08.88.470 is repealed and reenacted to read:

17 Sec. 08.88.470. FINDINGS OF THE COURT AND ADDITIONAL PROOF. (a)
18 When a court considers an application under AS 08.88.460 it may not
19 order payment out of the real estate surety fund unless a determina-
20 tion is made that the applicant has a valid claim under AS 08.88.460
21 and has complied with AS 08.88.465(b).

22 (b) If the judgment in favor of the applicant was obtained by
23 default, stipulation, or consent, or if the action was defended by a
24 trustee in bankruptcy, the applicant shall produce sufficient evidence
25 in the hearing on the application to prove that the cause of action
26 against the licensee was for fraud, intentional misrepresentation,
27 deceit, or conversion of trust funds.

28 * Sec. 5. AS 08.88 is amended by adding a new section to read:

29 Sec. 08.88.471. MOTION TO DISMISS APPLICATION. The commission

1 may move the court to dismiss the application if it appears that the
2 petition is without merit. A motion made under this subsection may be
3 supported by affidavits. The commission shall give written notice to
4 the applicant at least 10 days before a hearing on a motion made under
5 this section.

6 * Sec. 6. AS 08.88 is amended by adding new sections to read:

7 Sec. 08.88.473. ORDER DIRECTING PAYMENT OUT OF FUND. If a court
8 finds after the hearing required by AS 08.88.465 that the real estate
9 surety fund should pay the claim, it shall enter an order directing
10 the commission to pay the claim from the real estate surety fund
11 subject to the limitations contained in AS 08.88.450 - 08.88.500.

12 Sec. 08.88.474. PRORATION OF AWARD. If a judgment under AS 08.-
13 88.460 is against more than one person licensed under this chapter and
14 the court does not prorate the judgment among the judgment debtors,
15 the commission shall prorate the award among the judgment debtors.

16 * Sec. 7. AS 08.88.475(b) is repealed and reenacted to read:

17 (b) The liability of the real estate surety fund does not exceed
18 \$10,000 for one transaction, regardless of the number of persons
19 injured, the number of licensees involved, or the number of parcels of
20 real estate involved in the transaction.

21 * Sec. 8. AS 08.88.490 is amended to read:

22 Sec. 08.88.490. RIGHT TO SUBROGATION. When the commission has
23 paid a judgment creditor [TO A CLAIMANT] from the real estate surety
24 fund [THE SUM AWARDED BY THE COMMISSION,] the commission shall be
25 subrogated to all of the rights of the judgment creditor [CLAIMANT] to
26 the amount paid and the judgment creditor [CLAIMANT] shall assign all
27 right, title and interest in that portion of the judgment [CLAIM] to
28 the commission. Amounts subsequently realized by the commission on
29 the judgment [CLAIM] shall be deposited to the real estate surety

1 fund.

2 * Sec. 9. AS 08.88.495 is repealed and reenacted to read:

3 Sec. 08.88.495. DISCIPLINARY ACTION AGAINST BROKERS AND SALES-
4 MEN. The provisions of AS 08.88.450 - 08.88.500 do not limit the
5 authority of the commission to take disciplinary action against a
6 licensee for a violation of the provisions of this chapter or of a
7 regulation adopted by the commission. Repayment in full of all obli-
8 gations to the real estate surety fund does not nullify or modify the
9 effect of a disciplinary proceeding brought under the provisions of
10 this chapter.

11 * Sec. 10. AS 08.88.500 is amended to read:

12 Sec. 08.88.500. DEFINITIONS [DEFINITION]. In this chapter,

13 (1) "commission" means the Real Estate Commission estab-
14 lished under this chapter;

15 (2) "final judgment" means a judgment that is not subject
16 to further judicial review.

17 * Sec. 11. AS 08.88.472 is repealed.

Original sponsor: Rules/Legislative Budget
and Audit Committee

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 707 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to lobbying; and providing for an
7 effective date."

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

9 * Section 1. AS 24.45.121(a) is amended to read:

10 (a) A [NO] lobbyist may not

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16 (3) intentionally deceive or attempt to deceive any public
17 official with regard to any material fact pertinent to pending or
18 proposed legislative or administrative action;

19 (4) cause or influence the introduction of a legislative
20 measure for the purpose of thereafter being employed to secure its
21 defeat;

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23 in the name of any fictitious person or in the name of any real per-
24 son, except with the consent of that person;

25 (6) accept or agree to accept any payment in any way con-
26 tingent upon the defeat, enactment or outcome of any proposed legisla-
27 tive or administrative action;

28 (7) serve as a member of a board, commission, or other
29 public body of the state or of a municipality if the lobbyist's

1 employer may be economically affected by a decision of that public
2 body.

3 * Sec. 2. AS 37.05 is amended by adding a new section to read:

4 Sec. 37.05.320. RESTRICTION ON USE. A grant or earnings from a
5 grant made under AS 37.05.315 - 37.05.317 may not be used for the
6 purpose of influencing legislative action. In this section "influenc-
7 ing legislative action" has the meaning given in AS 24.45.171.

8 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
9 10.070(c).

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CS HB 707(FIN)
Title: Relating to lobbying

FISCAL DETAIL

Agency Affected: ALL
Program Category Affected: _____

Sponsor: LB&A
Requestor: House Finance
Date of Request: 4/5/84

BRIJ, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

~~SOURCE OF FUNDS TO BE USED FROM GENERAL FUND~~

CS HB 707(FIN) has no fiscal impact.

ANALYSIS: Attach a separate page for analysis

Prepared By: Rep. Al Adams, Chair ^{APA} Phone: 465-3706
Division: House Finance Committee Date: 4/5/84

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

State of Alaska

211 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
907-452-3421
907-452-3471



ROOM 500, CAPITOL BUILDING
POUCH V.
JUNEAU, ALASKA 99811
907-465-4984

LEGISLATIVE BUDGET & AUDIT COMMITTEE
REP. ROBERT BETTISWORTH, CHAIRMAN

MEMORANDUM:

TO: HOUSE FINANCE COMMITTEE

FROM: REP. BOB BETTISWORTH

DATE: APRIL 5, 1984

RE: CSHB 707 "AN ACT RELATING TO LOBBYING; AND PROVIDING FOR AN EFFECTIVE DATE."

CSHB 707 would amend AS 24.45.121 (a) to prohibit a lobbyist from serving on a board, commission or other public body of the state or of a municipality if the lobbyist's employer may be economically affected by a decision of that public body.

The bill would also prohibit grant recipients from using interest from grant funds for lobbying. Interest is often earned on grant funds between the time the funds are received and the time the funds are spent on the specific purpose indicated in the grant appropriation.

In several cases, which were revealed by our Division of Legislative Audit, grant recipients have used interest earned on grant funds for lobby efforts. Excerpts from several of these audits are attached.

Recommendation No. 4 - (To DCED)

DCED should further define the appropriate use of income generated by the interest on aquaculture association reserve accounts.

In FY'83 NSRAA paid Dawson & Associates \$13,749 for services that, in part, included lobbying the Alaska State Legislature. NSRAA's executive director said the payments were made out of the association's unrestricted income from reserve account interest.

According to 3 AAC 89.040 aquaculture associations may budget a reserve account in which they can deposit any

Fisheries Enhancement Tax appropriations they receive in excess of what they need to operate. Essentially, this provision allows them to save these funds in an interest bearing account jointly controlled by DCED and the association.

Currently, 3 AAC 89.040(c) allows interest earned by money held in the reserve account to be treated as "unrestricted income". NSRAA has interpreted this regulation to mean that interest proceeds are not subject to the standard restrictions attached to State contracts. Major standard restrictions include prohibitions against using State funds to lobby or contribute to political campaigns.

Better definition of the "unrestricted income" or more specific policy directives by DCED would help associations avoid using State funds for prohibited expenditures.

from

A SPECIAL REPORT ON THE
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DEPARTMENT OF FISH AND GAME
AND NORTHERN SOUTHEAST REGIONAL AQUACULTURE ASSOCIATION

September 30, 1983

Audit Control Number

08-11-4176-83-S

Recommendation No. 3

CDVSA should develop a policy to advise grantees on the appropriate disposition of income generated by the investment of State grant funds.

Three of the grantees visited in the course of the audit were able to generate adequate cash flow to allow investment of CDVSA grant proceeds prior to their expenditure. In each case, the grantee retained whatever income was generated by these investments for use on non-grant activities.

It is a prudent act on the part of the grantee to invest excess cash until it is needed. However, CDVSA should adopt a policy which specifies that grantees use investment proceeds only for activities that are within the purview of the original grant conditions.

With the current lack of policy, it is possible that income generated by State fund investment could be used to make contributions for political causes or to pay for lobbying expenses. Development of such a policy would help grantees avoid suggestions that they are using State funds for prohibited expenditures.

from

A SPECIAL REVIEW OF THE
DEPARTMENT OF PUBLIC SAFETY
COUNCIL ON DOMESTIC VIOLENCE
AND SEXUAL ASSAULT

March 31, 1982

Audit Control Number

12-092-0066-S

AUDITOR'S NOTE

AS 37.05.315 requires DOA to advance twenty percent of a municipal grant to a municipality within ten days after execution of a grant agreement. Interest earned on those monies not needed for cash flow purposes are often expended for purposes other than as specified in the grants. The law is silent on whether interest earned on grant monies should be spent only for projects specified by grant agreements.

from

A SPECIAL REPORT ON THE
DEPARTMENT OF ADMINISTRATION
CITY OF VALDEZ MUNICIPAL GRANT

For the Period
August 4, 1980 - December 16, 1982

Audit Control Number

02-4154-83-S

SPECIAL PROJECTS - A PREVENTION ACTIVITY

One of the grantees funded by SOADA to promote preventative measures discussed in the previous section is the Alaska Council on the Prevention of Alcoholism and Drug Abuse (ACPADA).

With FY'82 State grants totaling \$1,214,000, ACPADA has initiated projects aimed at all three points of the PHM. One project of ACPADA is the Special Projects program which promotes social policy aimed at reducing the availability of liquor (the agent as discussed in SOADA Operating Philosophy and Approach section). The intent of the Special Projects program is to advocate what is termed community moderation measures such as the promotion of ballot measures to reduce bar hours, which have been voted on recently in several of Alaska's larger communities.

This Special Projects program has been initiated and implemented by Howard Scaman, an independent contractor to ACPADA. Mr. Scaman provides organizational expertise and technical assistance to community organizations promoting the restriction of alcohol availability. As a recipient of SOADA funding, he has been quite active in the larger communities of the State promoting the shortening of bar hours and other moderation measures. To some, this has been interpreted as State-assisted interference in local matters. However, under the agency's interpretation of its statute and the State Supreme Court's decision, SOADA feels that this is a mandated, logical, and necessary function (As discussed in the previous section).

Mr. Scaman is also a leading member of the Alcohol and Drug Abuse Association of Alaska (ADAAA). This organization is an association open to membership for all individuals in the alcoholism and drug abuse field. Dues are set at \$10.00 per year, and SOADA has authorized the payment of these dues for grantee employees with State grant funds. The ADAAA has also established a Political Action Committee (PAC) which is funded entirely with donations from individuals. Through this PAC, Howard Scaman was listed as a non-compensated representational lobbyist for ADAAA in FY'82.

In our review we found Mr. Scaman was well aware of the ramifications of using State funds for lobbying activities, and has gone to great lengths to properly separate and document that separation of State-supported ADAAA funds from donated PAC funds.

from Special Performance Report
on SOADA
July 1981 - December 1982

SILVER ANNIVERSARY COMMISSION
ALASKA 1984
EXPENDITURES REPORTED UNDER \$200,000 CONTRACT WITH
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

<u>Vendor/Payee</u>	<u>Date</u>	<u>Amount</u>	<u>Description and Comments</u>
<u>Travel, Hotel and Promotion (cont'd)</u>			
Professional Travel Service	06/16/81	\$ 286.00	Anc/Jnu/Anc Clark Gruening
Professional Travel Service	06/01/81	125.00	Charter flight--prepayment
Professional Travel Service	06/15/81	286.00	Anc/Jnu/Anc Dick Angell
Sheraton-Anchorage	10/09/81	19,341.98	Rooms for preview guests and presentation room
Rust's Flying Service	10/06/81	2,130.00	Statement--May-June 1981
Captain Cook Hotel	10/06/81	1,626.31	Various room charges, 02/05/81-06/07/81
Richard Angell (Note 1)	10/06/81	250.00	Travel advance to AVA Conference
<u>Total Travel, Hotel and Promotion Submitted</u>		50,996.99	
		(17,141.45)	Unpaid Travel Invoices (Note 2)
<u>Expenditures Claimed by Alaska 1984</u>		\$ 33,855.54	
<u>Contractual Services</u>			
Sam Kito Jr. & Associates	10/12/81	\$ 46,498.07	Payment per Contract <i>at one time the Alaska '84 contract said service was</i>
Murray/Bradley, Inc.	10/06/81	25,672.11	Advertising services--May-June 1981 <i>100%</i>
Terry McWilliams	10/02/81	10,000.00	Coordination and development of State wide task forces--December 1980-March 1981
W. Saunders	10/09/81	4,093.84	Consultant fee and expenses
W. & Gruening	10/06/81	2,500.00	Consultant--Professional S...
<u>Actual</u>		\$ 88,764.00	

from

Members of the
Legislative Budget and Audit Committee:

Re: Silver Anniversary Commission and Alaska 1984

This letter report, Auditor's Opinion, and the attached schedules constitute our special review of the Silver Anniversary Commission and Alaska 1984.

Introduced: 3/27/84
Referred: Finance

BY THE RULES COMMITTEE
BY REQUEST OF THE LEGISLATIVE
BUDGET AND AUDIT COMMITTEE

1 IN THE HOUSE

2

HOUSE BILL NO. 707

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act prohibiting use of grant money for lobbying;

7

and providing for an effective date."

8

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

9

* Section 1. AS 37.05 is amended by adding a new section to read:

10

Sec. 37.05.320. RESTRICTION ON USE OF EARNINGS. Earnings from a

11

grant made under AS 37.05.315 - 37.05.325 may not be used for the

12

purpose of influencing legislative action. For purposes of this sec-

13

tion "influencing legislative action" has the meaning given in AS 24.-

14

45.171.

15

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-

16

10.070(c).

COMMITTEE REPORT

SENATE

FURTHER:

5/3/84

Date 5/19/84

Mr. President

The Committee on FINANCE considered CSHB 707 (Fin) am
lobbying; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt 5 CS for CS HB 707 (Finance)
- new title
- same title and recommends do pass
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature]
[Signature]
[Signature]
[Signature]
[Signature]

[Signature]
Chairman

Chairman recommendation

economically affected by a decision of that public body.

*Sec. 2. AS 37.05 is amended by adding a new section to read:

Sec. 37.05.321. RESTRICTION ON USE. A grant or earnings from a grant made under AS 37.05.315 - 37.05.317 may not be used for the purpose of influencing legislative action. In this section "influencing legislative action" means promoting, advocating, supporting, modifying, opposing, or delaying or seeking to do the same with respect to any legislative action but does not include the provision or use of information, statistics, studies, or analyses in written or oral form or format. A grant or earnings from a grant made under AS 37.05.315 - 37.05.317 may not be used for purposes of travel in connection with influencing legislative action unless pursuant to a specific request from a legislator or legislative committee.

*Sec. 3. This Act takes effect immediately in accordance with AS 01.10.070 (c).

SCS CSHB 707 (Fin)

Berrier
5/16/84 ✓

Original sponsor: Rules/Legislative Budget
and Audit Committee

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 707 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

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12 under AS 24.45.041;

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15 ist's [HIS] employer;

16 (3) intentionally deceive or attempt to deceive any public
17 official with regard to any material fact pertinent to pending or
18 proposed legislative or administrative action;

19 (4) cause or influence the introduction of a legislative
20 measure for the purpose of thereafter being employed to secure its
21 defeat;

22 (5) cause a communication to be sent to a public official
23 in the name of any fictitious person or in the name of any real per-
24 son, except with the consent of that person;

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7 modifying, opposing, or delaying or seeking to do the same with
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9 or use of information, statistics, studies, or analyses in written or
10 oral form or format.

11 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
12 10.070(c).

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

*Accompanied bill
into committee
5/3/84*

Revision Date: _____

REQUEST

Bill/Resolution No.: CS HB 707 (FIN)
Title: Relating to lobbying

FISCAL DETAIL

Agency Affected: ALL
Program Category Affected: _____

Sponsor: LR&A
Requestor: House Finance
Date of Request: 4/5/84

BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

~~SOURCE OF FUNDS TO EFFECT FISCAL IMPACT OF BILL~~

CS HB 707 (FIN) has no fiscal impact.

ANALYSIS: Attach a separate page for analysis

Prepared By: Rep. Al Adams, Chair *APA* Phone: 465-3706
Division: House Finance Committee Date: 4/5/84

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

CSHB 707 (Finance) am "An Act relating to lobbying; and providing for an effective date."

HOUSE

3-27-84 First Reading, original bill by the Rules Committee by request of the Legislative Budget and Audit Committee
Referred: Finance, Rules

4-13-84 Finance: CS04, NR03

4-27-84 Second Reading
Finance CS adopted by unanimous consent

4-30-84 Five amendments offered, none adopted
Action on one proposed amendment rescinded (Amendment No. 3)
Amendment No. 3 adopted (24-11-05)

Third Reading
Passed (27-07-06)
Notice of reconsideration given

5-01-84 Reconsideration not taken up

SENATE

5-03-84 First Reading
Referred: Finance, Rules

FISCAL NOTE: ZERO

SUMMARY OF CSHB 707 (Finance) am

In its current form, the bill would prohibit lobbyists from serving on any board, commission, or other public body of the state.

In addition, the bill would prohibit grants and earnings from grants made to municipalities, named recipients, and unincorporated communities from being used to "influence legislative action."*

The act would take effect immediately.

*"Legislative action" is defined under AS 24.45.171 as the "preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, defeat or rejection of any bill, resolution, amendment, motion, report, nomination, appointment or other matter by the legislature, or by a standing, interim or special committee of the legislature acting in his official capacity; it includes, but is not limited to, the action of the governor in approving or vetoing a bill or the action of the legislature in considering, overriding or sustaining that veto and the action of the legislature in considering, confirming or rejecting an executive appointment of the governor;...."

SENATE FINANCE CS

Before HB 707 was amended on the floor of the House, it prohibited a lobbyist from serving "...as a member of a board, commission, or other public body of the state or of a municipality if the lobbyist's employer might be economically affected by a decision of that of that public body."

The House proposed five amendments to the bill. The only amendment that passed was to remove the restriction on lobbyists to serve on boards and committees of municipalities. When they removed this restriction, they also removed the phrase "...if the lobbyist's employer may be economically affected by a decision of that public body."

The Senate Finance CS adds that phrase back into the bill. It is unnecessary to prohibit lobbyists from serving on boards or committees having nothing to do with their source of income.

May 14, 1984

Original sponsor: Rules/Legislative Budget
and Audit Committee

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 707 (Finance)

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State of Alaska

211 CUSHMAN STREET
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ROOM 500, CAPITOL BUILDING
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907-465-4984

LEGISLATIVE BUDGET & AUDIT COMMITTEE
REP. ROBERT BETTISWORTH, CHAIRMAN

MEMORANDUM:

TO: HOUSE FINANCE COMMITTEE

FROM: REP. BOB BETTISWORTH

DATE: APRIL 5, 1984

RE: CSHB 707 "AN ACT RELATING TO LOBBYING; AND PROVIDING FOR AN EFFECTIVE DATE."

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In several cases, which were revealed by our Division of Legislative Audit, grant recipients have used interest earned on grant funds for lobby efforts. Excerpts from several of these audits are attached.

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DEPARTMENT OF FISH AND GAME
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September 30, 1983

Audit Control Number

08-11-4176-83-S

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A SPECIAL REVIEW OF THE
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COUNCIL ON DOMESTIC VIOLENCE
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March 31, 1982

Audit Control Number

12-092-0066-S

AUDITOR'S NOTE

AS 37.05.315 requires DOA to advance twenty percent of a municipal grant to a municipality within ten days after execution of a grant agreement. Interest earned on those monies not needed for cash flow purposes are often expended for purposes other than as specified in the grants. The law is silent on whether interest earned on grant monies should be spent only for projects specified by grant agreements.

from

A SPECIAL REPORT ON THE
DEPARTMENT OF ADMINISTRATION
CITY OF VALDEZ MUNICIPAL GRANT

For the Period
August 4, 1980 - December 16, 1982

Audit Control Number

02-4154-83-S

SPECIAL PROJECTS - A PREVENTION ACTIVITY

One of the grantees funded by SOADA to promote preventative measures discussed in the previous section is the Alaska Council on the Prevention of Alcoholism and Drug Abuse (ACPADA).

With FY'82 State grants totaling \$1,214,000, ACPADA has initiated projects aimed at all three points of the PHM. One project of ACPADA is the Special Projects program which promotes social policy aimed at reducing the availability of liquor (the agent as discussed in SOADA Operating Philosophy and Approach section). The intent of the Special Projects program is to advocate what is termed community moderation measures such as the promotion of ballot measures to reduce bar hours, which have been voted on recently in several of Alaska's larger communities.

This Special Projects program has been initiated and implemented by Howard Scaman, an independent contractor to ACPADA. Mr. Scaman provides organizational expertise and technical assistance to community organizations promoting the restriction of alcohol availability. As a recipient of SOADA funding, he has been quite active in the larger communities of the State promoting the shortening of bar hours and other moderation measures. To some, this has been interpreted as State-assisted interference in local matters. However, under the agency's interpretation of its statute and the State Supreme Court's decision, SOADA feels that this is a mandated, logical, and necessary function (As discussed in the previous section).

Mr. Scaman is also a leading member of the Alcohol and Drug Abuse Association of Alaska (ADAAA). This organization is an association open to membership for all individuals in the alcoholism and drug abuse field. Dues are set at \$10.00 per year, and SOADA has authorized the payment of these dues for grantee employees with State grant funds. The ADAAA has also established a Political Action Committee (PAC) which is funded entirely with donations from individuals. Through this PAC, Howard Scaman was listed as a non-compensated representational lobbyist for ADAAA in FY'82.

In our review we found Mr. Scaman was well aware of the ramifications of using State funds for lobbying activities, and has gone to great lengths to properly separate and document that separation of State-supported ADAAA funds from donated PAC funds.

from Special Performance Report
on SOADA
July 1981 - December 1982

SILVER ANNIVERSARY COMMISSION
ALASKA 1984
EXPENDITURES REPORTED UNDER \$200,000 CONTRACT WITH
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

<u>Vendor/Payee</u>	<u>Date</u>	<u>Amount</u>	<u>Description and Comments</u>
<u>Travel, Hotel and Promotion (cont'd)</u>			
Professional Travel Service	06/16/81	\$ 286.00	Anc/Jnu/Anc Clark Gruening
Professional Travel Service	06/01/81	125.00	Charter flight--prepayment
Professional Travel Service	06/15/81	286.00	Anc/Jnu/Anc Dick Angell
Sheraton-Anchorage	10/09/81	19,341.98	Rooms for preview guests and presentation room
Rust's Flying Service	10/06/81	2,130.00	Statement--May-June 1981
Captain Cook Hotel	10/06/81	1,626.31	Various room charges, 02/05/81-06/07/81
Richard Angell (Note 1)	10/06/81	<u>250.00</u>	Travel advance to AVA Conference
<u>Total Travel, Hotel and Promotion Submitted</u>		<u>50,996.99</u>	
		<u>(17,141.45)</u>	Unpaid Travel Invoices (Note 2)
<u>Expenditures Claimed by Alaska 1984</u>		<u>\$ 33,855.54</u>	
<u>Contractual Services</u>			
Sam Kito Jr. & Associates	10/12/81	\$ 46,498.07	Payment per Contract <i>of one time the Alaska '84 contractor said service w/</i>
Murray/Bradley, Inc.	10/06/81	25,672.11	Advertising services--May-June 1981 <i>1066.</i>
Terry McWilliams	10/02/81	10,000.00	Coordination and development of State wide task forces--December 1980-March 1981
W. Saunders & Gruening	10/09/81	4,093.84	Consultant fee and expenses
	10/06/81	<u>2,500.00</u>	Consultant--Professional Ser
<u>Actual</u>		<u>\$ 88,764.00</u>	

from

Members of the
Legislative Budget and Audit Committee:

Re: Silver Anniversary Commission and Alaska 1984

This letter report, Auditor's Opinion, and the attached schedules constitute our special review of the Silver Anniversary Commission and Alaska 1984.

Offered: 4/13/84
Referred: Rules

Original sponsor: Rules/Legislative Budget
and Audit Committee

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2

CS FOR HOUSE BILL NO. 707 (Finance) am

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to lobbying; and providing for an
effective date."

7

8

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

9

* Section 1. AS 24.45.121(a) is amended to read:

10

(a) A [NO] lobbyist may not

11

(1) engage in any activity as a lobbyist before registering

12

under AS 24.45.041;

13

(2) do anything with the intent of placing a public offi-

14

cial under personal obligation to the lobbyist [HIM] or to the lobby-

15

ist's [HIS] employer;

16

(3) intentionally deceive or attempt to deceive any public

17

official with regard to any material fact pertinent to pending or

18

proposed legislative or administrative action;

19

(4) cause or influence the introduction of a legislative

20

measure for the purpose of thereafter being employed to secure its

21

defeat;

22

(5) cause a communication to be sent to a public official

23

in the name of any fictitious person or in the name of any real per-

24

son, except with the consent of that person;

25

(6) accept or agree to accept any payment in any way con-

26

tingent upon the defeat, enactment or outcome of any proposed legisla-

27

tive or administrative action;

28

(7) serve as a member of a board, commission, or other

29

public body of the state.

1 * Sec. 2. AS 37.05 is amended by adding a new section to read:

2 Sec. 37.05.320. RESTRICTION ON USE. A grant or earnings from a
3 grant made under AS 37.05.315 - 37.05.317 may not be used for the
4 purpose of influencing legislative action. In this section "influenc-
5 ing legislative action" has the meaning given in AS 24.45.171.

6 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
7 10.070(c).

Original sponsor: Community and Regional
Affairs Committee

Funding Information
General Fund \$100,000
Other Funds -0-
\$100,000

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 710 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation for payment as
7 a grant to Alaska Special Olympics, Inc.; and provid-
8 ing for an effective date."

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

10 * Section 1. The sum of \$100,000 is appropriated from the general fund
11 to the Department of Community and Regional Affairs for payment as a grant
12 to Alaska Special Olympics, Inc., for athletic activities and to assist in
13 paying for administrative overhead costs for fiscal year 1985.

14 * Sec. 2. The appropriation made by this Act shall be disbursed in
15 accordance with AS 37.05.316.

16 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
17 10.070(c)



ALASKA SPECIAL OLYMPICS

Post Office Box 6955
Anchorage, Alaska 99502
(907) 277-2242

March 20, 1984

Ms. Shirley Dreas
House Community & Regional Affairs
Pouch V
Juneau, Alaska 99811

Dear Ms. Dreas:

Enclosed is the program perspective on Alaska Special Olympics, Inc. that you requested. We understand that this document will be used to introduce Alaska Special Olympics, Inc.'s request for grant funds for fiscal 1985.

We are requesting \$100,000 to support athlete activities and assist in covering a portion of the administrative overhead.

We appreciate your time and attention to our request. Please contact me at 279-1411 if I can provide you with any further information.

Sincerely,

Tom Koecher
Vice President of the
Board of Directors

TK:ldr
Enclosures
Copy to Mr. Vern Sayles
President of the Board of Directors

ALASKA SPECIAL OLYMPICS, INC.

A PERSPECTIVE

Special Olympics, Inc.--Background

In 1968, The Joseph P. Kennedy, Jr. Foundation created the Special Olympics, Inc. to provide an athletic forum for the mentally handicapped. Since its inception the program has received international acceptance and is now the largest sports training and athletic competition program for mentally retarded children and adults in the world.

Sports and physical activity have been shown to be among the quickest and surest routes to health, growth and self-confidence for the mentally retarded. For years, the mentally retarded have been told "You can't do it." The Special Olympics program reaches out with a guiding force to say "You can do it. We'll give you the chance."

Alaska Special Olympics, Inc.--An Overview

The Alaska Chapter of Special Olympics, Inc. was created eleven years ago under the guidance and approval of the national office of Special Olympics, Inc. It was established to serve the mentally retarded citizens of Alaska through year-round sports training, conditioning, and athletic competition.

The Alaska Chapter currently serves 21 designated areas within the State and has over 400 registered athletes. This group is augmented by an equal number of voluntary coaches, trainers, and coordinators who plan, organize, and implement the year round training, area games, and the annual State Winter and Summer Games.

The Alaska Special Olympics, Inc. is directed by a voluntary board of directors whose background includes business, law, medicine, and education. The Board provides direction and management of all State and area programs.

Alaska Special Olympics, Inc. has a full time paid Executive Director who is responsible for the operations of the Special Olympics program throughout the State. The Executive Director acts as a liaison for the Board and national office. In addition, the Executive Director must coordinate efforts in each of the 21 state areas to ensure compliance with national standards for athlete training and competition as well as administration of Board policies.

Each designated area is managed by a volunteer Area Coordinator who sees to the development and training of the athletes and coaches of their respective areas. Additionally, the Area Coordinator is responsible for the management of all local games and the raising of funds for their local area.

Alaska Special Olympics, Inc. receives its financial support primarily from public contributions. As such, it relies on major fund raising events like the Special Olympics Mileage Event (S.O.M.E.) sponsored by the Alaska State Troopers. A special appropriation by the Alaska Legislature

through the Department of Community and Regional Affairs was awarded this past year to provide support for the State Winter and Summer Games.

Each designated area works to promote funding in its respective community. All funds collected by designated areas are expended on behalf of the athletes in that area.

Funds administered by the State Chapter are disbursed on behalf of all 21 areas. The majority of the funds administered by the State Chapter are used to provide transportation, food, and lodging for athletes, coaches, and coordinators at the Winter and Summer Games. Additionally, funds were expended to send 36 athletes and 13 coaches to the International Games this past July in New Orleans, Louisiana. The International Games occur once every four years and athletes are chosen based on their performance during the State Summer Games.

The involvement of the community in providing the bulk of Alaska Special Olympics funding is the underlying concept of the program. Community participation and funding makes Special Olympics a community experience and is vital to the athletes' development.

Nature of Expenditures

Administration of the Special Olympics program in Alaska is the responsibility of the Alaska Special Olympics Board of Directors. Funds earned or granted to the State program are spent on behalf of all state athletes and are not dedicated to one designated area.

To provide the necessary administration, the Board retains a full-time paid Executive Director. A part-time secretary is also necessary for proper administration of the areas.

Besides salaries and benefits for the paid positions, other administrative costs include office rent, communications, Executive Director travel, Alaska Special Olympics program promotion and necessary office supplies and equipment. The remaining State Chapter expenditures are used in direct support of athletic competition, athlete and coach travel and lodging, and to cover the expenses of various fund raising events.

Each designated area promotes fund raising in its respective community to meet the direct expenses of its area athletes. Area expenditures most frequently take the form of supplies, athletic equipment and until recently, athlete and coach travel and lodging expenses for State-wide games.

Application of Requested Funding

Alaska Special Olympics, Inc. is requesting a grant from the State of Alaska via the Department of Community and Regional Affairs for \$100,000. The requested funds would be applied as follows:

1. Hire a full-time program director/trainer.

2. Provide partial travel and lodging expenses for Alaska Special Olympic athletes and coaches attending the Special Olympics International Winter Games in March 1985 located in Park City, Utah.
3. Support the Alaska Special Olympics, Inc. Winter and Summer Games for 1984/85 and the State Special Olympics Bowling Tournament.
4. Cover administrative expenses associated with the International and State Winter and Summer Games and State Bowling Tournament.
5. Other expenses associated with program development to enhance athlete and community participation.

Alaska Special Olympics, Inc. has been requested by Special Olympics, Inc. to hire a full-time program director/trainer. The duties of the program director/trainer would include training of the athlete coaches in each designated area, ensuring that national Special Olympic standards for athlete training and competition are observed and that each athlete is qualified for the event for which he or she is being trained. Additionally, the program director/trainer would conduct clinics for coaches and area coordinators on new athlete training methods.

Extensive travel would be involved with the position due to the number of designated areas.

In March 1985, Special Olympics, Inc. will hold its International Winter Games in Park City, Utah. Alaska will be represented by a minimum of 35 athletes, coaches, and trainers. Although Alaska Special Olympics has in the past received reduced air fare rates from Alaskan air carriers, the cost of attending the International Games remains high. Grant funds would be used to supplement the contributions from the designated areas.

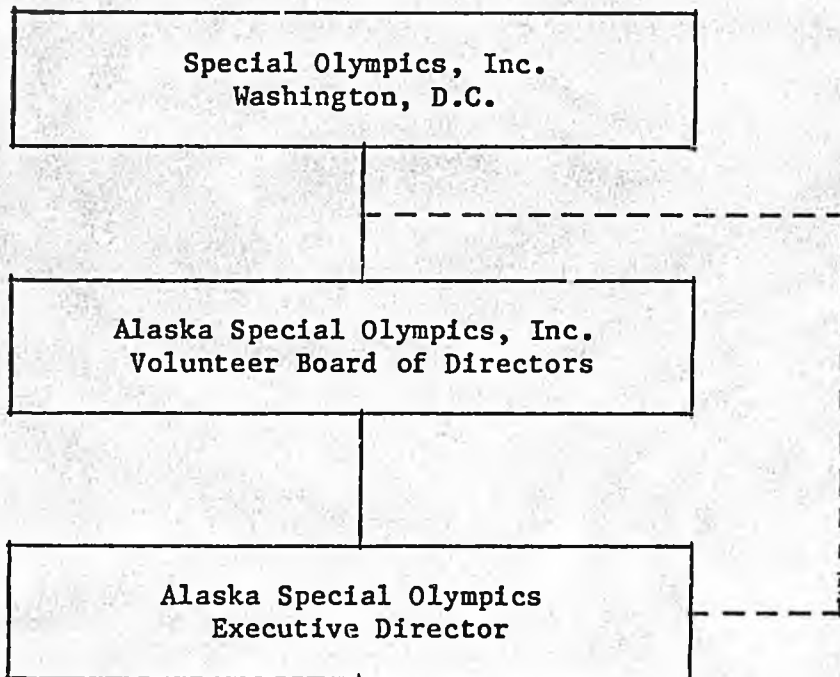
In fiscal 1984, Alaska Special Olympics, Inc. received a grant from the Department of Community and Regional Affairs to use in support of the State Winter and Summer Games and the State Bowling Tournament. Again, in 1985 we will hold these competitive events which are the single most important annual events for the area athletes. Promotion of these games within the communities is very important and costly. As more athletes are attracted to the Special Olympics program, the State Games increase in size and expense.

Alaska Special Olympics, Inc. has worked as efficiently as possible to keep its administrative costs low. Volunteers are in large part responsible for the low overhead cost of the program. But the Alaska program continues to grow in athletes and in designated areas. Additional office staff is needed to properly administer the day-to-day operations and interact with the areas.

Promotion of the Alaska Special Olympics, Inc. program is the responsibility of the State Chapter office. Additionally, support of designated area programs through informational brochures and radio and television public service announcements are provided by the State Chapter office. Grant dollars applied to administrative cost provide the needed capital for direct athlete support.

ALASKA SPECIAL OLYMPICS, INC.

ORGANIZATIONAL CHART



<u>Designated Areas</u>	<u>Athletes</u>
Anchorage	175
Bethel	14
Dillingham	3
Fairbanks	80
Glennallen	4
Homer	6
Juneau	11
Kake	1
Kenai	17
Ketchikan	12
Kodiak	12
Kuskokwim	8
Mat-Su	14
Nome	3
Northway	1
Seward	4
Sitka	7
Tok	1
Unalaska	1
Valdez	70
Yakutat	1
	<u>445</u>

ALASKA SPECIAL OLYMPICS, INC.

STATEMENT OF REVENUES AND EXPENSES

For the Twelve Months Ended September 30, 1983

	General Fund	S.O.M.E. 82/83	Sponsor an Athlete	Programs International Games	Other Games/ Programs	Total
<u>Revenues</u>						
Program revenues		\$107,225	\$3,080	\$37,149	\$19,340	\$166,794
Governor's Grant-1984	\$ 15,000					15,000
Restricted Donations	12,200					12,200
Other donations	32,419			1,745		34,164
TOTAL REVENUES	<u>59,619</u>	<u>107,225</u>	<u>3,080</u>	<u>38,894</u>	<u>19,340</u>	<u>228,158</u>
<u>Expenses</u>						
Salaries and benefits	42,825				7,522	50,347
Travel/lodging	7,786	11,991		38,231	6,474	64,482
Office rent	3,359					3,359
Insurance	2,536					2,536
Communications	2,739					2,739
Supplies	3,238					3,238
Program promotion	2,908	1,087		1,330	4,798	10,123
Program equipment and supplies	8,341	7,485	525	2,991	147	19,489
Other	648	441	164	3,353	1,243	5,849
Funds returned to designated areas	6,550	44,702				51,252
TOTAL EXPENSES	<u>80,930</u>	<u>65,706</u>	<u>689</u>	<u>45,905</u>	<u>20,184</u>	<u>213,414</u>
EXCESS (DEFICIT) OF REVENUES OVER EXPENSES	<u>\$(21,311)</u>	<u>\$ 41,519</u>	<u>\$2,391</u>	<u>\$(7,011)</u>	<u>\$ (844)</u>	<u>\$ 14,744</u>

Introduced: 3/29/84
Referred: Finance

Funding Information
General Fund \$100,000
Other Funds -0-
\$100,000

1 IN THE HOUSE

BY THE COMMUNITY AND REGIONAL
AFFAIRS COMMITTEE

2

HOUSE BILL NO. 710

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act making a special appropriation for payment as
7 a grant to Alaska Special Olympics, Inc.; and provid-
8 ing for an effective date."

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

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11 to the Department of Health and Social Services for payment as a grant to
12 Alaska Special Olympics, Inc., for athletic activities and to assist in
13 paying for administrative overhead costs for fiscal year 1985.

14 * Sec. 2. The appropriation made by this Act shall be disbursed in
15 accordance with AS 37.05.316.

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17 10.070(c)