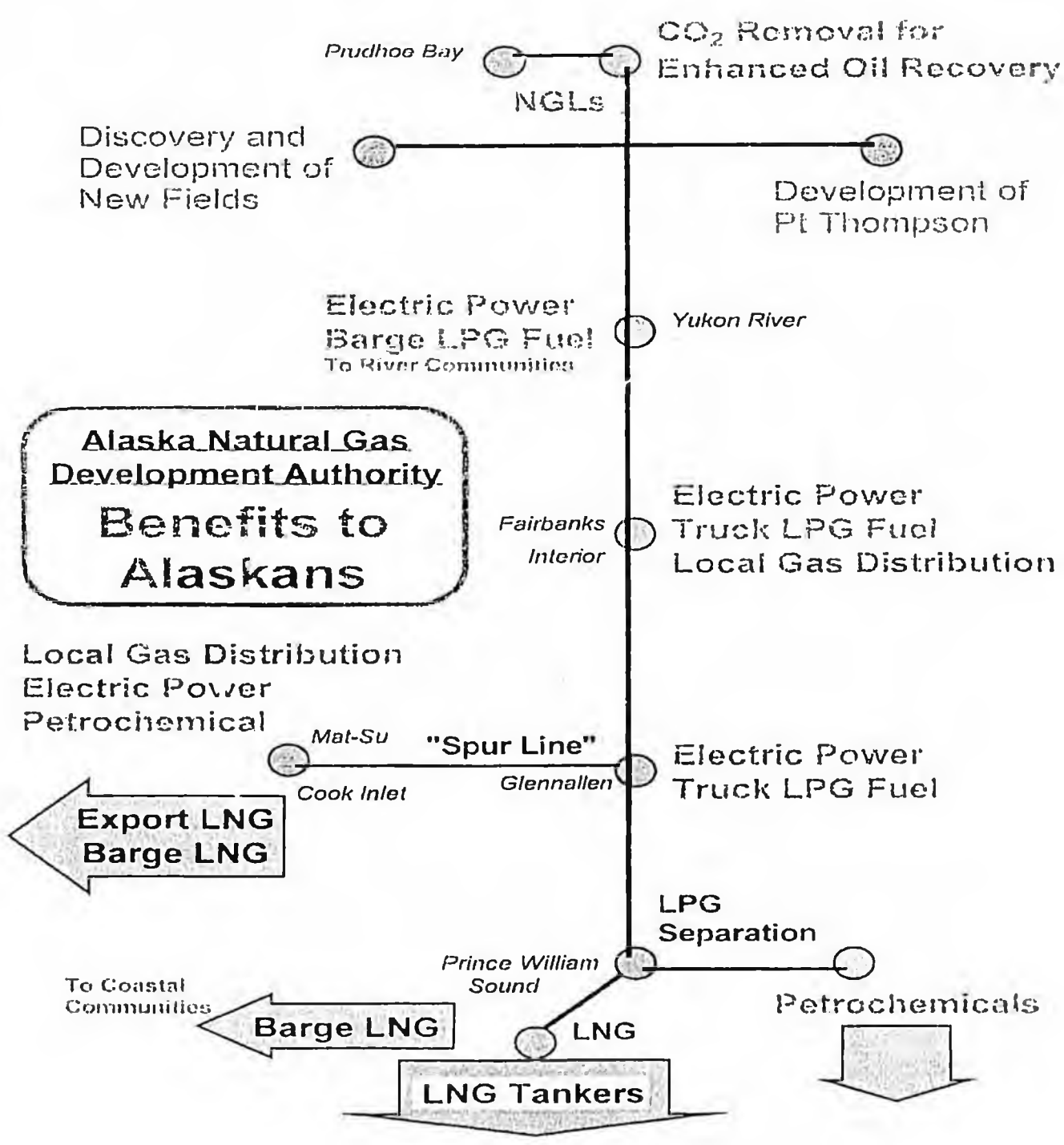


ALASKA LEGISLATURE

2589

HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004

155



**Alaska Natural Gas
Development Authority
Benefits to
Alaskans**

Local Gas Distribution
Electric Power
Petrochemical

**Export LNG
Barge LNG**

Barge LNG

LNG Tankers

Petrochemicals

Natural Gas Consumption in Alaska (BCF per year)

• Residential	15
• Commercial	20
• Electrical	35
• Agrium Plant	50
• Kenai LNG Plant	100
TOTAL	220 Bcf/yr
• New Public Services (?)	100 - 150

Future Cook Inlet Gas Price

North Slope Gas Delivered via Spur Line



Gas Price in Chicago	\$4.00 / Mbtu
Tariff from North Slope	-\$3.00 -----
Net-Back Gas Price on North Slope	\$1.00
Tariff to Cook Inlet	+\$1.50 -----
Gas Price in Cook Inlet	\$2.50 / Mbtu

Alaska Natural Gas Development Authority

Homepage is: <http://146.63.35.79/>

Harold Heinze

411 W. 4th Ave, Anchorage 99508

(907) 257 – 1347

Fax: (907) 646 - 5005

hheinze@ipo.doi.gov

HB

417

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAY 06 2004
SENATE FINANCE
COMMITTEE

DATE: 04/29/04

FURTHER:

DATE TURNED
IN TO OFFICE: 6 May 2004

Finance Committee considered

HOUSE BILL NO. 417

HB 417 AK NATURAL GAS DEV. AUTHORITY INITIATIVE

"An Act amending the definition of 'project' in the Act establishing the Alaska Natural Gas Development Authority; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:
 Same Title
 New Title

House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero.	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
Revenue	2/15/04		*	✓	#1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>	X			
<i>[Signature]</i>			✓	
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 417
(H) Publish Date: 2/23/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
Title Natural Gas Dev Auth Initiative RDU AK Natural Gas Dev Authority
Component AK Natural Gas Dev Authority
Sponsor Representative Chenault
Requester House Oil & Gas Committee Component No. 2708

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	****	****	****	****	****	****
-----------------------------	------	------	------	------	------	------

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

**** This legislation would change the responsibility of the Alaska Natural Gas Development Authority from reviewing the economic viability of a gas pipeline from Prudhoe Bay to Valdez and a spur from Glennallen to the Southcentral gas distribution grid to including the review of the economic viability of a gas line to tidewater at a point on Cook Inlet.

Since the Alaska Natural Gas Development Authority is already reviewing the economic viability of a spur to the Southcentral gas distribution grid, it is uncertain if additional funds will be necessary to expand that review to include to tidewater at a point on Cook Inlet.

Prepared by: Steve Porter, Deputy Commissioner Phone (907) 465-2365
Division Department of Revenue Date/Time 2/15/04 8:18 PM
Approved by: Steve Porter, Deputy Commissioner Date 2/15/2004
Agency Department of Revenue

STATE OF ALASKA

REPRESENTATIVE
MIKE CHENAULT

Interim:
145 Main St. Loop, Second Floor
Kenai, Alaska 99611
(907) 283-7223
Fax: (907) 283-3075



HOUSE OF REPRESENTATIVES

Official Business

Session:
Capitol Building, Room 432
Juneau, Alaska 99801-1182
(907) 465-3779
Toll Free: (800) 469-3779
Fax: (907) 465-2833

Sponsor Statement House Bill 417

(Revised 4-18-04)

The Alaska Natural Gas Development Authority (ANGDA) was enacted by a vote of the people in the 2002 General Election.

The initiative defined a narrow point of delivery limited to "tidewater on Prince William Sound".

House Bill 417 amends the definition of project to include the alternative delivery point of tidewater in Cook Inlet.

Cook Inlet has the infrastructure to receive, process and ship Alaska Natural Gas with minimum development and environmental impact at the terminus.

Having a second point of delivery expands the economic scope of the Pipeline project as well as two separate areas of the state in light of natural or manmade disaster, and weather conditions.

LEGAL SERVICES

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

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

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

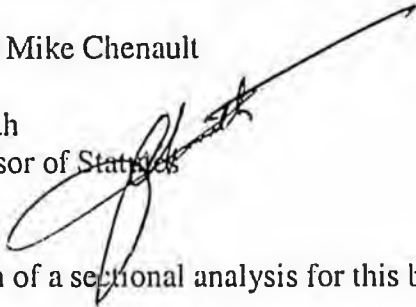
MEMORANDUM

February 3, 2004

SUBJECT: House Bill 417, amending the definition of "project" in the Act establishing the Alaska Natural Gas Development Authority -- sectional analysis (Work Order No. 23-LS1494A)

TO: Representative Mike Chenault

FROM: Jack Chenoweth
Assistant Revisor of Statistics



Chris Koski has asked for preparation of a sectional analysis for this bill.

The 2002 initiative that establishes the Alaska Natural Gas Development Authority and defines its powers and duties directs the Authority to evaluate and develop a North Slope natural gas pipeline project. The initiative supplies a definition of the term "project" to include delivery of the gas to a point on tidewater on Prince William Sound. **Bill section 1** amends that definition to add the alternative of delivery to tidewater at a point on Cook Inlet.

Bill section 2 gives the measure an immediate effective date.

JBC:med
04-129.med

CITY OF KENAI

" Oil Capital of Alaska "

210 FIDALGO AVE., SUITE 200 KENAI, ALASKA 99611-7794
TELEPHONE 907-283-7535
FAX 907-283-3014



February 9, 2004

Governor Frank Murkowski
State of Alaska
P.O. Box 110001
Juneau, Alaska 99811-0001

RE: **SENATE BILL 247 - RESOLUTION OF SUPPORT**
City of Kenai

Dear Governor Murkowski:

At their regular meeting of February 4, 2004, the Kenai City Council unanimously passed their Resolution No. 2004-08, supporting the passage of Senate Bill 247 to amend the Natural Gas Development Authority Act of 2002.

As expressed in the body of the resolution, which is enclosed for your information, the Alaska Natural Gas Development Authority (ANGDA) was established to evaluate and attempt to develop an "all-Alaska" LNG project to "maximize jobs for Alaskans, revenues for the Alaskan treasury, and access to gas for Alaskans." With this mission, the City of Kenai believes the best route for the ANGDA LNG project follows the disturbed rights-of-way of the Railbelt from Fairbanks to tidewater in the Cook Inlet.

Additionally, economics will decide the success or failure of this project and giving the LNG project its best chance for success, the ANGDA should base its decisions on sound project economics, which should include a detailed comparative analysis of the Railbelt route option from Fairbanks to tidewater in the Cook Inlet Basin versus the Valdez route.

Thanking you in advance for your consideration.

CITY OF KENAI

A handwritten signature in cursive script that reads "James C. Bookey, III".

James C. Bookey, III
Vice Mayor

clf

Enclosure

cc: Members of the Alaska Legislature
Alaska Natural Gas Development Authority

Suggested by: City Council

CITY OF KENAI

RESOLUTION NO. 2004-08

A RESOLUTION OF THE COUNCIL OF THE CITY OF KENAI, ALASKA, SUPPORTING THE PASSAGE OF SENATE BILL 247 TO AMEND THE NATURAL GAS DEVELOPMENT AUTHORITY ACT OF 2002.

WHEREAS, 70 percent of Alaska's population resides within the Railbelt region that extends from southern regions of the Kenai Peninsula Borough to Fairbanks North Star Borough; and,

WHEREAS, the economies and communities of the Kenai Peninsula Borough, the Cook Inlet basin, and the Railbelt region rely on plentiful supplies of natural gas to provide reasonably priced heat and electricity for home and business use; and,

WHEREAS, current proven reserves of natural gas are insufficient to address long-term supply requirements for the Railbelt region; and,

WHEREAS, Proposition 3 was passed in the 2002 general election and established the Alaska Natural Gas Development Authority (ANGDA) to evaluate and attempt to develop an "all-Alaska" LNG pipeline project from the North Slope to Valdez, with provisions to develop a spur pipeline from Glennallen to the Cook Inlet basin; and,

WHEREAS, the underlying premise of Proposition 3 that established ANGDA is an "all-Alaska" LNG project will "maximize jobs for Alaskans, revenues for the Alaskan treasury, and access to gas for Alaskans"; and,

WHEREAS, the City of Kenai believes, under this premise, the best route for the ANGDA LNG project follows the disturbed rights-of-way of the Railbelt from Fairbanks to tidewater in the Cook Inlet; and,

WHEREAS, a Railbelt route would help to preserve existing utility and industrial infrastructure and would promote new development in rural areas and communities along the Railbelt route by providing access to new supplies of low cost power, heat and raw materials necessary to new value-added industries; and,

WHEREAS, it is the position of the City of Kenai that economics will decide the success or failure of this project; and,

WHEREAS, to give the LNG project its best chance for success, ANGDA should base its decisions on sound project economics, which should include a detailed comparative analysis of the Railbelt route option from Fairbanks to tidewater in the Cook Inlet Basin versus the Valdez route; and,

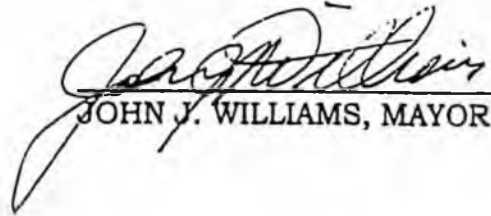
WHEREAS, Senate Bill 247 has been introduced in the Alaska State Legislature and, upon passage, would require both the Valdez route and the Railbelt route to tidewater in the Cook Inlet undergo a full design and cost evaluation before a final route is chosen.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA:

Section 1: The Kenai City Council supports and endorses the passage of Senate Bill 247; and,

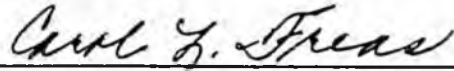
Section 2: Copies of this resolution shall be forwarded to all members of the Alaska State Legislature, the Honorable Governor Frank Murkowski and the Alaska Natural Gas Development Authority.

PASSED BY THE COUNCIL OF THE CITY OF KENAI, ALASKA, this fourth day of February, 2004.



JOHN J. WILLIAMS, MAYOR

ATTEST:



Carol L. Freas, City Clerk

clf

Introduced by:	Mayor
Date:	01/20/04
Action:	Adopted
Vote:	9 Yes, 0 No

**KENAI PENINSULA BOROUGH
RESOLUTION 2004-008**

**A RESOLUTION SUPPORTING THE PASSAGE OF SENATE BILL 247, WHICH
AMENDS THE NATURAL GAS DEVELOPMENT AUTHORITY ACT OF 2002**

- WHEREAS,** 70 percent of Alaska's population resides within the Railbelt region that extends from southern regions of the Kenai Peninsula Borough to Fairbanks North Star Borough; and
- WHEREAS,** the economies and communities of the Kenai Peninsula Borough, the Cook Inlet Basin, and the Railbelt region rely on plentiful supplies of natural gas to provide reasonably priced heat and electricity for home and business use; and
- WHEREAS,** current proven reserves of natural gas are insufficient to address long-term supply requirements for the Railbelt region; and
- WHEREAS,** Proposition 3 was passed in the 2002 general election that established the Alaska Natural Gas Development Authority (ANGDA) to evaluate and attempt to develop an "all-Alaska" LNG pipeline project from the North Slope to Valdez, with provisions to develop a spur pipeline from Glennallen to the Cook Inlet Basin; and
- WHEREAS,** the underlying premise of Proposition 3 that established ANGDA is that an "all-Alaska" LNG project will "maximize jobs for Alaskans, revenues for the Alaskan treasury, and access to gas for Alaskans"; and
- WHEREAS,** the Kenai Peninsula Borough believes that under this premise, the best route for the ANGDA LNG project follows the disturbed rights-of-way of the Railbelt from Fairbanks to tidewater in Cook Inlet; and
- WHEREAS,** a Railbelt route would help to preserve existing utility and industrial infrastructure, and would promote new development in rural areas and communities along the Railbelt route by providing access to new supplies of low cost power, heat and raw materials necessary to new value-added industries; and
- WHEREAS,** it is the position of the Kenai Peninsula Borough that economics will decide the success or failure of this project; and
- WHEREAS,** to give the LNG project its best chance for success, ANGDA should base its decisions on sound project economics, which should include a detailed comparative analysis of the Railbelt route option from Fairbanks to tidewater in the Cook Inlet Basin versus the Valdez route; and

WHEREAS, Senate Bill 247 has been introduced in the Alaska State Legislature that, upon passage, would require that both the Valdez route and the Railbelt route to tidewater in Cook Inlet undergo a full design and cost evaluation before a final route is chosen:

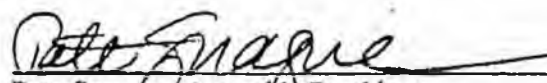
NOW, THEREFORE, BE IT RESOLVED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH:

SECTION 1. That the Kenai Peninsula Borough Assembly supports and endorses the passage of Senate Bill 247.

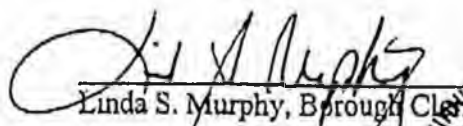
SECTION 2. That copies of this resolution shall be forwarded all members of the Alaska State Legislature, the Honorable Governor Frank Murkowski and the Alaska Natural Gas Development Authority.

SECTION 3. That this resolution shall become effective immediately upon adoption.

ADOPTED BY THE ASSEMBLY OF THE KENAI PENINSULA BOROUGH THIS 20TH DAY OF JANUARY, 2004.


Pete Sprague, Assembly President

ATTEST:


Linda S. Murphy, Borough Clerk



SITE: Kenai

COMMITTEE: SFIN

DATE: 050604

AGENDA :

HB417:Natural Gas Development Authority

UPDATE #:

**DO YOU WANT
TO TESTIFY?**

P/R I N T YOUR NAME

COMMUNITY

REPRESENTING / AFFILIATION

Y or N

✓ **Bill Popp**

Soldotna

Kenai Peninsula Borough

Y HB417

SENATE COMMITTEE REPORT

DATE: 04/14/04

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 4-28-04

Resources Committee considered HOUSE BILL NO. 417

HB 417 AK NATURAL GAS DEV. AUTHORITY INITIATIVE

"An Act amending the definition of 'project' in the Act establishing the Alaska Natural Gas Development Authority; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:
 Same Title
 New Title

House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
REV	2/15/04		✓		1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
Elton			✓	
Dyson			✓	
Wagoner			✓	
Seekins			✓	
CHAIR:				✓

SENATE FINANCE COMMITTEE

SIGN-IN

HB 417-AK NATURAL GAS DEV. AUTHORITY INITIATIVE

NAME: Steve Porter Subject/Bill No: _____
Co./Dept./Title: Deputy Commissioner / Revenue Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

HB

418

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 418
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title Extending the Real Estate Commission RDU Occupational Licensing (117)
Component Occupational Licensing
Sponsor House Labor and Commerce
Requester House Finance Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	171.3	171.3	171.3	171.3	
Travel	0.0	21.2	21.2	21.2	21.2	
Contractual	0.0	79.3	79.3	79.3	79.3	
Supplies	0.0	1.6	1.6	1.6	1.6	
Equipment	0.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	273.4	273.4	273.4	273.4	

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()	0.0	273.4	273.4	273.4	273.4	
-------------------------------	------------	--------------	--------------	--------------	--------------	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156-Receipt Supported Services	0.0	273.4	273.4	273.4	273.4	
TOTAL	0.0	273.4	273.4	273.4	273.4	

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	0	2	2	2	2	
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill extends the Real Estate Commission to June 30, 2008. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the Commission to conclude its affairs. FY 2005 funding is included in the Operating Budget request. The costs shown for subsequent fiscal years reflect the direct costs included in the FY 2005 budget. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144
Division Occupational Licensing Date/Time 3/25/04 6:26 PM
Approved by: Edgar Blatchford, Commissioner Date 3/25/2004
Agency Department of Community and Economic Development

Adopted
4113104

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 418(L&C)

1 Page 1, following line 6:

2 Insert a new bill section to read:

3 **** Sec. 2.** AS 08.18.022(a) is amended to read:

4 (a) The department shall issue a certificate of registration as a home inspector
5 for new homes, existing homes, or both, as appropriate, to an individual who

6 (1) passes the appropriate home inspection examination; for purposes
7 of this paragraph, the appropriate home inspection examination for an individual who
8 applies to be registered for inspection of

9 (A) existing homes is the examination offered by the American
10 Society of Home Inspectors, ^{deleted} [American Home Inspectors Training Institute] or
11 National Association of Home Inspectors;

12 (B) new homes or for a joint registration is the examination
13 offered by the International Code Council;

14 (2) meets the educational and experience requirements adopted by the
15 department in regulations for the type of registration applied for;

16 (3) submits a complete application for registration either

17 (A) within one year after passing the examination required
18 under (1) of this subsection; or

19 (B) accompanied by documentation that the applicant has
20 completed continuing education requirements established by the
21 department; /

22 (4) within the seven years preceding the date of application, has not
23 been under a sentence for an offense related to forgery, theft in the first or second

1 degree, extortion, or defrauding creditors or for a felony involving dishonesty;

2 (5) has not had the authority to perform home inspections revoked in
3 this state or in another jurisdiction;

4 (6) is not the subject of an unresolved criminal complaint or
5 unresolved disciplinary action before a regulatory authority in this state or in another
6 jurisdiction related to real estate or home inspection matters; and

7 (7) pays the appropriate fees."
8

9 Renumber the following bill sections accordingly.
10

11 Page 2, line 5:

12 Delete "The"

13 Insert "Each"

14 Following "licensee":

15 Insert "under this chapter"
16

17 Page 2, following line 14:

18 Insert new bill sections to read:

19 "* Sec. 6. The uncodified law of the State of Alaska enacted in sec. 44(a), ch. 134, SLA
20 2003, is amended to read:

21 (a) Notwithstanding AS 08.18.022, added by sec. 7 of this Act, the
22 Department of Community and Economic Development shall issue a certificate of
23 joint registration that is valid until January 1, 2006, to an individual who submits to
24 the department satisfactory evidence of being in the business of home inspection in the
25 state at the time of application for registration under this subsection and of having

26 (1) been in the business of home inspection in the state on October 1,
27 2002; and

28 (2) ~~passed~~ the building inspector examination, [OR] property
29 maintenance and housing inspector examination, or the residential combination
30 examination given by the International Code Council.

31 * Sec. 7. The uncodified law of the State of Alaska enacted in sec. 44(c), ch. 134, SLA

1 2003, is amended to read:

2 (c) Notwithstanding AS 08.18.022, added by sec. 7 of this Act, the
 3 Department of Community and Economic Development shall issue a certificate of
 4 registration to practice home inspection of new construction that is valid until
 5 January 1, 2006, to an individual who submits to the department satisfactory evidence
 6 of being in the business of home inspection in the state at the time of application for
 7 registration under this subsection and of having passed the combination inspector
 8 examination, [OR] the combination dwelling inspector examination, or the
 9 residential combination examination given by the International Code Council.

10 * Sec. 8. The uncodified law of the State of Alaska enacted in sec. 44(f), ch. 134, SLA
 11 2003, is amended to read:

12 (f) A [EXCEPT AS PROVIDED IN (e) OF THIS SECTION, A] certificate of
 13 registration as a home inspector or associate home inspector issued under this section
 14 is considered to be a certificate of registration as a home inspector or associate home
 15 inspector issued under AS 08.18.022, added by sec. 7 of this Act."

16

17 Renumber the following bill sections accordingly.

18

19 Page 2, line 16:

20 Delete "a new subsection"

21 Insert "new subsections"

22

23 Page 2, following line 25:

24 Insert

25 "(i) The fee for a license issued under this section is \$200. The department shall
 26 adopt regulations for the collection of this fee.

27 * Sec. 10. Section 44(e), ch. 134, SLA 2003, is repealed."

28

29 Renumber the following bill section accordingly.

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT FOR CSHB 418(L&C) BY: Representative Tom Anderson

TITLE: An Act extending the termination date of the Real Estate Commission; relating to real estate; relating to home inspectors; relating to real estate licensees; and providing for an effective date

AS 08.88.010 established the Real Estate Commission (REC) and provided for the appointment of members by the governor. The commission consists of five real estate brokers or associate brokers, one from each of the four judicial districts and two public members. CSHB 418(L&C), if enacted would extend the commission operation for another 4 years to June 30, 2008.

The commission serves the public interest by adopting regulations to carry out the laws governing the practice of real estate in Alaska. It approves education courses and instructors, makes final licensing decisions and takes disciplinary action against people who violate the licensing laws.

In the opinion of Legislative Audit, the REC should be extended. The regulation and licensing of real estate professionals provides necessary public protection in the buying and selling of residential and commercial properties. I recommend that the REC be extended to June 30, 2008, and urge you to vote for its passage.

The amendments made by the House Labor & Commerce Committee address two issues: home inspectors and requests from the Division of Occupational Licensing cleaning up statutory language.

The new Section 2 addresses the question of dual insurance. Current law requires each licensee to have insurance. This amendment indicates that if a licensee is covered under an employer's policy, there is no need for an individual policy.

New Sections 3 & 4, requested by the Division, clears up language regarding inactive real estate licenses and address notification.

New Section 5 addresses continuing education for a person who has a transitional home inspector license.

Sectional Analysis for CSHB 418(L&C)

Section 1. This section extends the sunset for the Real Estate Commission to June 30, 2008..

Section 2. This section addresses the question of dual insurance. Current law requires each licensee to have insurance. This amendment indicates that if a licensee is covered under an employer's policy, there is no need for an individual policy.

Sections 3 and 4. These sections were requested by the Division of Insurance and clear up language regarding inactive real estate licenses and address notification.

Section 5. This section addresses continuing education for a person who has a transitional home inspector license.

Section 6. This section allows for the act to take effect immediately.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

RULES COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
LEGISLATIVE ETHICS COMMITTEE, MEMBER

website: <http://www.akrepublicans.org/rokeberg/>



INTERIM:
716 WEST 4TH AVENUE, SUITE 300
ANCHORAGE, AK 99501
PHONE: (907) 269-0117
FAX: (907) 269-0119


SESSION:
ALASKA STATE CAPITOL
JUNEAU, AK 99801-1182
PHONE: (907) 465-4968
FAX: (907) 465-2040

Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

MEMORANDUM

TO: Rep. Tom Anderson, Chairman
House Labor & Commerce Committee

FROM: Rep. Norman Rokeberg 

DATE: March 1, 2004

RE: HB 418 – Real Estate Commission

The Division of Occupational Licensing has requested some additional amendments to House Bill 418. When you request a hearing in House Finance, would you be so kind as to forward 23-LS1548/H.1, Mischel, 3/1/04, to the Committee. The proposed amendment H.1 is attached.

Page 1, line 3, through page 2, line 7, is more language regarding home inspectors. This makes it very plain that the licensees do not need to take a new examination each time they renew licenses but that they do need to provide proof of continuing education.

Page 2, lines 11-15, makes some slight word changes ("The licensee" to "Each licensee" and reference to the chapter) in the notification language.

Page 2, line 17, through page 3, line 9: Insert reference to the "residential combination examination" along with the other exams listed in that uncodified law.

Page 3, lines 10-15, makes word changes to conform to the repeal of Section (e) as provided on page 3, line 27.

Page 3, lines 19-21, makes a word change to reflect changes in the amendment.

Page 3, lines 23-26: When we adopted language concerning home inspectors, we did not provide the Department with authority to collect transitional licensing fees. This

Memorandum re HB 418

March 1, 2004

Page 2

language does that. Without the language, no fee may be charged for transitional licenses.

Page 3, line 27, repeals language that indicates that a transitional license may not be renewed. It was my intent that transitional licenses could be renewed upon providing proof of continuing education, which this amendment and the items contained in the Labor & Commerce version of the bill will accomplish.

Your assistance is appreciated.

Attachment: Amendment H.1
CSHB 418 (L&C)
Referenced sections of HB 9



ALASKA ASSOCIATION OF REALTORS, INC.
4205 Minnesota Drive Anchorage, Alaska 99503
Telephone (907) 563-7133 Fax (907) 561-1779
www.alaskarealtors.com

February 23, 2004

The Honorable Norm Rokeberg
Alaska House of Representatives
State Capitol Building
Juneau, Alaska 99801

RE: House Bill 418, extending the termination date of the Real Estate Commission

Dear Representative Rokeberg,

The Alaska Association of REALTORS is in favor of extending the termination date of the Real Estate Commission to June 30, 2008, rather than June 30, 2004.

The Association does not concur with the Division of Legislative Audit recommendations that the limits of reimbursement on surety fund claims increase from \$10,000 to \$20,000 per transaction and the associated maximum payment per licensee be increased to \$100,000.

Sincerely,

A handwritten signature in cursive script that reads 'Kathryn Clark'.

Kathryn Clark
President



HB

418

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
MAY 16 2004
SENATE FINANCE
COMMITTEE

DATE: 5/5/04

FURTHER:

DATE TURNED
IN TO OFFICE: 6 May 2004

Finance Committee considered CS FOR HOUSE BILL NO. 418(FIN)

HB 418 REAL ESTATE COM'N/LICENSEE/HOME INSPECT

"An Act extending the termination date of the Real Estate Commission; relating to real estate; relating to home inspectors; relating to real estate licensees; and providing for an effective date."

and recommends:

- be replaced with 5 CS CS HB 418 (FIN)
- adopt previous _____ CS CS forthcoming (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:
 Same Title
 New Title
 House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero.	FN#

Department	Date	Fiscal	Indet.	Zero	FN#
DCED	3/25/04	✓		✓	#2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Frank Doney</i>	✓			
<i>Tom Hoff</i>			✓	
<i>Bill [unclear]</i>			✓	
<i>Bob [unclear]</i>			✓	
<i>Ben Stever</i>	X			
COCHAIR:				
COCHAIR: <i>Ermy [unclear]</i>	✓			

MAY 06 2004

SENATE FINANCE
COMMITTEE

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 418(FIN)
(H) Publish Date: 4/14/04

Revision Date/Time (Note if correction):
Title Extending the Real Estate Commission
Sponsor House Labor and Commerce
Requester House Finance
Dept. Affected: DCED
RDU Occupational Licensing (117)
Component Occupational Licensing
Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	171.3	171.3	171.3	171.3	
Travel	0.0	21.2	21.2	21.2	21.2	
Contractual	0.0	79.3	79.3	79.3	79.3	
Supplies	0.0	1.6	1.6	1.6	1.6	
Equipment	0.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	273.4	273.4	273.4	273.4	

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()	0.0	273.4	273.4	273.4	273.4	
------------------------	-----	-------	-------	-------	-------	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156-Receipt Supported Services	0.0	273.4	273.4	273.4	273.4	
TOTAL	0.0	273.4	273.4	273.4	273.4	

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time	0	2	2	2	2	
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill extends the Real Estate Commission to June 30, 2008. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the Commission to conclude its affairs. FY 2005 funding is included in the Operating Budget request. The costs shown for subsequent fiscal years reflect the direct costs included in the FY 2005 budget. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144
Division: Occupational Licensing Date/Time 3/25/04 6:26 PM
Approved by: Edgar Blatchford, Commissioner Date 3/25/2004
Agency: Department of Community and Economic Development

Amendment Number: # 1
Bill Number: HB 418
Sponsor: Green Date: 5/6/04
Logged In By: Robin

23-LS1548VX C
Mischel
4/30/04

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR GREEN

TO: SCS CS(HB 418(L)(c))

1 Page 2, following line 20:

2 Insert new bill sections to read:

3 *** Sec. 3.** AS 08.18.071(a) is amended to read:

4 (a) Except as provided in (d) and (e) of this section, each [EACH] applicant
5 shall, at the time of applying for a certificate of registration, file with the
6 commissioner a surety bond running to the state conditioned upon the applicant's
7 promise to pay all

8 (1) taxes and contributions due the state and political subdivisions;

9 (2) persons furnishing labor or material or renting or supplying
10 equipment to the applicant; and

11 (3) amounts that may be adjudged against the applicant by reason of
12 negligent or improper work or breach of contract in the conduct of the contracting
13 business or home inspection activity, as applicable, or by reason of damage to public
14 facilities occurring in the course of a construction project.

15 *** Sec. 4.** AS 08.18.071 is amended by adding new subsections to read:

16 (d) A general contractor or specialty contractor who is in compliance with the
17 surety bond or deposit requirements of (a) and (b) of this section is not required to file
18 another surety bond or increase a deposit with the commissioner when the general
19 contractor or specialty contractor applies to be a registered home inspector. However,
20 if the general contractor or specialty contractor subsequently is neither a general
21 contractor nor a specialty contractor and becomes only a registered home inspector,
22 the home inspector shall provide a surety bond or deposit in lieu of the bond in the
23 manner and amount required for registered home inspectors under this section.

1 (e) An applicant for, or holder of, a certificate of registration as a home
2 inspector may, in lieu of filing with the commissioner a surety bond or deposit that
3 meets the requirements of this section, file evidence satisfactory to the commissioner
4 that the applicant is employed by a registered home inspector who is in compliance
5 with the surety bond or deposit requirements of this section."

6

7 Renumber the following bill sections accordingly.

**THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES**

NOTES TO DECISIONS

Section not prerequisite to satisfying AS 08.18.011. — No specific language makes satisfaction of this section a prerequisite to a finding that AS 08.18.011 is satisfied. *Fomby v. Whisenhunt*, 680 P.2d 787 (Alaska 1984).

Penalty for violating section. — The penalty for violating this section is contained in AS 08.18.141, which makes it a misdemeanor to violate any provi-

sion of the chapter; and AS 08.18.151 should only be applied to bar an action when the contractor has not registered at all at the time of contracting. *Alaska Protection Servs., Inc. v. Frontier Colorcable, Inc.*, 680 P.2d 1119 (Alaska 1984).

Stated in *Gross v. Bayshore Land Co.*, 710 P.2d 1007 (Alaska 1985).

Sec. 08.18.060. [Repealed, § 1 ch 100 SLA 1968.]

Sec. 08.18.061. Requirements of political subdivision. A contractor who is registered with the state under this chapter may not be required to give bond in applying for or holding a license issued by a political subdivision. (§ 2 ch 100 SLA 1968)

Sec. 08.18.070. [Repealed, § 1 ch 100 SLA 1968.]

Article 2. Bond and Insurance.

Section

- 71. Bond required
- 81. Claims against contractor
- 91. Cancellation of bond

Section

- 101. Insurance required
- 111. Advertising bond and insurance
- 115. Return of cash deposit

Sec. 08.18.071. Bond required. (a) Each applicant shall, at the time of applying for a certificate of registration, file with the commissioner a surety bond running to the state conditioned upon the applicant's promise to pay all

(1) taxes and contributions due the state and political subdivisions;

(2) persons furnishing labor or material or renting or supplying equipment to the applicant; and

(3) amounts that may be adjudged against the applicant by reason of negligent or improper work or breach of contract in the conduct of the contracting business or by reason of damage to public facilities occurring in the course of a construction project.

(b) If the applicant is a general contractor, the amount of the bond shall be \$10,000; if the applicant is a mechanical or specialty contractor, the amount of the bond shall be \$5,000. In lieu of the surety bond the applicant may file with the commissioner a cash deposit or other negotiable security acceptable to the commissioner in the amount specified for bonds.

(c) The bond required by this section remains in effect until cancelled by action of the surety, the principal, or the commissioner. An action may not be commenced upon the bond later than three years after its cancellation. (§ 2 ch 100 SLA 1968; am § 1 ch 15 SLA 1977; am § 4 ch 83 SLA 1985; am § 5 ch 132 SLA 1988)

NOTES TO DECISIONS

Material and equipment excluded from operation of section. — AS 08.18.161(5), which makes the chapter inapplicable to materials and equipment not incorporated or consumed in the construction of a structure, operates to exclude such material and equipment from the operation of this section and AS

08.18.081. *Balboa Ins. Co. v. Senco Alaska, Inc.*, 567 P.2d 295 (Alaska 1977).

Quoted in *State ex rel. Smith v. Tyonek Timber, Inc.*, 680 P.2d 1148 (Alaska 1984).

Cited in *Allison v. State*, 583 P.2d 813 (Alaska 1978); *Jones v. Short*, 696 P.2d 665 (Alaska 1985).

Sec. 08.18.080. [Repealed, § 1 ch 100 SLA 1968.]

Sec. 08.18.081. Claims against contractor. (a) A person having a claim against a contractor for any of the items referred to in AS 08.18.071 may bring suit upon the bond

SENATE FINANCE COMMITTEE
5/6/2004 COMMITTEE ACTION

Bill Number	HB 418		
Amendment	#1		
Motion	to adopt		
<u>Motion by</u>	Green		
<u>Objection by</u>	Wilken		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Hoffman			
Senator Olson			
Senator Stevens			
Senator Bunde			
Senator Dyson			
Co-Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	ADOPTED		

SENATE FINANCE
COMMITTEE

ADOPTED

Amendment Number: # 2

Bill Number: HB 418

Sponsor: Green Date: 5/16/04

Logged In By: Robin

23-LS1548/MQ
Mischel
4/30/04

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR GREEN

TO: SCS CS HB 418 (L3C)

- 1 Page 5 line 2:
- 2 Delete "Section 44(e), ch. 134, SLA 2003, is":
- 3 Insert "Sections 41, 42, 44(e), and 47, ch. 134, SLA 2003, are"

Alaska
ge loan
for the
within 50
Alaska
ge loan

that it is
under
in the

borrower
by the

purpose of

project
costs and
project
interest

guarantee
provision

and

terms

provisions of

publicly
available is

and to

AS
Sections
and
1988;

provisions

in by
ch 4

to give
date.

AS
provisions

relating to the purchase of certain housing loans of the Department of Community and Regional Affairs as of June 26, 1992, by the Alaska Housing Finance Corporation, see § 147, ch. 4, FSSLA 1992 in the Temporary and Special Acts; for legislative findings and intent in connection with the enactment of this section, see sec.

1, ch. 147, SLA 1988 in the Temporary and Special Acts.

Legislative history reports. — For legislative letter of intent relating to a legislative oversight committee in connection with AHFC activities under this section, see 1988 Senate Journal 3681.

Sec. 18.56.220. Duty to advise about corporation's programs. The corporation shall make a reasonable effort, through seminars, training sessions, and other forms of technical assistance, to assist local governments, regional housing authorities, nonprofit organizations, and other organizations and individuals to understand the corporation's housing programs and the opportunities that exist to obtain financial assistance from the corporation. (§ 98 ch 4 FSSLA 1992)

Sec. 18.56.300. Construction standards for housing eligible for purchase of loans. (a) The corporation may not make or purchase a housing loan for residential housing the construction of which begins after June 30, 1992, unless the seller of the mortgage loan complies with the provisions of this section and unless

(1) the unit is in compliance with the construction codes of the municipality, if the unit is located within a municipality that has adopted and enforces construction codes and each of those codes meets or exceeds the comparable standards for similar housing established by the state building code; or

(2) the unit is in compliance with the comparable standards for similar housing established by the state building code

(A) if the unit is located

(i) within a municipality whose construction codes do not meet the standards for similar housing established by the state building code;

(ii) within a municipality that does not enforce construction codes; or

(iii) outside a municipality; or

(B) as to each specific code within the construction codes of the municipality that has adopted and enforces construction codes if the specific code does not meet or exceed the comparable standard for similar housing established by the state building code.

(b) As a condition of a commitment to purchase or approve a loan under this section for residential housing the construction of which begins after June 30, 1992, the corporation shall require inspection of the unit of residential housing that is the subject of the loan. The inspection must be performed by a municipal building inspector, by a person who is approved or certified to perform residential inspections by the International Conference of Building Officials or the International Association of Electrical Inspectors, or, when the unit of residential housing is located in a rural area, by an architect registered under AS 08.48, by an engineer registered under AS 08.48, or by another person approved by the corporation. When the unit of residential housing is located in a rural area, the person who makes the inspection may use methods other than a personal physical inspection to make the inspection if the method is approved by the corporation, and variations from the applicable code may be accepted at the corporation's discretion, if the person authorized to inspect the unit under this subsection satisfies the corporation that the variation does not adversely affect the structural integrity of the unit or the health and safety of the residents. The person who makes the inspection shall determine whether the construction conforms to relevant provisions of the construction codes of the municipality or of the state building code, as applicable, at each of the following stages of construction:

- (1) plan approval;
- (2) completion of footings and foundations;
- (3) completion of electrical installation, plumbing, and framing;
- (4) completion of installation of insulation;
- (5) final approval.

(c) A person may not bring an action for damages based on a duty imposed by (b) of this section to inspect a residential unit unless the action is for damages caused by gross negligence or intentional misconduct.

(d) This section does not apply to a nonconforming housing loan made or purchased by the corporation.

(e) In this section,

(1) "construction codes" means, with reference to a municipality, the building, mechanical, plumbing, and electrical codes, or any of them that have been adopted and are enforced by the municipality;

(2) "rural area" means a community with a population of 5,500 or less that is not connected by road or rail to Anchorage or Fairbanks;

(3) "state building code" means

(A) for building standards, the standards set out in the version of the Uniform Building Code adopted by the Department of Public Safety under AS 18.70.080, including the provisions of that code applicable to buildings used for residential purposes containing fewer than four dwelling units, notwithstanding the exclusion of those buildings from the Department of Public Safety's jurisdiction made by AS 18.70.080(a)(2);

(B) for mechanical standards, the standards set out in the version of the Uniform Mechanical Code adopted by the Department of Public Safety under AS 18.70.080, including the provisions of that code applicable to buildings used for residential purposes containing fewer than four dwelling units, notwithstanding the exclusion of those buildings from the Department of Public Safety's jurisdiction made by AS 18.70.080(a)(2);

(C) for plumbing standards, the minimum plumbing code adopted for the state under AS 18.60.705; and

(D) for electrical standards, the minimum electrical standards prescribed by AS 18.60.580. (§ 2 ch 85 SLA 1990; am § 1 ch 29 SLA 1991; am §§ 1, 2 ch 52 SLA 1991; am § 99 ch 4 FSSLA 1992; am §§ 1, 2 ch 81 SLA 1994; am § 1 ch 2 SLA 1996; am § 6 ch 20 SLA 2002)

Revisor's notes. — Paragraph (c)(2) was enacted as (e)(3). Renumbered in 1994, at which time former (e)(2) was renumbered as (e)(3).

effective May 18, 2002, substituted "registered" for "licensed" in two places in the second sentence in subsection (b).

Effect of amendments. — The 2002 amendment,

Sec. 18.56.390. Definitions for AS 18.56.010 — 18.56.390. In AS 18.56.010 — 18.56.390, unless the context clearly indicates a different meaning,

(1) "adjustable rate mortgage loan" means a mortgage loan with respect to which the interest rate varies or is expected to vary from time to time by reference to an index or formula or other reference point;

(2) "bond" or "obligation" means a bond, bond anticipation note, or other note of the corporation authorized to be issued by the corporation under this chapter, or a mortgage participation certificate issued with respect to mortgages of the corporation;

(3) "construction loan" means a construction loan for land development or residential housing that is secured by a federally insured or guaranteed mortgage or that is insured or guaranteed by the United States or an instrumentality of the United States, or for which there is a commitment by the United States or an instrumentality of the United States to insure or guarantee such a loan, or a construction loan for land development or residential housing which land development or residential housing will be secured by a mortgage loan;

(4) "development costs" means the costs approved by the corporation as appropriate expenditures that may be incurred by sponsors, builders, and developers of residential housing, before commitment and initial advance of the proceeds of a construction loan or of a mortgage loan, including but not limited to

1 construction contract, except a design-build construction contract, must require the
2 offeror, no later than five working days after the proposal that is the most
3 advantageous to the state is identified, to list subcontractors the offeror proposes to use
4 in the performance of the construction contract. The list must include the information
5 required under AS 36.30.115(a). The provisions of AS 36.30.115(b) - (g) that apply to
6 a construction contractor or an apparent low bidder apply to offerors submitting
7 competitive sealed proposals for construction contracts, except design-build
8 construction contracts.

9 * **Sec. 39.** AS 36.90.290(1) is amended to read:

10 (1) "prime contractor" means a person required to be registered as a
11 contractor under AS 08.18 who has a contract with the state or a political subdivision
12 of the state to provide materials or services, other than as an employee, for a public
13 construction or public works project;

14 * **Sec. 40.** AS 45.50.471(b) is amended by adding a new paragraph to read:

15 (45) violating AS 08.18.023(b) or 08.18.152.

16 * **Sec. 41.** AS 18.56.300(c) is repealed.

17 * **Sec. 42.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 APPLICABILITY. The change made by sec. 41 of this Act applies to causes of action
20 that accrue on or after July 1, 2005.

21 * **Sec. 43.** The uncodified law of the State of Alaska is amended by adding a new section to
22 read:

23 REGULATIONS. The Department of Community and Economic Development may
24 proceed to adopt regulations to implement this Act. A regulation adopted under this section
25 takes effect under AS 44.62 (Administrative Procedure Act) but not before the effective date
26 of the law implemented by the regulation.

27 * **Sec. 44.** The uncodified law of the State of Alaska is amended by adding a new section to
28 read:

29 TRANSITIONAL LICENSING PROVISIONS. (a) Notwithstanding AS 08.18.022,
30 added by sec. 7 of this Act, the Department of Community and Economic Development shall
31 issue a certificate of joint registration that is valid until January 1, 2006, to an individual who

1 submits to the department satisfactory evidence of being in the business of home inspection in
 2 the state at the time of application for registration under this subsection and of having

3 (1) been in the business of home inspection in the state on October 1, 2002;
 4 and

5 (2) passed the building inspector examination or property maintenance and
 6 housing inspector examination given by the International Code Council.

7 (b) Notwithstanding AS 08.18.022, added by sec. 7 of this Act, the Department of
 8 Community and Economic Development shall issue a certificate of registration to practice
 9 home inspection of previously occupied residences that is valid until January 1, 2006, to an
 10 individual who submits to the department satisfactory evidence of being in the business of
 11 home inspection in the state at the time of application for registration under this subsection
 12 and of having passed

13 (1) the national home inspector examination given by the American Society of
 14 Home Inspectors, American Home Inspectors Training Institute, or National Association of
 15 Home Inspectors; or

16 (2) the examination of the Examination Board of Professional Home
 17 Inspectors.

18 (c) Notwithstanding AS 08.18.022, added by sec. 7 of this Act, the Department of
 19 Community and Economic Development shall issue a certificate of registration to practice
 20 home inspection of new construction that is valid until January 1, 2006, to an individual who
 21 submits to the department satisfactory evidence of being in the business of home inspection in
 22 the state at the time of application for registration under this subsection and of having passed
 23 the combination inspector examination or the combination dwelling inspector examination
 24 given by the International Code Council.

25 (d) Notwithstanding AS 08.18.022, added by sec. 7 of this Act, the Department of
 26 Community and Economic Development shall issue a certificate of registration as an associate
 27 home inspector that is valid until January 1, 2006, to an individual who submits to the
 28 department satisfactory evidence of being employed by an individual who is in the business of
 29 home inspection and is registered under this section or under AS 08.18.

30 44 (e) A certificate of registration issued under this section may not be renewed or
 31 extended.

1 (f) Except as provided in (e) of this section, a certificate of registration as a home
2 inspector or associate home inspector issued under this section is considered to be a certificate
3 of registration as a home inspector or associate home inspector issued under AS 08.18.022,
4 added by sec. 7 of this Act.

5 (g) In this section, "joint registration" has the meaning given in AS 08.18.171, as
6 amended by sec. 33 of this Act.

7 * **Sec. 45.** AS 08.18.011(c) - (f), added by sec. 5 of this Act; AS 08.18.023, added by sec. 7
8 of this Act; AS 08.18.085, added by sec. 17 of this Act; AS 08.18.151, as amended by sec. 30
9 of this Act; and the amendment of AS 18.56.300(b), made by sec. 34 of this Act, take effect
10 July 1, 2004.

11 * **Sec. 46.** Section 35 of this Act takes effect January 1, 2006.

12 * **Sec. 47.** Sections 41 and 42 of this Act take effect July 1, 2005.

13 * **Sec. 48.** Except as provided in secs. 45 - 47 of this Act, this Act takes effect immediately
14 under AS 01.10.070(c).

SENATE FINANCE COMMITTEE
5 / 6 / 2004 COMMITTEE ACTION

Bill Number	HB 418		
Amendment	#2		
Motion	to adopt		
<u>Motion by</u>	Green		
<u>Objection by</u>	Wilken		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Stevens			
Senator Bunde			
Senator Dyson			
Senator Hoffman			
Senator Olson			
Co-Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	ADOP TED		

ADOPTED SENATE FINANCE
COMMITTEE

Amendment Number: #3A

Bill Number: HB 418

Sponsor: Green Date: 5/6/04

Logged In By: Mindy

AMENDMENT

OFFERED IN THE SENATE
TO: SCS CSHB 418(L&C)

BY SENATOR GREEN by request

Page 2, line 7:

Delete: "one year"

Insert: "three years"

Page 3, lines 12-22.

Delete all material.

Renumber the following bill sections accordingly.

SENATE FINANCE COMMITTEE
5/6/2004 COMMITTEE ACTION

Bill Number	HB 418		
Amendment	#3 A		
Motion	to adopt		
<u>Motion by</u>	Green		
<u>Objection by</u>	Wilken		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	<u>Y</u>	<u>Vote</u>	<u>N</u>
Senator Olson			
Senator Stevens			
Senator Bunde			
Senator Dyson			
Senator Hoffman			
Co-Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	ADOPTED		

adopted

1 * Sec. 5. AS 08.88.291 is amended by adding new subsections to read:

2 (b) Each licensee under this chapter is responsible for ensuring that the
3 commission has current contact information for the licensee for two years after the
4 lapse, expiration, surrender, suspension, or revocation of the license.

5 (c) In addition to the information provided under (a) of this section, a licensee
6 shall provide the commission with a current mailing address and, if active, the address
7 of the broker employing the licensee.

8 (d) The commission shall mail all notices pertaining to a license or surety fund
9 action taken under this chapter or a regulation adopted under this chapter to the current
10 address or addresses of a licensee obtained under this section. Proof of notice
11 provided under this subsection satisfies due process notice requirements.

12 * Sec. 6. AS 08.88.470 is amended to read:

13 **Sec. 08.88.470. Findings and payment.** At the conclusion of the
14 commission's consideration of a claim made under AS 08.88.460, it shall make written
15 findings and conclusions on the evidence. If the commission finds that the claimant
16 has suffered a loss in a real estate transaction as a result of fraud, misrepresentation,
17 deceit, or the conversion of trust funds or the conversion of community association
18 accounts under the control of a community association manager on the part of a real
19 estate licensee, the commission may award a claimant reimbursement from the real
20 estate surety fund for the claimant's loss up to ^{\$15,000}~~\$20,000~~ [10,000]. Not more than
21 ^{\$15,000}~~\$20,000~~ [10,000] may be paid for each transaction regardless of the number of
22 persons injured or the number of parcels of real estate involved in the transaction.

23 * Sec. 7. The uncodified law of the State of Alaska enacted in sec. 44(a), ch. 134, SLA
24 2003, is amended to read:

25 (a) Notwithstanding AS 08.18.022, added by sec. 7 of this Act, the
26 Department of Community and Economic Development shall issue a certificate of
27 joint registration that is valid until January 1, 2006, to an individual who submits to
28 the department satisfactory evidence of being in the business of home inspection in the
29 state at the time of application for registration under this subsection and of having

30 (1) been in the business of home inspection in the state on October 1,
31 2002; and

1 (2) passed the building inspector examination, [OR] property
2 maintenance and housing inspector examination, or the residential combination
3 examination given by the International Code Council.

4 * Sec. 8. The uncodified law of the State of Alaska enacted in sec. 44(c), ch. 134, SLA
5 2003, is amended to read:

6 (c) Notwithstanding AS 08.18.022, added by sec. 7 of this Act, the
7 Department of Community and Economic Development shall issue a certificate of
8 registration to practice home inspection of new construction that is valid until
9 January 1, 2006, to an individual who submits to the department satisfactory evidence
10 of being in the business of home inspection in the state at the time of application for
11 registration under this subsection and of having passed the combination inspector
12 examination, [OR] the combination dwelling inspector examination, or the
13 residential combination examination given by the International Code Council.

14 * Sec. 9. The uncodified law of the State of Alaska enacted in sec. 44(f), ch. 134, SLA
15 2003, is amended to read:

16 (f) A [EXCEPT AS PROVIDED IN (c) OF THIS SECTION, A] certificate of
17 registration as a home inspector or associate home inspector issued under this section
18 is considered to be a certificate of registration as a home inspector or associate home
19 inspector issued under AS 08.18.022, added by sec. 7 of this Act.

20 * Sec. 10. The uncodified law of the State of Alaska as enacted in sec. 44, ch. 134, SLA
21 2003, is amended by adding new subsections to read:

22 (h) Notwithstanding provisions of this section that provide that a certificate
23 issued under this section is valid until January 1, 2006, a certificate issued under this
24 section is not valid for more than two years from the date of issuance unless the
25 certificate holder has provided evidence to the Department of Community and
26 Economic Development that the certificate holder has completed continuing education
27 requirements established by the department. The department may require a person
28 who must show completion of continuing education under this subsection to meet the
29 same continuing education requirements that would be applicable to license renewal
30 under AS 08.18.031(c).

31 (i) The fee for a license issued under this section is \$200. The department

SENATE FINANCE
COMMITTEE

Amendment Number: #3B
Bill Number: HB 418
Sponsor: Green Date: 5/6/04
Logged In By: Minda

AMENDMENT

OFFERED IN THE SENATE
TO: SCS CSHB 418(L&C)

BY SENATOR GREEN by request

Page 2, line 1:

Delete: "one year"
Insert: "three years"

Page 3, lines 12-22:

Delete all material.

Renumber the following bill sections accordingly.

SENATE FINANCE COMMITTEE
5 / 6 / 2004 COMMITTEE ACTION

Bill Number	HB 418		
Amendment	3B, as amended		
Motion	to adopt		
<u>Motion by</u>	Green		
<u>Objection by</u>	Wilken		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Membe</u>	Y	<u>Vote</u>	N
Senator Bunde			
Senator Dyson			
Senator Hoffman			
Senator Olson			
Senator Stevens			
Co-Chair Green			
Co-Chair Wilken			
<u>Tally</u>			
Yea			
Nay			
Absent			
<u>MOTION</u>	ADOPTED		

SENATE FINANCE
COMMITTEE

Amendment Number: #3
Bill Number: HB 418
Sponsor: Green Date: 5/6/04
Logged In By: Mindy

AMENDMENT

OFFERED IN THE SENATE
TO: SCS CSHB 418(L&C)

BY SENATOR GREEN by request

Amendment
split

ADOPTED

Page 2, line 7:

Delete: "one year"
Insert: "three years"

3A

Page 3, lines 12-22:

Delete all material.
Renumber the following bill sections accordingly.

3B,

as
amendment

on
separate
sheet



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 6 May 2004 TIME: 9:00 am

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 6

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Final Please!
SCS CS HB 418 (FIN)
23 - LS 1548 \ Q
Plus 4 amendments - attached
1 : \ I. 2
2 : \ I. 1
3 A
3 B as amended

Attention: Deb

Of Senator Green's office

RE: SCS CS HB 418 (FIN)

Date: 5/6/04 Time: 2 PM

The attached Senate Finance CS incorporates the amendment(s) your boss sponsored. Please review and approve so the bill can be forwarded to the Senate Secretary.

The CS is your copy.

Thanks,

Senate Finance Secretary

Mindy #4935

Robin #2618

Approved: [Signature]

(please initial)

Return ASAP

*Amends
#1, 2, 3A,
236
as
amended*

*OK to
take down
to Senate
Sec. Per
Stella
4:30
pm*

SENATE CS FOR CS FOR HOUSE BILL NO. 418(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act extending the termination date of the Real Estate Commission; relating to real
2 estate; relating to home inspectors; relating to real estate licensees; and providing for an
3 effective date."

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

5 * Section 1. AS 08.03.010(c)(19) is amended to read:

6 (19) Real Estate Commission (AS 08.88.011) - June 30, 2008 [2004];

7 * Sec. 2. AS 08.18.022(a) is amended to read:

8 (a) The department shall issue a certificate of registration as a home inspector
9 for new homes, existing homes, or both, as appropriate, to an individual who

10 (1) passes the appropriate home inspection examination; for purposes
11 of this paragraph, the appropriate home inspection examination for an individual who
12 applies to be registered for inspection of

13 (A) existing homes is the examination offered by the American
14 Society of Home Inspectors, [AMERICAN HOME INSPECTORS

1 TRAINING INSTITUTE,] or National Association of Home Inspectors;

2 (B) new homes or for a joint registration is the examination
3 offered by the International Code Council;

4 (2) meets the educational and experience requirements adopted by the
5 department in regulations for the type of registration applied for;

6 (3) submits a complete application for registration either

7 (A) within three years [ONE YEAR] after passing the
8 examination required under (1) of this subsection; or

9 (B) accompanied by documentation that the applicant has
10 completed continuing education requirements established by the
11 department; #3A

12 (4) within the seven years preceding the date of application, has not
13 been under a sentence for an offense related to forgery, theft in the first or second
14 degree, extortion, or defrauding creditors or for a felony involving dishonesty;

15 (5) has not had the authority to perform home inspections revoked in
16 this state or in another jurisdiction;

17 (6) is not the subject of an unresolved criminal complaint or
18 unresolved disciplinary action before a regulatory authority in this state or in another
19 jurisdiction related to real estate or home inspection matters; and

20 (7) pays the appropriate fees.

21 * Sec. 3. AS 08.18.071(a) is amended to read:

22 (a) Except as provided in (d) and (e) of this section, each [EACH] applicant
23 shall, at the time of applying for a certificate of registration, file with the
24 commissioner a surety bond running to the state conditioned upon the applicant's
25 promise to pay all

26 (1) taxes and contributions due the state and political subdivisions;

27 (2) persons furnishing labor or material or renting or supplying #1
28 equipment to the applicant; and

29 (3) amounts that may be adjudged against the applicant by reason of
30 negligent or improper work or breach of contract in the conduct of the contracting
31 business or home inspection activity, as applicable, or by reason of damage to public

1 facilities occurring in the course of a construction project.

2 * **Sec. 4.** AS 08.18.071 is amended by adding new subsections to read:

3 (d) A general contractor or specialty contractor who is in compliance with the
4 surety bond or deposit requirements of (a) and (b) of this section is not required to file
5 another surety bond or increase a deposit with the commissioner when the general
6 contractor or specialty contractor applies to be a registered home inspector. However,
7 if the general contractor or specialty contractor subsequently is neither a general
8 contractor nor a specialty contractor and becomes only a registered home inspector,
9 the home inspector shall provide a surety bond or deposit in lieu of the bond in the
10 manner and amount required for registered home inspectors under this section.

11 (e) An applicant for, or holder of, a certificate of registration as a home
12 inspector may, in lieu of filing with the commissioner a surety bond or deposit that
13 meets the requirements of this section, file evidence satisfactory to the commissioner
14 that the applicant is employed by a registered home inspector who is in compliance
15 with the surety bond or deposit requirements of this section.

16 * **Sec. 5.** AS 08.18.101 is amended by adding a new subsection to read:

17 (b) Proof of insurance coverage for an applicant under (a) of this section may
18 be satisfied by providing evidence that the applicant is covered by a policy in effect
19 for the applicant's employer at least to the extent required under (a) of this section.

20 * **Sec. 6.** AS 08.88.251 is amended by adding new subsections to read:

21 (d) A licensee may, subject to the approval of the commission, renew an
22 inactive license for 24 months from the anniversary date of the issuance of the initial
23 inactive license certificate under (a) of this section.

24 (e) An active license that has been converted from inactive status under (c) of
25 this section shall be issued for the remainder of the current 24-month period of the
26 inactive license.

27 * **Sec. 7.** AS 08.88.291 is amended by adding new subsections to read:

28 (b) Each licensee under this chapter is responsible for ensuring that the
29 commission has current contact information for the licensee for two years after the
30 lapse, expiration, surrender, suspension, or revocation of the license.

31 (c) In addition to the information provided under (a) of this section, a licensee

#/
Continued

1 shall provide the commission with a current mailing address and, if active, the address
2 of the broker employing the licensee.

3 (d) The commission shall mail all notices pertaining to a license or surety fund
4 action taken under this chapter or a regulation adopted under this chapter to the current
5 address or addresses of a licensee obtained under this section. Proof of notice
6 provided under this subsection satisfies due process notice requirements.

7 * Sec. 8. AS 08.88.470 is amended to read:

8 **Sec. 08.88.470. Findings and payment.** At the conclusion of the
9 commission's consideration of a claim made under AS 08.88.460, it shall make written
10 findings and conclusions on the evidence. If the commission finds that the claimant
11 has suffered a loss in a real estate transaction as a result of fraud, misrepresentation,
12 deceit, or the conversion of trust funds or the conversion of community association
13 accounts under the control of a community association manager on the part of a real
14 estate licensee, the commission may award a claimant reimbursement from the real
15 estate surety fund for the claimant's loss up to \$15,000 [\$10,000]. Not more than
16 \$15,000 [\$10,000] may be paid for each transaction regardless of the number of
17 persons injured or the number of parcels of real estate involved in the transaction.

18 * Sec. 9. The uncodified law of the State of Alaska enacted in sec. 44(a), ch. 134, SLA
19 2003, is amended to read:

20 (a) Notwithstanding AS 08.18.022, added by sec. 7 of this Act, the
21 Department of Community and Economic Development shall issue a certificate of
22 joint registration that is valid until January 1, 2006, to an individual who submits to
23 the department satisfactory evidence of being in the business of home inspection in the
24 state at the time of application for registration under this subsection and of having

25 (1) been in the business of home inspection in the state on October 1,
26 2002; and

27 (2) passed the building inspector examination, [OR] property
28 maintenance and housing inspector examination, or the residential combination
29 examination given by the International Code Council.

30 * Sec. 10. The uncodified law of the State of Alaska enacted in sec. 44(c), ch. 134, SLA
31 2003, is amended to read:

1 (c) Notwithstanding AS 08.18.022, added by sec. 7 of this Act, the
 2 Department of Community and Economic Development shall issue a certificate of
 3 registration to practice home inspection of new construction that is valid until
 4 January 1, 2006, to an individual who submits to the department satisfactory evidence
 5 of being in the business of home inspection in the state at the time of application for
 6 registration under this subsection and of having passed the combination inspector
 7 examination, [OR] the combination dwelling inspector examination, or the
 8 residential combination examination given by the International Code Council.

9 * Sec. 11. The uncodified law of the State of Alaska enacted in sec. 44(f), ch. 134, SLA
 10 2003, is amended to read:

11 (f) A [EXCEPT AS PROVIDED IN (e) OF THIS SECTION, A] certificate of
 12 registration as a home inspector or associate home inspector issued under this section
 13 is considered to be a certificate of registration as a home inspector or associate home
 14 inspector issued under AS 08.18.022, added by sec. 7 of this Act.

15 * Sec. 12. The uncodified law of the State of Alaska as enacted in sec. 44, ch. 134, SLA
 16 2003, is amended by adding new subsections to read:

17 (h) Notwithstanding provisions of this section that provide that a certificate
 18 issued under this section is valid until January 1, 2006, a certificate issued under this
 19 section is not valid for more than two years from the date of issuance unless the
 20 certificate holder has provided evidence to the Department of Community and
 21 Economic Development that the certificate holder has completed continuing education
 22 requirements established by the department. The department may require a person
 23 who must show completion of continuing education under this subsection to meet the
 24 same continuing education requirements that would be applicable to license renewal
 25 under AS 08.18.031(c).

26 (i) The fee for a license issued under this section is \$200. The department
 27 shall adopt regulations for the collection of this fee.

28 * Sec. 13. Sections 41, 42, 44(e), and 47, ch. 134, SLA 2003, are repealed.

29 * Sec. 14. This Act takes effect immediately under AS 01.10.070(c).

#2



Alaska Division of Legislative Audit

Audit Digest #08-20023-03

[Audit Report
HTML Format](#)
[Audit Report
PDF Format *](#)
[2003 Audit
Report List](#)
[Legislative Audit
Home Page](#)

* Requires Acrobat Reader



SUMMARY A Sunset Review of the Department of Community and Economic Development,
OF: Division of Occupational Licensing, Real Estate Commission.

PURPOSE OF THE REPORT

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes, we have reviewed the activities of the Real Estate Commission (REC) to determine if the termination date for the commission should be extended. As required by AS 44.66.050(a), the legislative committee of reference shall consider this report as part of the oversight process in determining if REC should be reestablished. Currently, AS 08.03.010(c)(19) specifies that REC will terminate on June 30, 2004, and will have one year from that date to conclude its administrative operations.

REPORT CONCLUSIONS

In our opinion, the termination date for REC should be extended. The commission serves a public purpose and has demonstrated an ability to operate in a satisfactory manner. The regulation and licensing of real estate professionals provides necessary public protection in the buying and selling of residential and commercial properties.

The commission carries out its responsibilities to educate both the public and REC licensees in a professional, competent, and efficient manner. Additionally, active investigation of complaints and licensure actions, when appropriate, provides assurance that licensed professionals are competent and ethical. We recommend that legislation be enacted to extend the commission's termination date to June 30, 2008.

FINDINGS AND RECOMMENDATIONS

1. The legislature should amend the statutes related to the Real Estate Surety Fund (RESF) to provide more complete, effective, and efficient consumer protection to claimants.

RESF provides consumers reimbursement for financial losses they may have suffered from a real estate transaction attributable to "fraud, misrepresentation, deceit, or the conversion of trust funds..." on the part of an REC licensee. Claims for reimbursement are subject to a hearing process administered in accordance with the state's administrative procedures act. In order to make the RESF operate in a manner consistent with the fund's evident purpose, we recommend the legislature amend state laws related to the fund in order to:

- o Increase the limits on reimbursement of claims to \$20,000 per transaction and the associated

maximum payment per licensee to \$100,000.

- o Only require the Division of Occupational Licensing (OccLic) to make reasonable efforts to provide right-of-appeal notification.
- o Specify that mobile home transactions are subject to RESF claims.

 Audit Report HTML Format	 Audit Report PDF Format *	2003 Audit Report List	Legislative Audit Home Page
--	---	----------------------------------	---------------------------------------

* Requires Acrobat Reader



October 16, 2003

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), the attached report is submitted for your review.

DEPARTMENT OF COMMUNITY AND
ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
REAL ESTATE COMMISSION SUNSET REVIEW

October 16, 2003

Audit Control Number

08-20023-03

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given commission, commission, agency, or program subject to the sunset review process. Currently under AS 08.03.010(c)(19), the Real Estate Commission is scheduled to terminate on June 30, 2004. If the legislature takes no action to extend the termination date, the commission would be allowed one year in which to conclude its administrative operations.

In our opinion, the termination date for REC should be extended. The regulation and licensing of real estate professionals provides necessary public protection in the buying and selling of residential and commercial properties. We recommend that legislation be enacted to extend the commission's termination date to June 30, 2008.

The audit was conducted in accordance with generally accepted government audit standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology.

Pat Davidson, CPA
Legislative Auditor

TABLE OF CONTENTS

	<u>Page</u>
Objectives, Scope, and Methodology	1
Organization and Function	3
Background Information.....	7
Report Conclusions.....	9
Findings and Recommendations.....	11
Analysis of Public Need	15
Appendices	
Accountant's Report	23
Statements of Revenues, Expenditures, and Changes in Fund Balances	25
Notes to the Financial Statements.....	27
Agency Responses	
Department of Community and Economic Development	29
Alaska Real Estate Commission.....	33
Legislative Auditor's Additional Comments	37

OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes, we have reviewed the activities of the Real Estate Commission (REC) to determine if the termination date for the commission should be extended. As required by AS 44.66.050(a), the legislative committee of reference shall consider this report as part of the oversight process in determining if REC should be reestablished. Currently, AS 08.03.010(c)(19) specifies that REC will terminate on June 30, 2004. If no action is taken by the legislature, the commission will have one year from that date to conclude its administrative operations.

Objectives

The three central, interrelated objectives of our report are:

1. To determine if the termination date of the commission should be extended.
2. To determine if the commission is operating in the public interest.
3. To determine if the commission has exercised appropriate regulatory oversight of real estate licensees.

The assessment of the operations and performance of the commission was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the commission.

Scope and Methodology

Under the direction and supervision of the Division of Legislative Audit, another auditor conducted the majority of this review. We followed professional standards to determine that the other auditor was independent and that their work was competent and sufficient.

The major areas of our review were commission proceedings, licensing, complaint investigation and resolution functions. During the course of our examination, we reviewed and evaluated the following:

- Applicable statutes and regulations.
- Files and documentation related to individuals licensed as real estate salespersons, associate brokers, and brokers, including those who have been issued a courtesy license to practice within Alaska.
- Files and documentation related to individuals who applied for licensing as a salesperson, associate broker, or broker; testing of licensing candidates, and continuing education necessary for an individual to maintain their license in good standing.

- Minutes of commission meetings, budget documents, and annual reports related to, or issued by REC.
- Complaints filed with the Division of Occupational Licensing, the Alaska State Commission for Human Rights, the Office of the Ombudsman, the Office of Victims' Rights, and the Federal Equal Employment Opportunity Commission.
- Financial information relating to the REC and the Real Estate Surety Fund (RESF) claims handling process.

Additionally, we conducted interviews with Division of Occupational Licensing staff and members of the REC.

ORGANIZATION AND FUNCTION

Commission Membership

Alaska Statute 08.88.011 establishes the Real Estate Commission (REC). REC is a regulatory commission consisting of seven members, specified in statute to consist of five real estate brokers or associate brokers who have been licensed as such in Alaska for at least three years prior to appointment, and two public members in accordance with AS 08.01.025. The statute further specifies that one of the five members of the commission who must be real estate brokers or associate brokers should be from each of the four Judicial Districts, and one from the state at large. However, if no licensed real estate broker or licensed associate broker is eligible or available for appointment from the Second Judicial District, then two licensed real estate brokers or licensed associate brokers shall be appointed from the state at large. Currently, the Office of the Governor has exercised this option, and has appointed to REC two members from the state at large.

REAL ESTATE COMMISSION *(As of October 14, 2003)*

Jeannie Johnson, Broker – 1st Judicial District –
Chairperson

Lottie M. Michael, CCIM, Broker – Member at Large

Barbara Parker-Ramsey, Associate Broker –
3rd Judicial District

Susan Rainey, Associate Broker – 4th Judicial District

David B. Somers, Broker – Member at Large

Bradley J Fluetsch, CFA – Public Member

Vacant – Public Member

Statutory Authority of the Commission

Alaska Statute 08.88.071 defines the commission's authority, purpose, and scope of work. Under this statute, REC must perform the following duties:

1. Determine whether applicants meet requirements for licenses under this chapter and issue licenses to those who qualify.
2. Prepare and grade examinations.
3. Prosecute, through the Department of Law, violations of real estate statutes and regulations.
4. After a hearing, REC has the authority to suspend or revoke the license of a licensee or impose other disciplinary sanctions authorized under AS 08.01.075 on a licensee who violates real estate statutes and regulations.
5. Prosecute, through the Department of Law, violations of the provisions of this chapter or lawful regulations adopted under this chapter.

6. Release for publication in a newspaper of general circulation (in the locale of the offending person's principal office registered with the commission) notice of disciplinary action taken by REC against a licensee.
7. Issue a temporary permit to the personal representative of the estate of a deceased or legally incompetent real estate broker (or to another person designated by the commission, with the approval of the personal representative of the estate) in order to secure proper administration in either:
 - A. concluding the affairs of the decedent broker's real estate business (if deceased); or
 - B. temporarily managing the real estate business of the broker (if legally incompetent).
8. Establish and periodically revise the form of the seller's property disclosure statement required by AS 34.70.010.
9. Have the authority to levy civil fines as established under AS 08.88.
10. Revoke the license of a broker or associate broker who is convicted of forgery, theft, extortion, conspiracy to defraud creditors, or a felony involving moral turpitude committed while licensed under AS 08.88.

License Requirements

REC licenses real estate brokers, associate brokers, and salespersons. In order to obtain initial licensure, real estate brokers and associate brokers must pass an examination and have a minimum of 24 months of active and continuous experience as a real estate salesperson. A broker differs from an associate broker in that a broker must be an owner of a real estate business, or must be employed as a broker by a corporation or partnership. An associate broker is an individual who has met the statutory requirements of a broker, but does not meet the ownership criteria for a broker.

A real estate salesperson must pass an examination, be at least 19 years old, must not be under indictment for any felony involving moral turpitude, or, if convicted for an offense, the person must have completed the imposed sentence; and be employed by a real estate broker.

REC also conducts a variety of educational activities such as holding clinics, meetings, and seminars, as well as publishing educational pamphlets for the purpose of raising the standards of the real estate profession and improving the competency of its various licensees.

Real estate licenses are renewed biennially. The next biennial renewal date is January 31, 2004. In order to renew their license, real estate licensees must complete a renewal application, provide evidence of continuing education, and remit a license fee.

Duties of the Department of Community and Economic Development

The Department of Community and Economic Development (DCED), Division of Occupational Licensing (OccLic) provides administrative and investigative assistance to REC. This includes budgetary services and functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notice of examinations and meetings.

Alaska Statute 08.01.065 mandates that DCED, with the concurrence of the board, adopt regulations to establish the amount and manner of payment of application fees, examination fees, license fees, registration fees, permit fees, investigation fees, and all other fees as appropriate for the occupations covered by the statute.

Alaska Statute 08.01.087 empowers OccLic with the authority to act on its own initiative, or in response to a complaint. The division may:

1. Conduct an investigation if it appears a person is engaged in, or is about to engage in, a prohibited professional practice.
2. Bring an action in superior court to enjoin the act.
3. Examine the books and records of an individual.
4. Issue subpoenas for the attendance of witnesses and records.

Real Estate Surety Fund

The real estate surety fund (RESF) operates under Article 4 of AS 08.88. REC administers the fund and sets the surety fee paid by all licensees. The fund was established in 1974 to serve as a substitute for corporate surety bonds, which licensees were previously required to obtain; and to fund the education of licensees and the public.

By law, the fund is to be used for reimbursement of losses suffered as a result of fraud, misrepresentation, deceit, or the conversion of trust funds on the part of any real estate licensee. Claims for reimbursement require a \$250 filing fee and claim payments are limited to \$10,000 per transaction, up to a maximum of \$50,000 per licensee. The statutes grant REC the following authority when considering a claim for payment from the RESF:

1. Take and hear evidence pertaining to the claim.
2. Administer oaths and affirmations.
3. Compel, by subpoena, the attendance of witnesses and the production of books, papers, and documents pertaining to the claim.

4. Engage the services of an investigator, accountant, or other expert necessary to process the claim.

However, the commission currently exercises its option under AS 08.88.472(c) to contract under AS 36.30 (State Procurement Code) with a hearing officer employed by OccLic to perform the above hearing and legal services for REC.

In order to facilitate the management of the RESF and the fee setting process, DCED is required by statute to provide the commission every three months with a financial statement that includes the following information regarding the RESF:

- the activities of the fund.
- balances in the fund.
- interest earned.
- interest returned to the fund.

BACKGROUND INFORMATION

The Alaska Real Estate Commission (REC) was created in 1964. In one of its earliest actions, REC required all licensees to carry a surety bond. Salespersons were required to maintain a \$1,000 bond while brokers had to carry bonding for \$5,000. The purpose of these bonds was to provide consumers some protection from malfeasance on the part of REC licensees.

At the request of REC, the Legislature established a state-administered surety fund in 1974

Although there were few claims against these bonds, the real estate profession and REC realized the required bonding levels were too low to adequately protect the public. Following the example of 12 other states, the industry together with REC, actively lobbied the 1974 legislature to create a state-administered surety fund that is funded by licensee fees. The fund was to serve a two-fold purpose:

1. To provide indemnification up to \$10,000 per 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.
2. To provide funding for real estate education of both the public and REC licensees.

Originally, the surety fund only paid court-ordered judgments against real estate licensees

The 1974 legislation, which was patterned after the California model, required a court judgment against a licensee prior to any disbursement from the Surety Fund. Under the original 1974 law there was no requirement that the fund be reimbursed by the licensee whose actions resulted in a claim payment, nor did the law provide for any review by REC prior to payment from the fund. From the 1976 license renewal cycle (when the first fees were paid into the surety fund), judges were able to order payment to the successful complainant directly from the fund to satisfy a judgment.

In 1980, surety fund statutes were amended to provide for an administrative hearing process

The legislature responded to a recommendation in a 1980 REC sunset review by amending the surety fund statutes. We recommended that REC take on the responsibility of not only hearing cases involving RESF claims, but also approving awards from the fund. The use of hearing officers, in accordance with the Administrative Procedures Act, began in late 1982. At that time, the commission adopted regulations that became effective in early 1983.

Under these regulations, claims are filed directly with REC. A \$250 filing fee is required; however, the fee is refunded if the complainant prevails. Once a complaint is received the administrative hearing process begins. The hearing consists of presentations by the claimant and the licensee(s) involved. The hearing officer has the power to subpoena evidence and to require the attendance of witnesses. Both parties are allowed legal counsel if they so choose.

Administrative hearings provide all of the due process protections, with the exception of a jury trial, that are afforded through the civil court system. The rules of evidence are more informal than in court; although, as a practical matter, most of the evidence that is presented in administrative hearings would be allowed in a civil court proceeding.

At the conclusion of the hearing, a document titled Findings of Fact and Conclusions of Law is prepared by the hearing officer. This document summarizes the hearing officer's findings and recommended action as to whether REC should approve payment of the claim from the fund. Once a hearing officer has made a recommended decision, the commission reviews the case and decides if the claim should be paid from the RESF. After the final decision is made, the licensee or the claimant has the option to appeal to the Superior Court.

Statute requires the surety fund maintain a minimum balance and also sets the maximum level

Alaska Statute 08.88.450 establishes the floor of the fund at \$250,000 and the ceiling at \$500,000. The funds in RESF may be used to pay claims and fund education for real estate professionals. The surety fee is set by REC and is capped at \$125. This fee may be adjusted downward by REC as long as the fund is maintained at a level that can pay claims against it without going below the minimum fund balance of \$250,000. REC is also responsible for approving education expenditures and all consumer claim payments charged to the fund.

REPORT CONCLUSIONS

In accordance with AS 08.03.010(c)(19), the Real Estate Commission (REC) is scheduled to terminate by statute on June 30, 2004. If no action is taken by the legislature, the commission will have one year in which to conclude its affairs and will be dissolved on June 30, 2005.

REC is responsible for licensing and regulating individuals who hold themselves out to the public as real estate salespersons, associate brokers, or brokers. The commission accomplishes this by establishing: (1) qualifications for licensure; (2) the scope and extent of continuing education necessary for real estate professionals to remain licensed; and, (3) evaluating and approving payment of claims from the real estate surety fund to consumers seeking reimbursement for a loss suffered in a real estate transaction attributable to fraud, misrepresentation, or deceit on the part of a REC licensee.

In our opinion, the termination date for REC should be extended. The commission serves a public purpose and has demonstrated an ability to operate in a satisfactory manner. The regulation and licensing of real estate professionals provides necessary public protection in the buying and selling of residential and commercial properties. The commission carries out its responsibilities to educate both the public and REC licensees in a professional, competent, and efficient manner. Additionally, active investigation of complaints and licensure actions, when appropriate, provides assurance that licensed professionals are competent and ethical. We recommend that legislation be enacted to extend the commission's termination date to June 30, 2008.

(Intentionally left blank)

FINDINGS AND RECOMMENDATIONS

Recommendation No. 1

The legislature should consider amending the statutes related to the Real Estate Surety Fund to provide more complete, effective, and efficient consumer protection to claimants.

The Real Estate Surety Fund (RESF) provides consumers reimbursement for financial losses they may have suffered from a real estate transaction attributable to "*fraud, misrepresentation, deceit, or the conversion of trust funds...*"¹ on the part of an REC licensee. Claims for reimbursement are subject to a hearing process administered in accordance with the state's administrative procedures act.

In reviewing the administration of the fund in recent years, we have noted instances or circumstances that are not consistent with the evident purpose of the fund. That is, the fund is not operating in a manner that provides individuals with a less cumbersome alternative to formal litigation in the courts when they have been financially injured in a real estate transaction. Towards the end of making RESF operate in a manner consistent with this evident purpose, we recommend the legislature consider amending state laws related to the fund in order to:

1. Increase the limits on reimbursement of claims. Under current state law, RESF claim payments are capped at \$10,000 per transaction,² up to a maximum of \$50,000 per licensee.³ The current limits were set in 1974 when RESF was first established in statute.

The mandate for licensees to pay a fee (set by REC) to fund the RESF was also set out in the 1974 statute. The statute was amended in 1998 limiting this fee to no more than \$125.⁴ Currently, the license fee is set by REC at \$30 per licensee. The amount paid by licensees is primarily determined by how close the balance of the fund is to \$500,000 (the maximum set in statute) or to \$250,000 (the statutory minimum). During our audit period, the RESF has fluctuated close to the \$500,000 ceiling; at no time did the balance approach the \$250,000 minimum floor.

Given the soundness of the fund, we suggest the legislature consider increasing the claim limit. The following observations indicate a need to reconsider the claim limit:

- Each of the last five RESF claim payments was for the maximum \$10,000. The alleged losses associated with each of these successful, and presumably valid, claims exceeded the \$10,000 limit (although all but one was less than \$20,000).

¹ AS 08.88.460(a)

² AS 08.88.470

³ AS 08.88.475(a)

⁴ am § 36 ch 45 SLA 1998

- If the \$10,000 amount established in 1974 was adjusted by the consumer price index for Anchorage, the current equivalent sum would be \$31,500.
- Compared to other states with similar recovery funds our limit is low. The average per-transaction limit of 26 states surveyed is just over \$21,000. The average per-licensee limit (in states with a two-tiered limit such as Alaska) is just under \$70,000.

Increasing the limits on claim payments would not only cause an increase in the amount of funds paid out of the fund, but also may increase the number of claims made on the fund. However, considering the balance of the fund over the past eight years, it is unlikely that this will have a material effect on the fund balance or cause REC to significantly raise the RESF fees. Given these factors, we recommend the legislature increase the limit on claim payments to \$20,000 per transaction and the associated maximum payment per licensee to \$100,000.

2. Only require the Division of Occupational Licensing (OccLic) to make reasonable efforts to provide right-of-appeal notification. Claims against RESF are administered under the state's Administrative Procedures Act (APA).⁵ Under this act, either party may appeal the final decision made by REC. When a RESF "judgment" involving the actions of a REC licensee is made by the commission, the licensee has a right to appeal. Final payment from the RESF is held until the appeal is filed and considered or the individual involved waives their appeal rights.

This has resulted in a situation where a successful claimant has been waiting over nine months to receive a \$10,000 payment and OccLic has not been able to locate or notify the losing respondent of their rights to appeal. It is very likely the individual has left the state, but the Department of Law has advised OccLic to continue their attempts of contacting the respondent in order to afford him full opportunity in exercising his APA appeal rights.

Such notification requirements are inconsistent with the central evident purpose of RESF – allowing consumers an expedited way to recover some, if not all, of their financial loss from the fraudulent actions of real estate licensees. Accordingly, we recommend that the legislature permit REC and OccLic to disburse RESF claim payments after they have made a good faith effort to locate the losing respondent regarding appeal options. If such efforts are unsuccessful, then OccLic should be allowed to presume the individual is waiving their appeal rights -- and disburse claim awards to the prevailing plaintiff.

3. Specify mobile home transactions are subject to RESF claims. State law specifies that RESF can be used to reimburse an individual for a loss "*suffered in a real estate transaction as a result of fraud, misrepresentation, deceit ...*"⁶ In two instances, during recent years, attorneys representing REC licensees have sought to have

⁵ AS 44.02

⁶ AS 08.88.460

RESF claims dismissed because the claims involved transactions in the purchase of mobile homes. The attorneys argued that since mobile homes are considered personal, rather than real property, their sale do not represent a "*real estate transaction*" as specified in law.

The hearing officer handling the case has always disallowed this argument. However, such procedural rulings made in the course of an administrative hearing do not have any value in establishing recognized precedence. Accordingly, in some future claim hearing, it could be held that the RESF statutes do not cover mobile home sales transactions.

As reasoned by the hearing officer, the intent of RESF is to compensate victims of fraud, misrepresentation, and deceit on the part of REC licensees. Mobile home purchases still represent a large commitment of capital on the part of the buyer and necessary reliance on the performance of a real estate professional. Therefore, we recommend the legislature amend the statute to specify mobile home transactions as being subject to RESF claims.

The implementation of the above recommendations will enhance the consumer protection offered by the RESF as well as the consumer satisfaction in the adjudication of their claims. Further, implementation will streamline the administration of the Fund by increasing the efficiency with which disbursements from RESF are made.

(Intentionally left blank)

ANALYSIS OF PUBLIC NEED

The following analyses of commission activities relate to the public need factors defined in AS 44.66.050(c). These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

The extent to which the board, commission, or program has operated in the public interest.

In FY 93, REC implemented a system of electronic testing for licensure examinations required of salespersons and brokers. The passing score report generated upon successful completion of the examination was designed to also serve as the license application, which reduced the processing time involved in issuing the initial license. Since that time, REC has continued to administer and maintain oversight for the licensing exams. Exam times and sites are offered at various locations throughout the state on at least a monthly basis.

REC developed and issued an informational booklet titled *The Landlord and Tenant Act: What it Means to You*. The booklet served as a reference source for both landlords and tenants, explaining the requirements and responsibilities of each party under state law. REC completely rewrote and reissued this booklet in July 2002, incorporating changes in the laws and regulations since the original publication date.

REC also developed and issued revisions to the Property Transfer Disclosure Statement and provided statewide distribution and training on completing the form. In addition, REC periodically publishes a newsletter. This newsletter has articles regarding statutes and regulations, including upcoming changes; highlights from the most recent REC meeting; and, articles of interest to the real estate profession.

The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices that it has adopted, and any other matter, including budgetary, resource, and personnel matters.

The table on the next page summarizes the number of claims filed and their disposition during the period of our audit. With respect to surety fund claims, it appears that the timing of claims processing and resolution may be impeded by the availability of only one hearing officer to service the entire OccLic division. This has resulted in extensive delays in the finalization of claims. The initial response to claims appears to be expedient; however, final resolution appears to generally be taking two years or more.

In September 2001, the licensing examiner's position was expanded from part-time to full time. The position was expanded in response to the steady growth in the number of real estate licensees and the resulting increase in workload. In FY 03, there was a dramatic increase in Real Estate Surety Fund (RESF) claims (as shown in the table at right); consequently, in FY 04 we expect a corresponding rise in personnel service costs for the hearing officer.

RESF Claims Filed and Disposition of Claims	FY 00	FY 01	FY 02	FY 03
New Claims Filed	3	5	5	14
Disposition:				
Withdrawn	1	0	2	0
Moved to small claims	0	1	0	0
Dismissed	1	0	0	0
Resulted in payment ⁷	1	1	0	0
Pending	0	2	3	14
Appealed to Superior Court	0	1	0	0

Licensing fees and Commission Operating Expenses

State law requires "...that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation." The schedule below summarizes the operating costs and revenues for REC for the period of FY 00 through FY 03. As reflected in this schedule, REC is in material compliance with the law at the end of FY 03.

**Real Estate Commission
Schedule of License Revenues and Commission Expenditures
FY 00-FY 03
(Unaudited)**

	<u>FY 03</u>	<u>FY 02</u>	<u>FY 01</u>	<u>FY 00</u>
Total Revenues	\$ 126,600	\$ 646,700	\$ 84,100	\$ 629,000
Direct Expenditures:				
Personal Services	171,300	142,800	141,700	178,400
Travel	21,200	16,800	11,900	16,700
Contractual	79,300	78,500	45,700	67,100
Supplies	<u>1,600</u>	<u>1,500</u>	<u>2,900</u>	<u>600</u>
Total Direct Expenditures	273,400	239,600	202,200	262,800
Administrative Indirect Costs	<u>102,700</u>	<u>95,700</u>	<u>88,200</u>	<u>93,300</u>
Total Expenditures	<u>376,100</u>	<u>335,300</u>	<u>290,400</u>	<u>356,100</u>
Revenues over (under) Expenditures	<u>(249,500)</u>	<u>311,400</u>	<u>(206,300)</u>	<u>272,900</u>
Cumulative Surplus (deficit)	\$ <u>(800)</u>	\$ <u>248,700</u>	\$ <u>(62,700)</u>	\$ <u>143,600</u>

⁷ FY 00 claim payment made two years after original filing date, FY 01 claim payment authorized 26 months after original filing date (check not disbursed as of audit fieldwork).