

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES, 2005-2006 3083

- If the broker or lender was party to the actual closing and funding of the loan, the examination would cover the closing process to ensure compliance with applicable laws.
- If the broker or lender was the servicer of the mortgage loan, the examination would cover compliance review to ensure the payments were properly being processed. If taxes and insurance were in trust accounts, there would be a verification that the lender or broker was properly paying those items when due.

The examination process the division would employ would be based on an increasing level of complexity based on the number of services the lender or broker would conduct. It is not meant to make all licensees round pegs to fit into a round hole. For licensees outside of the division's offices in Anchorage or Juneau, examinations would be conducted either through the mail or on-site, based on the licensee's level of activity. For instance, a licensee that either brokers or originates a small number of loans per year and lives in Ketchikan, they most likely would be subject to a mail examination every three years. Their cost would be for the Examiner's time and the cost of mailing the documents to the examiner.

#### Cost of Examination

On average, the cost of the examination is estimated to run between \$200 and \$5,000, depending on the level of activity of the licensee. If a lender or broker performs the underwriting, origination, funding, and servicing of loans, the cost of the examination would be at the higher end.

#### Sec. 06.60.400.

The department wanted to have a separate section dedicated to advertising to cover all types of broadcast media. In addition, the language used is to ensure that certain loan information is disclosed in the appropriate manner, to be clear to the members of the public.

#### Sec. 06.60.410.

This enables the state to adopt the federal law for enforcement. Instead of re-writing pertinent federal law and thus creating a dual regulatory environment for licensees to be required to operate under, it is much more streamlined to allow the state to enforce existing laws.

#### Sec. 06.60.430 etal

(a) the intent is to protect the consumer from constant selling from the lender/broker the consumer used in the house financing.

(b)(1-7) these are all the factors to consider when determining if the loan is/was in the best interest of the borrower. Each singular items in and of itself can be the sole consideration for the benefit derived from the refinance. The refinance in total must be considered.

Sec. 06.60.600.

The program administration fee is separate of recording fees. If the department did not collect the program administration fees, the industry would have to pay licensing fees of up to approximately \$2,000 per year depending on the number of licenses issued. By tying the program to the direct product – namely a mortgage loan – the division is compensated based on the volume of consumers that are participating in the program.

The department will not only be assisting Alaskans that have loans with licensees, but in addition it will be helping Alaskans that may have a mortgage through an exempted entity. For example, we can file a letter on behalf of an affected Alaskans to an exempt entity or their regulatory agency advising them that they are in violation of Alaska law. Right now we have no law and no authority. In addition we will be able to coordinate with other states regarding violation of law from their regulated entities.



# The Mortgage Network, LLC

1752 Tongass Avenue • Ketchikan, Alaska 99901 • (907) 225-5626 • FAX (907) 247-2428

Honorable Bert Stedman  
State Capital, Room 30  
Juneau, AK 99801-1182

Re: SB 272

Dear Senator Stedman:

I would like to address the following points in SB 272:

**Article 3, Sec. 06.60.300(2);** I would like it to be clear who determines this or by what guidance they would act. Is guidance simply this chapter?

**Article 3, Sec. 06.60.340(a);** Who in the department is qualified and what training would such an individual receive. Is there a pay scale associated with these positions, and will the department be hiring from outside? I might be interested.

**Article 3, Sec. 06.60.0340(d);** This provision is absolutely unreasonable for a small mortgage broker in Ketchikan, or Fairbanks. The mandatory financial burden is in no way equal or fair. There should be no penalty for doing a good job.

**Article 4, Sec. 06.60.400;** This section has no definition and is already address in Federal if not State advertising law. It is definitely covered in the laws enforced by the Federal Securities and Exchange Commission as well as the Federal Trade Commission.

**Article 4, Sec. 06.60.410;** Why must Alaska have a law that simply states one must abide by specific Federal laws.

**Article 4, Sec. 06.60.430(a);** What prevents a different mortgage lender or mortgage broker from refinancing the loan, even if it is or is not in the borrower's best interest. Why is there no legal provision for his scenario? It serves the same end.

**Article 4, Sec. 06.60.430(b)(1);** What slide-ruler or other arbitrary notion would be used to determine that the costs and fees would or wouldn't make a refinanced mortgage loan within a 12 month period in the borrower's best interest?

**Article 4, Sec. 06.60.430(b)(2);** It should be defined how one amortization period is better than another amortization period at any given time. This must be delineated. Here is an additional question; is a simple change in term by itself satisfactory evidence that a refinanced mortgage loan was in the borrower's best interest?

Article 4, Sec. 06.60.430(b)(3); Can it possibly be determined that if the borrower receives cash at closing from a refinance mortgage loan, then it is in the borrower's best interest? This is a poor test.

Article 4, Sec. 06.60.430(b)(5); This part is too subjective with regard to costs and fees. There needs to be clear guidance. Besides, there are current Federal laws regarding costs and fees.

Article 4, Sec. 06.60.430(b)(6); This part seems a loophole to me. Who determines when it is a "bona fide" personal need? Does this need to be approved by the State agency first? Doesn't the satisfaction of a "bona fide" personal need also satisfy the borrower's best interest test? Doesn't this go without saying?

Article 4, Sec. 06.60.430(b)(7); Should this also include mortgage loans that are due within 2 years, as in the case of a mortgage with a balloon payment.


Article 6, Sec. 06.60.600; I feel this article and section should be deleted in its entirety. It serves no purpose other than to create revenue from an existing revenue source. The fee for recording of mortgage documents is currently being collected by recording departments all over the state. This piece of legislation is preposterous.

From this, it is also not clear who would pay the fee. Is it the originator, or the funder. This is not the way to fund the mortgage lending enforcement division. Where is this method standard procedure in other states?

Article 9, Sec. 06.60.990(8)(C)(iv); Why is residential construction lending exempt?

Thank you for your time.

Sincerely Yours,

  
Greg Harsha  
The Mortgage Network, LLC

Enclosed: CC sheet

# INDEPENDENT LENDERS OF ALASKA

5313 ARCTIC BLVD., SUITE 206

ANCHORAGE, AK 99518

Phone: (907) 279-8551 Fax: (907) 274-7630

E-Mail: [kgain4cash@msn.com](mailto:kgain4cash@msn.com)

March 14, 2006

Senator Con Bunde, Chair  
Senate Labor and Commerce Committee  
Alaska State Legislature  
Juneau, Alaska

Reference: CSSB 272--Proposed Legislation to License Mortgage Lenders and Mortgage Brokers for Residential Mortgages.

Dear Senator Bunde and Committee Members:

At the hearing on CSSB 272 last week, a number of questions and issues were raised. Since I worked with the Division of Banking and Securities in writing this Bill, I would like to make an attempt to answer the questions and respond to some of the issues raised by the opponents of the Bill.

**Definition of "Predatory Lending":** This term does not have a specific definition other than to generally mean lending practices that are unfair to the borrower. For that reason the term "Predatory Lending" is not used in the Bill. Instead the types of prohibited activities by mortgage lenders and brokers are specifically listed in Sections 06.60.400 thru 06.60.440.

**Complaints can't be anonymous and must be in writing:** I believe the procedure for complaints is addressed in the Alaska Administrative Procedures Act, which this Bill is subject to (see 06.70.700). In any event, administrative issues such as complaint procedures are better addressed in regulations rather than statutes.

**Clarify what would trigger an audit and how often it would be done:** Section 06.60.340 requires an *"examination of the licensee to determine whether the licensee is complying with the provisions of this chapter and regulations adopted by the department and to obtain information required by the department under this chapter"*. Such an examination shall be conducted at least every 36 months, and may be conducted if a credible complaint is received by the department. Unfortunately, someone started referring to this very reasonable examination process as an "AUDIT", and therefore opponents of the Bill have created fear in the minds of some mortgage brokers familiar with the high cost and detailed effort involved in a

financial audit by a CPA. This Bill does not require audits.

**Required Continuing Education:** This is a Bill to license mortgage lending and mortgage brokerage companies. How can you require continuing education by a company?

**Deal With Loan Originators:** The proposal to license originators relates to the licensing of employees of mortgage lenders and mortgage brokers. The opponents to this Bill want to be regulated like the real estate industry under the authority of the Division of Occupational Licensing. However, all other financial service entities (*banks, credit unions, small loan companies, pay day lenders and securities firms*) first require licensing of the company. Only securities firms also require licensing of employees. While the licensing of originators has some merit, there is currently no proposal on the table, and if this Bill fails to become law the whole issue becomes moot as there would be no licensed companies.

**Too Many Exemptions:** By only counting, the number of exemptions does seem high. However, when analyzed, they are all logical. Does it make sense to require licensing of any of the following exemptions?

1. Lenders loaning their own money who make 1 or fewer loans per month?
2. A federally or state regulated bank or credit union that is already subject to regulation?
3. A subsidiary of a bank or credit union that is also subject to regulation?
4. Non-profit corporations that make charitable loans?
5. Government agencies?
6. A fiduciary of a pension plan who makes loans only to plan participants?
7. Licensed attorneys and real estate salesmen and brokers when rendering a service for which they are already licensed?
8. A fiduciary acting under authority of the court?
9. A person licensed by the SBA as an SBIC?

While it is true that banks and credit unions do make many mortgage loans, they are already subject to rigorous regulation. In addition, a state Legislature has no authority to regulate federally chartered financial institutions.

**Big Guy vs. Little Guy:** While it is true that all those testifying against the Bill are from small companies, there is absolutely no justification for framing the issue in that manner even though the opponents effectively used the time proven rhetoric of saying, "*this Bill hurts small business*". Our organization, which supports the Bill, is comprised solely of small businesses. For example, my company, Cash Now Financial Corporation, consists of my partner, myself and two half time employees. We are the little guys, and we support this Bill.

Many of the opponents have not taken the time to read the Bill and discuss it with the Department. It is true that there was an earlier draft that was anti-small business (*It would have cost my little company \$25,000 per year*), but that is not true with this Bill. It is my estimate that the annual cost of regulation for our company will be about

\$1,500 per year averaged over 3 years. (This includes my estimate of the cost every 3<sup>rd</sup> year of the mandatory examination, including lost productivity of our employees during the examination)

CONCLUSION: As you will recall, one of the persons testifying against the Bill admitted that he hadn't read the Bill. It was obvious that several of the people testifying against the Bill were testifying based upon incomplete information told to them by others without a thorough and independent analysis of what the Bill actually says. While I would prefer not to be regulated, given the magnitude of complaints being received by the Department it is unrealistic to argue that regulation is not needed. Because the Department believes this Bill gives them the tools they need to provide consumer protection and because the Bill does not place an excessive burden on ethical small businesses, it should be passed.

Sincerely,  
Independent Lenders of Alaska

A handwritten signature in black ink, appearing to read "Kenneth Jay Gain", written over a faint, illegible typed name.

Kenneth Jay Gain,  
Secretary/Treasurer  
Legislative Chairman

# INDEPENDENT LENDERS OF ALASKA

5313 ARCTIC BLVD., SUITE 206

ANCHORAGE, AK 99518

Phone: (907) 279-8551 Fax: (907) 274-7630

February 27, 2006

Senator Con Bunde, Chair  
Senate Labor and Commerce Committee  
Alaska State Legislature  
Juneau, Alaska

Reference: CSSB 272--Proposed Legislation to License Mortgage Lenders and Mortgage Brokers for Residential Mortgages.

Dear Senator Bunde:

Our organization is comprised of 15 small private lenders within the State who specialize in making mortgage loans to borrowers and on properties that do not qualify for loans through banks and credit unions. I am submitting this letter in support of CSSB 272.

Like many small Alaskan businesses, our members would prefer to maintain our current status as businesses not subject to government regulation. Unfortunately, we are advised by the Division of Banking & Securities that they receive approximately 20 complaints per week concerning mortgage financing. We are also aware that Alaska is one of the few states that does not regulate mortgage lenders, that are not banks or credit unions, and that Congress is now considering legislation that would require each state to do so. We have therefore accepted the fact that reasonable regulation to protect Alaska consumers is needed and necessary.

Since June of last year, we have worked with the Division of Banking & Securities to draft legislation that will provide meaningful protection for consumers without placing an undue regulatory burden on small businesses. Because our members lend their own money, they don't need the same degree of regulation that is required for banks and credit unions which lend depositor's money. As with any legislation, this proposed bill doesn't provide everything we would like, but we do consider it to be a reasonable proposal. We believe that this bill merits the support of the Alaska Legislature for the following reasons:

- 1 It provides strong consumer protection against abuses in Mortgage Lending.
- 2 It gives the Alaska Division of Banking & Securities strong enforcement ability.
- 3 The enforcement of the Act will be self funded from fees paid by licensees and a small \$10 per loan fee for each residential transaction paid by borrowers. *(This is similar to the funding methodology used by several other states)*
- 4 In addition to being applicable to small independent lenders, such as our members, it will also be applicable to the out-of- state "internet lenders" that we have been advised are a major source of complaints to the Division of Banking & Securities.
- 5 Although the Act will restrict the business freedom that small independent lenders have enjoyed, the bill is not so onerous as to place an undue regulatory burden on Lenders who treat borrowers in a fair and ethical manner.
- 6 While we understand this Bill represents only a portion of the Divisions full regulatory package which will also include mortgage originators, we believe it is a good first step that will bring the issue forward for legislative consideration in a timely manner that can hope for passage this year.

If I can answer any questions that you, or the members of your Committee, have concerning this legislation, please contact me.

Sincerely,

Independent Lenders of Alaska



Kenneth Jay Gain,  
Secretary/Treasurer

**Amy Seitz**

---

**From:** John Carman [jcarman@homestatemtg.com]  
**Sent:** Friday, March 31, 2006 9:53 AM  
**To:** Sen. Con Bunde  
**Cc:** Tim Kelly; Amy Seitz  
**Subject:** Senate bill 272

Senator Bunde

I have testified in the past regarding the above bill and I will be out of town next week and will not be able to testify

First I want to recognize that this is not the most important piece of legislation for you to consider this year. I have been very impressed and greatly appreciate the efforts that Senator Wagoner and his staff have made to address all parties concerns. If I had my way this would have been in front of you 4 years ago instead of in this session. Five years ago I recognized that our industry needed some form of regulation. I started volunteering my time researching other state laws and polling others in my industry to try to gain support for legislation. My goal from the start was to get legislation that would accomplish the most consumer protection with the least industry regulation and bureaucracy. Over the last 5 years I have sat at committee after committee redrafting draft after draft of proposed language. The certainties that I have come to from this are.

- 1) We will never get a bill that all parties are happy with – as a matter of fact I doubt there is one sentence in the entire bill that I could get everyone to agree to.
- 2) We very much need a bill – and therefore I have compromised my position again and again in the interest of getting something that we can agree on.
- 3) The most sure way to defeat a bill is to amend and study it to death

The bottom line is we are the only state without legislation. We are way past due to pass a bill. What you have to ask is - are the consumers of this state better protected with no bill and no agency to enforce existing federal law –or are they better protected with this bill. I personally think the answer is clear – I hope you feel the same.

John Carman  
Chairman – Legislative committee  
Manager  
Homestate Mortgage  
3801 Centerpoint Dr #100  
Anchorage, Alaska 99503  
Direct (907) 762 5894  
Cell (907) 360 1140

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**ALASKA MORTGAGE BANKERS ASSOCIATION  
P.O. BOX 9-2691  
ANCHORAGE, ALASKA 99509-2691**

March 7, 2006

Senator Con Bunde  
State Capitol, Room 506  
Juneau, Alaska 99801-1182  
ATTN: Senator Wagoner  
FAXED: 907-465-4779

RE: SB 272/HB 424

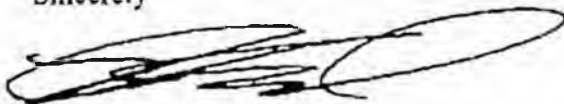
Dear Senator Bunde,

As President of Alaska Mortgage Bankers Association, I can't begin to tell you just how long this organization has been working on a Licensing Bill for the State of Alaska. In the past twelve months momentum has increased and our Association along with the Alaska Association of Mortgage Brokers and the Division of Banking have worked very closely in making a licensing bill a reality.

The Alaska Mortgage Bankers Association would like to express our support for SB272. We recognize the intent and spirit of the bill. Through the coming weeks we will work very closely with the Division to further assist in language and definitions for SB272.

It is my sincere commitment to work in accomplishing Mortgage Lending Licensing this session. AMBA appreciates your and your staff's efforts and look forward to continuing to work closely in overcoming this challenge.

Sincerely



Kevin M. Breeland  
President  
Alaska Mortgage Bankers Association  
907-222-8823 direct line  
907-743-9623 fax  
[www.akmba.org](http://www.akmba.org)  
[breelandk@residentialmtg.com](mailto:breelandk@residentialmtg.com)

cc: John Carman, Legislative Committee Chair, Alaska Mortgage Bankers Association



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

February 28, 2006

The Honorable Tom Wagoner  
Alaska State Senate  
State Capitol Building  
Juneau, Alaska 99801

RE: Senate Bill 272, relating to mortgage lenders and persons who engage in activities relating to mortgage lending

Dear Senator Wagoner,

The Alaska Association of REALTORS® with over 1,600 members statewide supports Senate Bill 272, which relates to the licensing of the mortgage lending industry in Alaska.

We favor this bill because up until the last decade or so, prospective homebuyers could be relatively certain that they knew what they were getting into with their mortgage loan. This is not the case anymore with predatory lending practices in the mortgage industry.

This bill would assist in protecting the homebuyer from incredible debt and loss of property equity as a result of predatory lending practices.

The Association encourages the passage of Senate Bill 272.

Sincerely,

A handwritten signature in cursive script that reads 'Don McKenzie'.

Don McKenzie  
AAR President



# **GMAC** Mortgage

Jim Picard  
District Manager

March 23, 2006

Senator Con Bunde  
State Capital, Room 506  
Juneau, Alaska 99801-1182

Re: SB 272

Dear Senator Bunde:

As an individual who has been involved in real estate and mortgage lending in Alaska since 1975, and twice past president of the Alaska Mortgage Bankers Association, I would like to provide my input regarding the legislation that is currently before your committee.

I wholeheartedly support the intent of the legislation. Achieving the American Dream of Homeownership is a goal that the vast majority of those residing in Alaska wish to achieve. Unfortunately the process, by nature and because of abuse by a minority of individuals, financing a home is one of the most stressful transactions an adult can experience in their lifetime.

The draft legislation, in its present form, for the most part, is an outstanding bill and will go a long way to minimizing the abuse Alaskans have experienced financing a home. My concerns regarding the present language deal with several sections:

**Sec. 06.60.020. Exemptions.** Paragraph (1) states "a mortgage lender who makes six or fewer mortgage loans within a period of six consecutive months;" would be considered exempt. I would recommend that this exemption be deleted for the following reasons: I can think of no way that the Division of Banking, charged with administering the proposed legislation, will be in a position to identify lenders or brokers who claim to close less than six loans in a six month period. Currently the Division of Banking will confirm that they are powerless to act because of the lack of legislation. With legislation in its present form they will still be unable to act if any entity, anywhere in Alaska, the United States, or the world represents that they close less than six transactions in

six months. Essentially six different consumers would have to complain about the same lender in a six month period before the division would focus on them. I think it is important to understanding that someone originating mortgage loans can do so with an internet connection anywhere. Holding all individuals and firms accountable by requiring licensing for every transaction is critical. Appraisers, real estate sales agents, and virtually every other professional licensed in the state of Alaska does not get an exemption for six transactions in six months. With this exemption the legislative result will regulate the more legitimate lenders but give a gate pass to the unscrupulous lenders hiding behind the "6 in 6 rule".

**Sec. 06.60.420. Prohibited activities.** Paragraph (4) states as a prohibited activity "**fail to account for or deliver to a person, a document, or another thing of value obtained in connection with a mortgage loan, including money provided by a borrower for a real estate appraisal or a credit report ...**". It would be my recommendation to not single out a particular product or service provider in a transaction. If like language is to remain, to not specify "borrower". Funds provided to the lender in advance of ordering an appraisal are negotiated by the buyer and the seller contractually and governed more by common practice. In Fairbanks, for instance, the appraisal funds are typically advanced by the buyer, while in Anchorage, by the seller. To limit a prohibited activity to money advanced only by the borrower does not protect the seller if they were the party that advanced funds per the terms of the contract to sell the property.

Paragraph (8) states as a prohibited activity "**fail promptly to pay when due reasonable fees to a licensed appraiser for appraisal services that are ... requested (and) performed...**". My recommendation would be to delete this paragraph. There is no question that appraisers, or for that matter credit bureaus, title companies, flood certification services etc. deserve to be paid for services requested and provided. The danger here is singling out one vendor category in the mortgage process and reducing the Division of Banking to a collection agency, but only for the appraisal industry. I believe that financial irresponsibility on the part of a lender or broker, if it occurs, is addressed in other sections of the legislation. Secondly, the appraiser or other vendor providing the service has a common sense business obligation, like any other business, to provide their products and services to those they chose. If the appraiser is not getting paid, or is dealing with a lender that is frequently tardy, the appraiser has some responsibility. Only the Veteran's Administration assigns appraisers, which essentially requires the appraiser to perform an appraisal for a particular lender, but the VA takes a hard position with any lender that does not satisfy the appraiser's invoice in a timely manner. This provision seems to simply be "special interest" legislation that will not prevent this problem from occurring, and if it does, it will be at the expense of other vendors who won't get paid where an entity co-mingles funds.

Paragraph (10)(B) states that activity is not prohibited if **“the person funds a loan at the rate, terms, and costs stated in the good faith estimate provided to the borrower at the time of the prequalification letter or loan commitment.”** Rates are based on market conditions that change throughout the day, every day that the financial markets are open. Rates quoted up-front when the Good Faith Estimate is provided to the applicant within three days of the application, can only be based on the interest rate and costs in effect at that moment for that product and risk variables. The Federal government refers to the GFE as an estimate and a rate quoted on the day of application, frequently where many variables regarding the loan to value or credit worthiness of that borrower and loan product are unknown, it would be practically impossible to quote a rate and be required to honor it during the two weeks to 10 months (some new construction) it may take before the loan actually closes. Further, a loan commitment can be issued citing an interest rate, but unless the applicant makes the conscious decision to “lock” their rate for the period covered until the loan is closed, typically at added cost because “time is money”, no GFE or loan commitment can guarantee a rate. My recommendation would be to delete this language and substitute language that guarantees a rate based on a contract the lender and the borrower both agree to where the stipulation is that the rate and terms apply so long as credit, loan program and other conditions do not materially change.

Paragraph (11) states that a prohibited activity occurs when one **“engages(s) in a practice or course of business in which the ultimate rates, terms, or costs of mortgage loans are materially worse for the borrower than are represented to be in the first good faith estimate the person provides the borrowers”**. Again, the GFE is an estimate, and market conditions change, and redefining the Federal government regulated GFE to now be a lock contract between the lender and the borrower will not be enforceable. I see a clear collision course over the intent and use of the GFE, with the state legislation redefining the Federal GFE to include lock contract provisions. Again, the solution to this challenge is to not redefine the GFE from its original Federal intent and turn it into a lock contract, but rather language that defines a lock contract and the responsibility of the parties to that contract. GMAC Mortgage has a contract, presented to the borrower at time of application, offering the choice of either “locking” or “floating”. It is the borrower's choice whether they wish to lock or float.

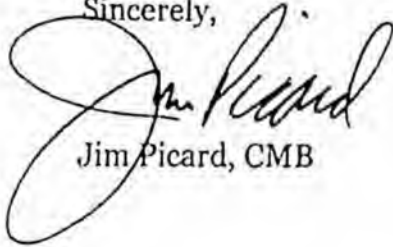
Other language that I feel is critical to this bill is disclosing the location of the lending entity, whether lender or broker, in all publicly posted or distributed material. The borrower is entitled to know where the lender or broker they are dealing with has their office. The Division of Banking would have that information, but the average consumer would not.

There is no question that this legislation is needed. Alaska is the only state without mortgage lender/banker/broker legislation, which encourages

unscrupulous individuals from anywhere there is an internet connection of taking advantage of unsuspecting Alaskans, experienced and inexperienced.

Thank you for taking the time to consider my input. Please let me know if you have any questions or additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Picard". The signature is stylized with a large, looping initial "J" and a cursive "Picard".

Jim Picard, CMB

CC: Senator Ralph Seekins  
Senator Ben Stevens  
Senator Johnny Ellis  
Senator Bettye Davis  
Senator Thomas Wagoner  
Representative Tom Anderson  
Representative Bob Lynn  
Kevin Breeland, President, Alaska Mortgage Bankers Association  
Doug Issacson, President, Alaska Association of Mortgage Brokers  
John Carman, Legislative Chair, Alaska Mortgage Bankers Association  
Roger Prince, Division of Banking, State of Alaska  
Tim Kelly, Lobbyist

**Amy Seitz**

**From:** Jane Alberts  
**Sent:** Monday, March 06, 2006 10:52 AM  
**To:** Amy Seitz  
**Cc:** Tim Kelly  
**Subject:** SB 272  
**Importance:** High

letter for SB 272

Lynne:

Just an FYI: I'm forwarding this to you because it appears Sen. Bunde's name was spelled incorrectly in the address...

Shannon Straube, Staff  
 Office of Senator Ben Stevens

**From:** Petesy Lust [mailto:petesy@mtaonline.net]  
**Sent:** Monday, March 06, 2006 9:08 AM  
**To:** Senator\_Con\_Bundy@legis.state.ak.us  
**Subject:** \*\*\*\*\*SPAM\*\*\*\*\* SB 272  
**Importance:** High

Recently, there was legislation introduced in the Alaska State House as HB 424 and the Alaska Senate as SB 272 that deals with the licensing of Lenders and Mortgage Brokers. This piece of legislation is being touted as a "consumer protection" bill and was authored by the Alaska Department of Banking and Commerce along with an individual from the Alaska Association of Mortgage Bankers.

These bills set forth regulations, compliance, and licensing requirements for all Lenders and Mortgage Brokers in the state of Alaska. However, the authors left out the most critical element of protecting the consumer; the licensing of each and every Mortgage Loan Originator in the State of Alaska. This fundamental precept of Loan Officer licensing is truly the one paramount component of consumer protection along with Lenders and Broker licensing. Without the licensing of Loan Officers, who actually meet with the consumer, the Lender and Broker licensing has no teeth and lacks any degree of enforcement. It is a known fact most all unscrupulous activities begin at the mortgage loan originator level, but the Bills make no reference to licensing and education of loan officers.

Other issues of this Bill are there are too many exempt entities being allowed. The authors of this bill have exempted certain individuals and institutions. Namely,

- \*Banks
- \*Credit Unions
- \*Savings Institutions
- \*a subsidiary or affiliate of a Bank, Credit Union, or Savings Institution
- \*a non profit corporation
- \*an agency of the government or a quasi-governmental agency
- \*an employee of any of the above
- \*an independent contractor working for any of the above

The above will exempt most all large entities from regulations and licensing, but the small independent brokers be

subject to the bill. We believe that Lenders, Brokers, AND Mortgage Loan Originators all need to be licensed. NO EXCEPTIONS!!!

We are asking for your help and voice to force true consumer protection. We must incorporate into this Bill, licensing of mortgage loan originators, which includes competency and continuing education requirements, for true consumer protection.

Petesy & Dean Lust

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Petesy & Dean Lust

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Mary Jo King  
PO Box 244561  
Anchorage, AK 99524-4561  
(907) 884-1640

15 March 2006

Shellie Buck  
Platinum Funding Group  
3120 Denali Street, Suite B  
Anchorage, AK 99503

Dear Shellie,

When I first came to you with concerns about my mortgage loan in process with another broker – Northstar Mortgage – it was hard to envision closing on schedule. The other "loan officer" there had a great sales pitch, but the process had been rife with problems. First she claimed an inability to provide the mortgage rate promised to me when I made my application. Then she allowed several lenders to pull my credit report without authorization – despite the fact she had already done so and promised that further inquiries would not occur. Furthermore, paperwork sat on her desk without the timely attention it needed for closing. And perhaps worst of all, she became totally inaccessible. My phone messages would go unanswered for days. I finally had to appear at her workplace and wait for an opportunity to get her attention.

Thus I arrived at your office in a very emotional state, mere days before the scheduled closing. To my everlasting amazement, you fixed everything *right before my eyes*. You made a great mortgage happen for me with one phone call. (I found out later the Northstar broker didn't even know the product existed!) We faxed a notice to her on the spot to take her off the project, and you had my loan underwritten within twenty-fours. Then you came to my closing to make sure it went smoothly. This turned out to be a critical service, because you found an error in the paperwork that would have delayed closing and cost me *hundreds* of dollars. I cried with relief when it was over.

In short, you ultimately saved me *thousands* of dollars by providing a better loan product for my individual needs. You made my closing happen *ahead* of schedule. Your knowledge, compassion and diligence made a difference in my life that will have a positive impact for the duration of the loan, and you are a credit to your industry.

I understand that you are working for state legislation to license loan officers, and I support your cause wholeheartedly. The current proposal to license mortgage companies doesn't go far enough. Indeed, the company I initially worked with would be exempt from that legislation, and this is exactly the sort of company – and broker – from which Alaskans need to be protected. Please let me know if I can do anything to further your efforts.

Warm and grateful regards,

*Mary Jo King*

Mary Jo King  
First Time Home Buyer

To: Senator Con Bunde, Chair of Senate Labor and Commerce  
Representative Tom Anderson, Chair of House Labor and Commerce  
And: All committee members

CC: Senator Wagoner

Re: HB 424 and SB 272 "An act relating to mortgage lenders, etc."

Sirs,

My name is Vernon W. Rush. I own or am involved in several entities that provide "A" mortgage loan paper through National Lenders such as Bank of America or Countrywide and/or alternative financing for Alaskans depending on property offered as collateral and/or credit. I loan my own monies as well. Most of my clients have been with me 15 years or longer. I own Alaska Capital, am a partner in Equity Investors, am managing partner of Astoria Investments, am a member of the Independent Lender's Association, the Alaska Mortgage Brokers Association and chair of the Legislative Committee. I am also a licensed Real Estate Broker in the State of Alaska and a member of the Mat-Valley Board of Realtors. I hold several degrees. I have been involved in Banking and Real Estate since 1968.

Having been involved in a desire to create licensing since 1999 (and with the office of Lisa Murkowski as an Alaska House of Representatives Member), I would like to offer my views and background on the above proposed legislation.

**First let me point out that by definition, ALL LENDERS are predatory.** The public or borrower cannot change the note or trust deed as they wish. As the Bible puts it, "not a borrower or lender be." In today's society borrowing is sometimes a necessary evil. It is found and established by FNMA and HUD audit that almost all fraudulent and deceptive lending results when the borrower contacts or is contacted by the lender's loan officer or representative. It is not done once the loan has been generated and sold to HUD or the secondary loan market. **This situation is now being addressed nationally by registering ALL signers of a uniform mortgage application (1003) (loan officers).** I, personally, am slated to appear in Washington at the end of this month to add my name to the proponents of the "Responsible Lending Act". (HR 1295)

The proposed legislation before you started as a bill backed by the **Independent Lenders Association to license Lenders so that we could be tracked and monitored by the state.** It was a no-frills, no-nonsense piece of legislation that would have done precisely what was intended. It was crafted and presented as a stand-alone document. It was to ensure that a lender was a real, tangible entity and could provide the funds that were being offered. **This protected the public in that they could be assured that a promised loan could be funded by a licensed lender.**

While the above was going on, the Division of Banking was developing a proposed bill with the consensus of the mortgage bankers and mortgage brokers. That effort contained

provision for licensing Mortgage Bankers, Mortgage Brokers and Originators/loan officers of mortgage loans. It not only contained financial requirements but **educational requirements as well**. It is this addition as well as non-essential additions to the above bill that makes it very murky at present. It has turned a straight-forward bill into a collection tool for appraisers, mortgage qualification tool for Realtors, exemption tool for about everyone and cost increase tool for the public. **In short, it does not protect the public, does not promote the growth of the industry, ignores competency, increases costs to the public, is detrimental to small business and does not serve any socially redeeming value.**

It has been advised by my attorney and I'm sure you could check with legislative counsel, that since most legitimate brokers (Alaska Mortgage Broker Association Members) have "independent contractor" agreements with their lenders who are Federally Chartered banks or institutions, which provide for duties performed and responsibilities to abide by federal mortgage loan guidelines they would be exempt because they have federal (exempt status) oversight. Rates, terms, commitments, underwriting and approvals as described in definitions on page 18, are all dictated by the lender. It would only preclude members of the Alaska Mortgage Broker Association from brokering and open them to audit of transactions funded by non-exempt lenders. In fact, EXCEPTING (C) and (D) the definition of a broker as defined under section 06.60.990, page 18 IS ONE OF THE DEFINITIONS OF AN ORIGINATOR OR LOAN OFFICER as contemplated by some authors in the Federal Responsible Lending Act. A commissioned mortgage loan officer (originator) is simply an individual (broker) who has elected to "sell" his production (pipeline) to only one lender.

**I would ask you to consider and recommend the following:**

1. I know that there is a copy of the Originator's proposed licensing with Tim Kelly, the lobbyist for the independent lenders or I have attached it to this letter. I would recommend that it be added as a rider to this bill as part and parcel of the industry. This would be because a broker mirrors originators more than a lender.
2. Delete all reference to mortgage brokers in the present bill. They are not lenders nor do they hold themselves to be so.
3. Delete collection efforts for Appraisers. There are other legal channels for them to address non-payment.
4. Require Trust accounts for any funds pre-paid by the public held by ANY LENDER, BROKER, or INDIVIDUAL for third-party reports
5. Delete exemptions for any entity that is not DIRECTLY monitored by a Federal or State oversight agency.

**Let's keep it simple.....you are either a lender or you are a broker/originator. You might do both, but you need to qualify as both. If we want to protect the public, especially from internet companies, lets make all originators of any loan solicited in Alaska, subject to Originator/Loan Officer licensing so that the public knows that they are dealing with a knowledgeable, responsible person that is licensed, bonded and tracked by the State Government.**

I am in the process of hopefully opening a small office in Ninilchik, Alaska. I have built a home on the Ninilchik River and would prefer working in my area. The bill, as presented, would severely limit what I could offer to the residents of the area and make mortgage money more scarce and expensive. I would hope you will consider the rural areas when passing any legislation.

Thank you for your kind attention,

Vernon W. Rush

**Constance Hartle**

---

**From:** Vernon W. Rush [rushloanak@yahoo.com]

**Sent:** Friday, March 03, 2006 10:44 AM

**To:** Rep. Tom Anderson; Rep. Ethan Berkowitz; Sen. Con Bunde; Rep. Mike Chenault; Sen. John Cowdery; Rep. Harry Crawford; Sen. Bettye Davis; Sen. Johnny Ellis; Sen. Hollis French; Neal & Co. Inc. Real Estate Brokerage; Vic Korhring; Rep. Pete Kolt; Ron Kukes; Rep. Bob Lynn; Rep. Kurt Olson; Robin Phillips; DEBORAH PLESSINGER; Roger Prince; Rep. Norman Rokeberg; Rep. Paul Seaton; Sen. Ralph Seekins; Bill Simpson

**Subject:** HB 424 & SB 272

Testimony on the Above

## **Vernon W. Rush**

**YOUR ALASKA REAL ESTATE CONSULTANT**

729 "N" Street, Anchorage, Alaska

Serving Alaska Clients for 28 Years

Properties, Notes, Loans

(907) 929-2224

Alaska Capital.com

## Amy Seitz

---

From: dwighld@evergreenalaska.com  
Sent: Wednesday, March 08, 2006 2:39 PM  
To: Emily Stancliff; Josh Applebee; Amy Seitz  
Cc: Lorice Ponsford  
Subject: \*\*\*\*\*SPAM\*\*\*\*\* CS 272 (Senate) 424 (House) from Dwight Deely @ Evergreen Alaska Mortgage

March 8, 2006

Lorice Ponsford  
Legislative Information Assistant  
Fairbanks Information Office  
State of Alaska

Re: CS 272 (Senate) CS 424 (House)

Dear Ms Ponsford,  
Please forward this correspondence to the Labor and Commerce committees for review:

Mr. Chairman and members of the Labor and Commerce Committee, thank you for the opportunity to address Senate Bill 272 and House Bill 424. My name is Linda Patrick, Vice-President and Senior Loan Originator with Evergreen Alaska Mortgage Corporation. I've been originating loans in Alaska for nine years and been active in the mortgage industry for thirteen. Our company is the only "internet based" mortgage firm in Alaska and a top correspondent for large national wholesale lenders. We are also affiliated with a federally chartered bank in Washington State. I am very concerned that you may not be fully aware that CS 272 and 424 are written in such a manner that they will not meet the stated objective of "protecting consumers from predatory lenders" If in fact these bills are designed protect them then much of CS 272 and 424 needs to be rewritten:

- \* A "flat playing field" needs to be established so that no matter where a consumer seeks a loan they will be protected. Banks, Credit Unions, and other entities, both instate and out-of-state, should not be exempt from this legislation. For example, a group called Association of Community Organizations for Reform Now (acorn.org) cites Wells Fargo Bank as one of the a leading practitioners of abusive lending practices.

- \* This legislation should not make the State of Alaska an agent to collect monies from service companies associated with mortgage brokers and lenders. Sec. 06.60.420 (8) is a good example. Why are appraisers listed while other third parties associated with a mortgage loans are not? If left in the bill, why should banks, credit unions etc be exempt from these collection efforts?

- \* Most brokers have the option of "shopping mortgage loans" to many lenders to get the client the best rate and term while banks and credit unions usually do not make this effort. By exempting banks and credit unions and placing added regulatory burdens on brokers and lenders, this bill will effectively reduce competition and result in fewer choices for brokers, and as such, translate into higher costs for consumers.

- \* Brokers and Lenders specialize in structuring loans for individuals with damaged credit or no credit. Again, since about 70% of loans in Alaska are originated by mortgage brokers, placing additional regulations on lenders and brokers will limit competition and drive consumers toward the exempt enterprises such as banks and credit unions who DO NOT usually offer competitive products in the area.

- \* Brokers work through national wholesale lenders and actually bring "new" money into the state from financial sources across the nation. Banks and Credit Unions recycle existing money. By placing added burdens on these national wholesale lenders, they will be less willing to do business in Alaska.

- \* All originators should be educated on the basics of mortgage lending and licensed regardless of where they are employed. This will allow better oversight by the State and address the biggest consumer complaint, which is originators structuring loans that may be detrimental to their financial interests. By licensing originators you are setting a minimum level of core competencies, which will allow for better enforcement and

monitoring of consumer complaints.

In closing, consumer protection is no important than a fair and equitable regulatory environment for business. Mortgage brokers and lenders should not be "singled out" in this case. I urge the committee to write legislation that will in fact protect consumers from predatory lending practices without unjustly hurting the ability of small and large mortgage brokers and lenders to conduct business in Alaska. The issues I've stated here are only a small sample of the changes required. I urge you to contact the President of the Alaska Association of Mortgage Brokers (AKAMB) for a line item response to CS 272 and 424. Contrary to some, bad legislation is worse than no legislation, and in fact, mortgage brokers and lenders are already federally mandated to adhere to RESPA and HUMDA regulations.

Sincerely

Linda Patrick  
lindap@evergreenalaska.com  
907-457-5834

Approved: Dwight Deely  
President, Evergreen Alaska Mortgage Corporation [www.moneyalaska.com](http://www.moneyalaska.com)

## SENATE COMMITTEE REPORT First Committee of Referral

DATE: 2/8/06

FURTHER: Finance

Date of 5-Day Notice: 2/23/06  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 4/5/06

Labor and Commerce Committee considered SENATE BILL NO. 272

### SB 272 MORTGAGE LENDING

"An Act relating to mortgage lenders and persons who engage in activities relating to mortgage lending; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 272 (LEC)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

<b>CS Senate Bill:</b>	
<input type="checkbox"/>	Same Title
<input checked="" type="checkbox"/>	New Title
<b>SCS House Bill:</b>	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
DCEd	2/6/06	✓			1

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
DAVIS <i>Bonnie Davis</i>				X
ELLIS <i>Bob Ellis</i>			X	
SEEKINS <i>Halpash Seekins</i>	✓			
B. STEVENS <i>Ben Stevens</i>	✓			
CHAIR: <i>C. Bunde</i>	✓			

DAVIS  
ELLIS  
SEEKINS  
B. STEVENS  
  
BUNDE

**SB**

**274**

**HFIN**

**FILE**

*Conceptual*

AMENDMENT

*Hawker*

OFFERED IN THE HOUSE

TO: CSSB 274(STA)

*adopted  
w/o.*

*5-3-06*

- 1 Page 1, line 2, following "state":
- 2       Insert "and municipalities"
- 3
- 4 Page 1, line 12, following "state":
- 5       Insert "and municipalities"
- 6
- 7 Page 1, line 13, following "state":
- 8       Insert "and a municipality"
- 9
- 10 Page 2, line 3, following "department":
- 11       Insert "or the ordinances of the municipality"
- 12
- 13 Page 2, line 7, following "department":
- 14       Insert "or a municipality"
- 15
- 16 Page 2, line 26, following "state,":
- 17       Insert "a municipality,"
- 18
- 19 Page 2, line 27, following "state":
- 20       Insert "or a municipality"
- 21
- 22 Page 2, line 30, following "state":
- 23       Insert "or municipality"



# FISCAL NOTE

STATE OF ALASKA  
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSSB 274(STA)  
(S) Publish Date: 3/24/06

Revision Date/Time (Note if correction): 2/23/06 8:14 a.m. Dept. Affected: Administration  
Title: An Act relating to disposition of surplus firearms RDU: Centralized Administrative Services  
Component: Property Management  
Sponsor: Senator Dyson  
Requester: (S) State Affairs Component No.: 61

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual	22.5	22.5	22.5	22.5	22.5	22.5
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( 1005 )	50.0	50.0	50.0	50.0	50.0	50.0
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts	22.5	22.5	22.5	22.5	22.5	22.5
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill would require the Department of Administration to dispose of surplus firearms via public auction. Costs associated with this bill include auctioneer and federal firearms licensing database verification services. This estimate assumes that 500 firearms will be disposed each year, for \$100 each (for a total of \$50,000), that auctioneering services will be 20% of the value of firearms auctioned (\$50,000 X 20% = \$10,000), and that a federal firearms licensee will charge \$25 per weapon to verify that buyers are qualified under federal rules (500 X \$25 = \$12,500).

Prepared by: Vern Jones, Chief Procurement Officer Phone 465-5664  
Division: General Services Date/Time 2/23/2006 8:14 a.m.  
Approved by: Michael Tibbles, Deputy Commissioner Date 2/23/2006  
Agency: Administration

# FISCAL NOTE

STATE OF ALASKA  
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: CSSB 274(STA)  
(S) Publish Date: 4/27/06

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
Title: "An Act relating to the disposition of RDU: Alaska State Troopers  
surplus firearms by the state." Component: AST Detachments  
Sponsor: Senator Dyson  
Requester: Senate Finance Committee Component No.: 2325

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (FY2005) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

Section two repeals and rewrites the current AS 18.65.340 dealing with the disposal of firearms and ammunition by the state. This section expands how the state may dispose of forfeited, surplus, or recovered but unclaimed firearms and ammunition. The disposal may be at a public sale not limited to firearms dealers, trade-in for credit, donation as provided by regulations, and/or allows for the transfer to a state or municipal law enforcement agency. Since it doesn't take away the ability for the state to trade-in firearms for credit, there will be no fiscal impact to the Department of Public Safety as now proposed in this committee substitute.

It also adds a stipulation that if a department disposes of a surplus firearm, then that department shall submit to the legislature each year a report that lists the surplus firearms that they disposed of during the previous calendar year.

Prepared by: Director Dan Spencer  
Division: Administrative Services  
Approved by: Commissioner William Tandeske  
Agency: Department of Public Safety

Phone: 907-465-4322  
Date/Time: 3/31/06 10:14 AM  
Date: 3/31/2006

**HOUSE CONCURRENT RESOLUTION NO.  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE FINANCE COMMITTEE**

**Introduced:**

**Referred:**

**A RESOLUTION**

1 Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State  
2 Legislature, concerning Senate Bill No. 274, relating to the disposition of forfeited,  
3 surplus, and unclaimed firearms by the state.

4 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 That under Rule 54, Uniform Rules of the Alaska State Legislature, the provisions of  
6 Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, regarding  
7 changes to the title of a bill, are suspended in consideration of Senate Bill No. 274, relating to  
8 the disposition of forfeited, surplus, and unclaimed firearms by the state.



SENATOR FRED DYSON

SPONSOR STATEMENT  
SB 274 "Surplus Firearms"

Currently state owned surplus firearms are sold in an auction restricted to purchasers who are federally licensed firearm dealers. This statute change expands the number of potential buyers to include all Alaskans who are qualified to legally purchase a firearm.

SB 274 does not change restrictions on who may or may not possess a firearm, nor does it change any rules regulating the buying and selling of guns. SB 274 simply gives direction to the Department of Public Safety to give qualified buyers equal opportunity.

The current practice does not allow the State to get the best price for surplus firearms and allows a few federally licensed firearm dealers to potentially collude to keep prices artificially low.

Updated February 9, 2006



## SENATOR FRED DYSON

### Sectional Analysis: SB 274, 24-LS 1636X Disposition of Surplus Firearms

Section 1: Specifies that disposal of unclaimed firearms and ammunition used as evidence is subject to the guidelines laid out in Chapter 65, Police Protection, Article 4, Disposal of Firearms and Ammunition.

Section 2:

18.65.340 (a) Lists four options for disposal of firearms and ammunition

- (1) public sale not limited to firearms dealers,
- (2) trade-in for credit,
- (3) donation, or
- (4) transfer to other jurisdictions.

18.65.340 (b) Lists three options if the firearm is illegal

- (1) sale to firearms dealer with appropriate federal dealers license,
- (2) donation,
- (3) dismantle the firearm for the purpose of destroying the parts of the firearm that made it illegal, and sell, trade-in, donate, or transfer the legal parts.

18.65.340 (c) Requires the department to report firearm description and value to the legislature when firearms are traded in, donated, or transferred.

18.65.340 (d) Limits the liability of the state unless a firearm is sold with gross negligence or recklessness.

18.65.340 (e) Defines "department" as any State department, and "surplus firearm" to include firearm or ammunition that is forfeited, surplus, or recovered by unclaimed.

**SB**

**274**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

REPORTED OUT  
**APR 27 2006**  
 SENATE FINANCE COMMITTEE

DATE: 3/24/06

FURTHER:

DATE TURNED  
 IN TO OFFICE: 4/27/06

Finance Committee considered **SENATE BILL NO. 274**

## SB 274 STATE FIREARM DISPOSAL AND INVENTORY

"An Act relating to the disposition of surplus firearms by the state."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS SB 274 (STA)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**CS Senate Bill:**  
 Same Title  
 New Title

**SCS House Bill:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Ind.	Zero	FN#
DPS	3/31/06			✓	

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Ind.	Zero	FN#
DOA	2/23/06	22.5			1

APPROPRIATION - no fiscal note

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

## FISCAL NOTE

STATE OF ALASKA  
 2006 LEGISLATIVE SESSION

Fiscal Note Number: 1  
 Bill Version: CSSB 274(STA)  
 (S) Publish Date: 3/24/06

Revision Date/Time (Note if correction): 2/23/06 8:14 a.m. Dept. Affected: Administration  
 Title: An Act relating to disposition of surplus firearms RDU: Centralized Administrative Services  
 Component: Property Management  
 Sponsor: Senator Dyson  
 Requester: (S) State Affairs Component No.: 61

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual	22.5	22.5	22.5	22.5	22.5	22.5
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( 1005 )</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>	<b>50.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF Program Receipts	22.5	22.5	22.5	22.5	22.5	22.5
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
<b>TOTAL</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>	<b>22.5</b>

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill would require the Department of Administration to dispose of surplus firearms via public auction. Costs associated with this bill include auctioneer and federal firearms licensing database verification services. This estimate assumes that 500 firearms will be disposed each year, for \$100 each (for a total of \$50,000), that auctioneering services will be 20% of the value of firearms auctioned (\$50,000 X 20% = \$10,000), and that a federal firearms licensee will charge \$25 per weapon to verify that buyers are qualified under federal rules (500 X \$25 = \$12,500)

Prepared by: Vern Jones, Chief Procurement Officer  
 Division: General Services  
 Approved by: Michael Tibbles, Deputy Commissioner  
 Agency: Administration

Phone 465-5684  
 Date/Time 2/23/2006 8 14 a.m.  
 Date 2/23/2006

# FISCAL NOTE

REPORTED OUT  
 APR 27 2006  
 SENATE FINANCE COMMITTEE

STATE OF ALASKA  
 2006 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: SB274CS(STA)-DPS-AST-3-31-06  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
 Title "An Act relating to the disposition of RDU Alaska State Troopers  
surplus firearms by the state." Component AST Detachments  
 Sponsor Senator Dyson  
 Requester Senate Finance Committee Component No. 2325

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (FY2005) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 Section two repeals and rewrites the current AS 18.65.340 dealing with the disposal of firearms and ammunition by the state. This section expands how the state may dispose of forfeited, surplus, or recovered but unclaimed firearms and ammunition. The disposal may be at a public sale not limited to firearms dealers, trade-in for credit, donation as provided by regulations, and/or allows for the transfer to a state or municipal law enforcement agency. Since it doesn't take away the ability for the state to trade-in firearms for credit, there will be no fiscal impact to the Department of Public Safety as now proposed in this committee substitute.

It also adds a stipulation that if a department disposes of a surplus firearm, then that department shall submit to the legislature each year a report that lists the surplus firearms that they disposed of during the previous calendar year.

Prepared by: Director Dan Spencer  
 Division: Administrative Services  
 Approved by: Commissioner William Tandeske  
 Agency: Department of Public Safety

Phone 907-465-4322  
 Date/Time 3/31/06 10:14 AM  
 Date 3/31/2006



SENATOR FRED DYSON

**Sectional Analysis: SB 274, 24-LS 1636\X**  
**Disposition of Surplus Firearms**

Section 1: Specifies that disposal of unclaimed firearms and ammunition used as evidence is subject to the guidelines laid out in Chapter 65, Police Protection, Article 4, Disposal of Firearms and Ammunition.

Section 2:

18.65.340 (a) Lists four options for disposal of firearms and ammunition

- (1) public sale not limited to firearms dealers,
- (2) trade-in for credit,
- (3) donation, or
- (4) transfer to other jurisdictions.

18.65.340 (b) Lists three options if the firearm is illegal

- (1) sale to firearms dealer with appropriate federal dealers license,
- (2) donation,
- (3) dismantle the firearm for the purpose of destroying the parts of the firearm that made it illegal, and sell, trade-in, donate, or transfer the legal parts.

18.65.340 (c) Requires the department to report firearm description and value to the legislature when firearms are traded in, donated, or transferred.

18.65.340 (d) Limits the liability of the state unless a firearm is sold with gross negligence or recklessness.

18.65.340 (e) Defines "department" as any State department, and "surplus firearm" to include firearm or ammunition that is forfeited, surplus, or recovered by unclaimed.

**SB**

**284**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

REPORTED OUT  
**MAR 24 2006**  
 SENATE FINANCE COMMITTEE

DATE: 3/3/06

FURTHER:

 DATE TURNED  
 IN TO OFFICE: 3/24/06

Finance Committee considered      SENATE BILL NO. 284

## SB 284 SENTENCING FOR ALCOHOL-RELATED CRIMES

"An Act relating to sentencing for the commission of a felony while under the influence of alcohol."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 284 (FIN)
- adopt previous \_\_\_\_\_ CS CS Forthcoming \_\_\_\_\_
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**CS Senate Bill:**  
 Same Title  
 New Title

**SCS House Bill:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Ind.	Zero	FN#
Court	3/8/06		✓		
Corrections	3/9/06		✓		

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Ind.	Zero	FN#
Adm/Public Adv	3/1/06		✓		1
Adm/Public Dep	2/28/06		✓		2

 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>			✓	
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			

## FISCAL NOTE

STATE OF ALASKA  
 2006 LEGISLATIVE SESSION

Fiscal Note Number: 1  
 Bill Version: CSSB 284(JUD)  
 (S) Publish Date: 3/3/06

Revision Date/Time (Note if correction): 3/1/06/ 1:51 p.m. Dept. Affected: Administration  
 Title An Act relating to sentencing for the commission RDU Legal and Advocacy Services  
of a felony while under the influence Component Office of Public Advocacy  
 Sponsor Sen. Therriault  
 Requester (S) Jud Component No. 43

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	*	*	*	*	*	*
Travel						
Contractual	*	*	*	*	*	*
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*	*	*	*	*	*

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

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

Estimate of any current year (FY2006) cost: \_\_\_\_\_  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill permits the court, as part of a sentence for a conviction under AS 11.41, to prohibit a defendant from consuming alcohol for the lifetime of the defendant. This bill also makes it a crime to consume alcohol in violation of a criminal sentence under AS 12.55.015; a first offense is a misdemeanor and the second offense is a C felony.

This bill creates a new misdemeanor and felony offense. It targets a chronic drinking population that is likely to violate a condition that they not drink. Therefore, it is highly likely to increase the number of PDA conflict cases that OPA must handle. It is, however, not possible to predict the number of cases with any certainty. OPA therefore submits an indeterminate fiscal note.

Prepared by: Joshua P. Fink, Director  
 Division: Office of Public Advocacy  
 Approved by: Mike Tibbles, Deputy Commissioner  
 Agency: Administration

Phone 907.269-3501  
 Date/Time 3.1.06/1:51 p.m.  
 Date 3/1/2006

## FISCAL NOTE

STATE OF ALASKA  
 2006 LEGISLATIVE SESSION

Fiscal Note Number: 2  
 Bill Version: CSSB 284(JUD)  
 (S) Publish Date: 3/3/06

Revision Date/Time (Note if correction): 2/28/06 2:10 p.m. Dept. Affected: Administration  
 Title: An Act relating to sentencing for the commission of a felony while under the influence RDU: Legal and Advocacy Services  
 Component: Public Defender Agency  
 Sponsor: Sen. Therriault  
 Requester: (S) JUD Component No.: 1631

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	*	*	*	*	*	*
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*	*	*	*	*	*

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

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

Estimate of any current year (FY2006) cost:             
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill permits the court, as part of a sentence for a conviction under AS 11.41, to prohibit a defendant from consuming alcohol for the lifetime of the defendant. This bill also makes it a crime to consume alcohol in violation of a criminal sentence under AS 12.55.015; a first offense is a misdemeanor and the second offense is a C felony.

This bill creates a new misdemeanor and felony offense. This bill is likely to increase the number of cases that the agency must handle. It is, however, not possible to predict the number of cases. The Public Defender Agency, therefore, submits an indeterminate fiscal note.

Prepared by: Quinlan Steiner, Director  
 Division: Public Defender Agency  
 Approved by: Mike Tibbles, Deputy Commissioner  
 Agency: Administration

Phone 907.334.4414  
 Date/Time 2.28.06 2:10 p.m.  
 Date 2/28/2006

REPORTED OUT  
 MAR 24 2006  
 SENATE FINANCE COMMITTEE

# FISCAL NOTE

STATE OF ALASKA  
 2006 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSSB284(JUD)-Courts-3-8-06  
 () Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: \_\_\_\_\_  
 Title Sentencing for alcohol-related crimes RDU Alaska Court System  
 Component Trial Courts  
 Sponsor Senator Therriault  
 Requester \_\_\_\_\_ Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>	<b>*</b>

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

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

Estimate of any current year (FY2006) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)  
 CSSB 284(JUD) allows a judge to prohibit a person from consuming alcohol for up to the life of the person if the person has been convicted of a felony crime against a person under AS 11.41 or certain DUI and refusal offenses. The bill makes it a class A misdemeanor to violate an order not to consume alcohol. It will be a class C felony if a person has been previously convicted of this crime.  
 This bill will impact the court system because it will result in new misdemeanor and felony charges being filed against those who violate this new crime. However, because it is not clear how often this new sentencing option will be imposed or how often it will be violated and prosecuted, the extent of the impact is too speculative to support a fiscal note at this time.

Prepared by: Doug Wooliver, Administrative Attorney Phone 463-4750  
 Division Alaska Court System Date/Time 3/8/06 @ 1:30 pm  
 Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date 3/8/2008  
 Agency Alaska Court System

# FISCAL NOTE

REPORTED OUT  
**MAR 24 2006**  
 SENATE FINANCE COMMITTEE

STATE OF ALASKA  
 2006 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: CSSB 284(JUD)  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Corrections  
 Title "An act relating sentencing for Alcohol related RDU Institutional Facilities  
crimes..." Component Institution Director's Office  
 Sponsor Senator Therriault  
 Requester Judiciary, Finance Component No. 524

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	.	.	.	.	.	.
Travel	.	.	.	.	.	.
Contractual	.	.	.	.	.	.
Supplies	.	.	.	.	.	.
Equipment	.	.	.	.	.	.
Land & Structures	.	.	.	.	.	.
Grants & Claims	.	.	.	.	.	.
Miscellaneous	.	.	.	.	.	.
<b>TOTAL OPERATING</b>	.	.	.	.	.	.

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

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

Estimate of any current year (FY2006) cost: 00

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time	.	.	.	.	.	.
Part-time	.	.	.	.	.	.
Temporary	.	.	.	.	.	.

**ANALYSIS:** (Attach a separate page if necessary)

The legislation allows a judge to prohibit a defendant from consuming alcohol for up to the lifetime of the person if the person has been convicted of a felony crime against a person under AS 11.41 and the court finds by clear and convincing evidence that the conduct was substantially influenced by the consumption of alcohol, or for certain DUI and refusal crimes. The bill makes it a class A misdemeanor to violate an order not to consume alcohol, and a C felony for a second offense. Most offenders on probation for these crimes already are prohibited from consuming alcohol while under supervision. However, the "up to the lifetime of the defendant" restriction may impact the department if the restriction is ordered by a judge. Because it is not clear how often this new sentencing option may be imposed or how often it may be violated and prosecuted after completion of probation supervision, the potential financial impact to the department is too speculative to support a fiscal note at this time.

Prepared by: Sharleen Griffin, Director  
 Division Administrative Services  
 Approved by: Portia Parker, Deputy Commissioner  
 Agency Department of Corrections

Phone (907) 465-3339  
 Date/Time 3/23/06 10:43 AM  
 Date 3/23/2006

# 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

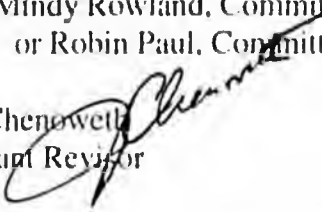
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

March 24, 2006

**SUBJECT:** CSSB 284(Fin) (Work Order No. 24-LS0581AS)

**TO:** Senators Lyda Green and Gary Wilken, Co-Chairs  
Senate Finance Committee  
Attn: Mindy Rowland, Committee Secretary,  
or Robin Paul, Committee Assistant

**FROM:** Jack Chenoweth   
Assistant Revisor

Please note the change of bill title, adding a second clause to acknowledge inclusion in the bill of the new offense of "consumption of alcohol in violation of sentence."

JBC:imb  
06-117.imb

Enclosure



Official Business

# Alaska State Senate

## Senate Finance Committee

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

### FAX COVER SHEET

DATE: 3/24/06 TIME: 9:15 am

TO: LEGAL

NUMBER OF PAGES, INCLUDING COVER SHEET: 1

FROM: ROBIN PAUL  
SENATE FINANCE CMTE. ASST. SECRETARY  
PHONE: 465-2618  
FAX: 465-2187

NOTES: FINAL PLEASE!  
CS SB 284 (FIN)  
Version 24-250581/L  
(No Changes)

*Thank You!*  
*Robin*

Adopted

WORK DRAFT

WORK DRAFT

WORK DRAFT

24-LS0581VL  
Luckhaupt  
3/22/06

**CS FOR SENATE BILL NO. 284( )**

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

**TWENTY-FOURTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): SENATOR THERRIAULT**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to sentencing for the commission of certain offenses influenced by  
2 alcohol."

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

4 \* Section 1. AS 11.56 is amended by adding a new section to read:

5       **Sec. 11.56.768. Consumption of alcohol in violation of sentence.** (a) A  
6 person commits the crime of consumption of alcohol in violation of sentence if the  
7 person knowingly consumes alcohol in violation of an order imposed under  
8 AS 12.55.015(a)(13), AS 28.35.030, or 28.35.032.

9       (b) In a prosecution under this section, it is an affirmative defense that

10               (1) the alcohol was consumed under the direction of, a health care  
11 professional as part of medical treatment of the defendant; or

12               (2) the alcohol was consumed as a non-prescription medication in  
13 doses and for the purposes recommended by the manufacturer of the medication or as  
14 approved by the United States Food and Drug Administration.

1 (c) In this section, "consumption of alcohol" means to ingest, orally or  
2 otherwise, alcohol or any substance containing alcohol.

3 (d) Except as provided in (e) of this section, consumption of alcohol in  
4 violation of sentence is a class A misdemeanor.

5 (e) Consumption of alcohol in violation of sentence is a class C felony if the  
6 defendant has been previously convicted of violating this section.

7 \* Sec. 2. AS 12.55.015(a) is amended to read:

8 (a) Except as limited by AS 12.55.125 - 12.55.175, the court, in imposing  
9 sentence on a defendant convicted of an offense, may singly or in combination

10 (1) impose a

11 (A) fine when authorized by law and as provided in  
12 AS 12.55.035; or

13 (B) day fine when authorized by law and as provided in  
14 AS 12.55.036 if the court does not impose a term of periodic or continuous  
15 imprisonment or place the defendant on probation;

16 (2) order the defendant to be placed on probation under conditions  
17 specified by the court that may include provision for active supervision;

18 (3) impose a definite term of periodic imprisonment;

19 (4) impose a definite term of continuous imprisonment;

20 (5) order the defendant to make restitution under AS 12.55.045;

21 (6) order the defendant to carry out a continuous or periodic program  
22 of community work under AS 12.55.055;

23 (7) suspend execution of all or a portion of the sentence imposed under  
24 AS 12.55.080;

25 (8) suspend imposition of sentence under AS 12.55.085;

26 (9) order the forfeiture to the commissioner of public safety or a  
27 municipal law enforcement agency of a deadly weapon that was in the actual  
28 possession of or used by the defendant during the commission of an offense described  
29 in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;

30 (10) order the defendant, while incarcerated, to participate in or  
31 comply with the treatment plan of a rehabilitation program that is related to the

1 defendant's offense or to the defendant's rehabilitation if the program is made available  
2 to the defendant by the Department of Corrections;

3 (11) order the forfeiture to the state of a motor vehicle, weapon,  
4 electronic communication device, or money or other valuables, used in or obtained  
5 through an offense that was committed for the benefit of, at the direction of, or in  
6 association with a criminal street gang;

7 (12) order the defendant to have no contact, either directly or  
8 indirectly, with a victim or witness of the offense until the defendant is  
9 unconditionally discharged;

10 (13) order the defendant to refrain from consuming alcohol,  
11 subject to AS 11.56.768, for a period of time up to the lifetime of the defendant,  
12 including during the term of any sentence and as a condition of probation,  
13 suspended sentence, and suspended imposition of sentence if

14 (A) the defendant was convicted of a felony under AS 11.41  
15 and the court finds by clear and convincing evidence that the defendant's  
16 conduct constituting the offense was substantially influenced by the  
17 consumption of alcohol; or

18 (B) the court finds by clear and convincing evidence that,  
19 based on the defendant's history, there is reason to believe that imposing a  
20 requirement that the defendant refrain from consuming alcohol is  
21 necessary to protect the public and the defendant was convicted of a  
22 violation of AS 28.35.030 or 28.35.032 and the defendant has been  
23 previously convicted two or more times or the offense resulted in death or  
24 serious physical injury to another person; in this subparagraph,  
25 "previously convicted" has the meaning given in AS 28.35.030.

26 \* Sec. 3. AS 12.55.015 is amended by adding a new subsection to read:

27 (j) Nothing in (a)(13) of this section, limits or restricts the authority of a court  
28 to order a person to refrain from the consumption of alcohol as a condition of sentence  
29 or probation.

30 \* Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to  
31 read:

1           APPLICABILITY. This Act applies to offenses committed on or after the effective  
2 date of this Act. References to previous convictions apply to convictions occurring before, on,  
3 or after the effective date of this Act.

# Alaska State Legislature

SENATOR

**GENE THERRIAULT**

Mailino Address:

1194 Cookman, Suite 101

Fairbanks, Alaska 99701

(907) 438-0857

Fax: (907) 465-4771

While in session  
State Capitol  
Juneau, Alaska  
99801-1182

(907) 465-4797

Fax: (907) 465-3884

Senatorial District F

Senate

## Sponsor Statement SB 284

### Alcohol Ban Option For Certain Violent Felons

In the interest of public safety and reducing the rate of recidivism among certain violent offenders, I have introduced Senate Bill 284 giving judges a new option when sentencing felons who commit crimes against persons. (As 11.41)

In instances that clear and convincing evidence shows a long-term pattern of alcohol abuse as a major contributing factor in the commission of a violent crime against a person, or in the case of extreme DUI convictions, a judge may impose as a condition of sentencing, up to a lifetime prohibition on the use of alcohol.

This legislation is intended to accomplish three main objectives. The first is to allow courts to remove a controlled substance from those who have a long track record of being dangerous when they use it. The second is to prevent future acts of violence by establishing a different threshold for re-arrest before actual violence may occur. The third goal is to establish a lifelong deterrent to offenders who might be tempted to use a substance that unleashes their violent nature.



## Alaska State Legislature Senate Majority News

Jeff Turner, Senate Majority Press Secretary  
Room 413, State Capitol Building  
Juneau, AK 99801  
Phone: 907.465.3803

Web Site: <http://www.akrepublicans.org>

FOR IMMEDIATE RELEASE: Feb. 13, 2006 CONTACT: Jeff Turner, Press Secretary: 907.465.3803

### Lifetime Ban of Alcohol Sentencing Option For Certain Felons

#### *SB 284 Bans Violent Repeat Offender From Drinking*

(Juneau) - Judges may impose a lifetime ban on alcohol use as part of a sentence for violent felons under a measure to be introduced Monday by Sen. Gene Therriault (R-North Pole).

"For some people alcohol triggers a violent nature that otherwise does not exist. When extreme crimes against persons occur as a result, extreme mitigation measures may be needed to prevent repeat offenses. This bill gives courts that option," Sen. Therriault said.

The legislation as introduced provides the lifetime ban as an option, and available only for sentencing felons who commit crimes against people. If an offender violates the lifetime ban, he or she is subject to a class A misdemeanor for the first offense and a class C felony for a repeat offense. Under either provision, re-incarceration is an option if a judge determines it is needed.

"Public safety is at the heart of this legislation, but it also gives offenders an extra incentive to never again use a substance that turns them into a ticking time bomb that they cannot control," Sen. Therriault said.

SB 284 has been referred to the Senate Judiciary and Finance Committees.

###

## SENATE COMMITTEE REPORT First Committee of Referral

DATE: 2/13/06

FURTHER: Finance

Date of 5-Day Notice: 2/23/06  
(in accordance with Uniform Rule 23)

DATE TURNED  
IN TO OFFICE: 3/2/06

Judiciary Committee considered      SENATE BILL NO. 284

### SB 284 SENTENCING FOR ALCOHOL-RELATED CRIMES

"An Act relating to sentencing for the commission of a felony while under the influence of alcohol."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 284 (JUD)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**CS Senate Bill:**

- Same Title  
 New Title

**SCS House Bill:**

- Same Title  
 Technical Title Change  
 New Title w/  
SCR # \_\_\_\_\_

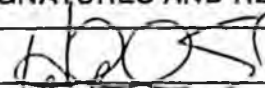
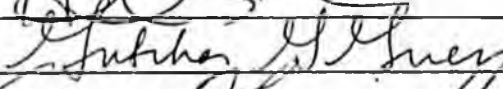
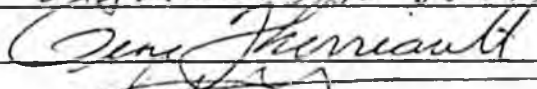
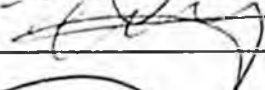
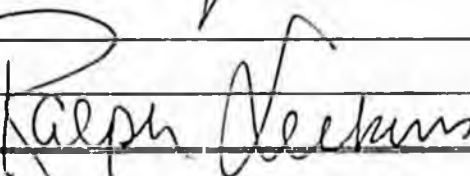
**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
ADM / Public Adv	3/1/06		✓		1
ADM / Public Def.	2/28/06		✓		2

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:		DO PASS	DO NOT PASS	NO REC	AMEND
French		X			
Guess		X			
Therriault		X			
Huggins		X			
Seekins	CHAIR: 	✓			

**SB**

**289**

**HFIN**

**FILE**



# FISCAL NOTE

STATE OF ALASKA  
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1  
Bill Version: CSSB 289(L&C)  
(S) Publish Date: 2/27/06

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
Title Insurance RDU Insurance (116)  
Component Insurance Operations  
Sponsor Labor & Commerce by Request  
Requester Labor & Commerce Component No. 354

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation contains numerous changes to Title 21 that are designed to ensure that state statutes are consistent with federal law, the National Association of Insurance Commissioners (NAIC) model acts, standards and guidelines, and to update procedures and transactions and to provide protections to consumers that purchase life, annuity and health insurance. This legislation does not have a fiscal impact on the operations of the division.

Prepared by: Linda S. Hall, Director Phone 907-269-7900  
Division: Insurance Date/Time 2/16/06 9:42 AM  
Approved by: William C. Noll, Commissioner Date 2/16/2006  
Agency: Commerce, Community and Economic Development



Alaska State Legislature

Senator Con Bunde  
Senate District P

Vice Chair: Senate Finance Committee  
Chair: Senate Labor & Commerce Committee

Sponsor Statement  
Senate Bill 289 Insurance  
CSSB 289 (FIN)

Senate Bill 289 could be referred to as an *insurance omnibus bill* because it contains numerous changes to Title 21. These improvements are designed to ensure that state statutes are consistent with federal law, the National Association of Insurance Commissioners (NAIC) model acts, standards and guidelines, to update procedures and transactions and to provide protections to consumers. Many of the changes are technical in nature and others are to make terminology more consistent throughout Title 21.

A summary of the general changes made by CSSB 289 (FIN):

1. Provisions to extend "patient bill of rights" which was enacted in 2000 and applied only to group health care insurance plans will be made effective to individual health insurance plans
2. Provisions to make technical changes including substituting the phrase "medical care services" for "health care services" to make the terminology consistent with other parts of AS 21 relating to health insurance
3. Provisions that require insurers providing individual health care insurance to comply with statutes similar to those required of insurers providing group health care insurance
4. Provisions to enact the model law of the NAIC relating to actuarial opinion summary for property and casualty insurers
5. Licensing revisions relating to managing general agents to conform to the NAIC model law and to make license regulation in Alaska consistent with national standards
6. Repeals the small employers Health Reinsurance Association as insurers are not using the mechanism
7. Provisions for mental health parity to be consistent with federal HIPAA law
8. Provisions for changes in the standard non-forfeiture law for individual annuities aimed at limiting unfair practices relating to surrender charges
9. Provisions for technical changes to licensing to achieve national uniformity in producer licensing and improving division efficiency in processing license applications and providing for electronic notices

These changes to Title 21 will promote consistency between Alaska and other states, promote more efficient operations and provide better public protection.



# Alaska State Legislature

**Senate Majority** Web: [www.akrepublicans.org](http://www.akrepublicans.org)

Sponsor: Labor & Commerce By Request  
Current Version: CSSB 289 (FIN)  
Contact: Linda Hall 465-2560

## Fact Sheet for: Senate Bill 289

**Short Title:** INSURANCE

### Summary:

- Extends certain provisions regulating group health insurance to individual health insurance policies, such as the patient "bill of rights," and prompt payment requirements.
- Includes provisions to enact the National Association of Commissioners model law for actuarial opinion summary for property and casualty insurers.
- Modifies the annuity nonforfeiture law in order to limit excessive surrender charges.
- Modifies requirements for managing general agents and provides technical changes to licensing to conform with national uniformity standards.

### Benefits:

- Provides greater consumer protection.
- Makes Alaska licensing more consistent with national standards.
- Promotes more efficient administrative procedures and industry oversight.

### Background:

- Many of the revisions are based on model laws of the National Association of Insurance Commissioners and are intended to bring Alaska into greater conformity with national standards. Some of the changes to terminology are to conform to the terms used in federal and state laws. Other changes are intended to bring about greater efficiency in administrative operations and to provide important consumer protections.

Section Analysis of CSSB 289(FIN)  
24-LS1563\S

Sec.	Statute	Change	Purpose or Effect
1.	21.06.110(8)	Amended	Modifies the reference consistent with the changes in Sec. 32 and Sec. 38
2.	21.06.160(a)	Amended	Requires examination fees to be paid by an electronic payment method specified by the director.
3.	21.07.010(a)	Amended	AS 21.07 is amended to expand applicability of the provisions to individual health insurance plans. Changes to this subsection: <ul style="list-style-type: none"> <li>➤ remove reference to "group" since applicability will extend to individual health insurance plans</li> <li>➤ changes the term "health care services" to "medical care services" since medical care is a defined term used in the federal and state HIPAA laws to refer to health care services</li> </ul>
4.	21.07.010(b)	Amended	same as Sec. 3.
5.	21.07.020	Amended	same as Sec. 3.
6.	21.07.030	Amended	same as Sec. 3. and in addition changes <ul style="list-style-type: none"> <li>➤ the term "enrollee" to "covered person" so that consistent terms are used throughout the chapter; and</li> <li>➤ "group health plan" to managed care plan" which is the term redefined to include individual health insurance plans.</li> </ul>
7.	21.07.040(c)	Amended	As in Sec. 3. changes the term "health care services" to "medical care services" since medical care is a defined term used in the federal and state HIPAA laws to refer to health care services
8.	21.07.050(a)	Amended	As in Sec. 6. changes the term "group health plan" to managed care plan" which is the term redefined to include individual health insurance plans
9.	21.07.050(c)	Amended	As in Sec. 6. changes the term "enrollee" to "covered person" so that consistent terms are used throughout the chapter
10.	21.07.050(d)	Amended	<ul style="list-style-type: none"> <li>➤ Removes reference to "group managed care plan" since the term is redefined to "managed care plan" and includes individual health insurance plans</li> <li>➤ As in prior sections changes the term "enrollee" to "covered person"</li> </ul>
11.	21.07.050(h)	Amended	As in prior sections changes the term "enrollee" to "covered person"
12.	21.07.060(a)	Amended	Same as Sec. 8.
13.	21.07.060(b)	Amended	Same as Sec. 8.
14.	21.07.060(d)	Amended	Same as Sec. 8.
15.	21.07.080	Amended	As in Sec. 3. changes the term "health care services" to

			"medical care services" since medical care is a defined term used in the federal and state HIPAA laws to refer to health care services
16.	21.07.250(1)	Amended	Same as Sec. 15.
17.	21.07.250(3)	Amended	Same as Sec. 15.
18.	21.07.250(5)	Amended	Same as Sec. 15.
19.	21.07.250(10)	Amended	<ul style="list-style-type: none"> <li>➤ Removes reference to "group managed care plan" since the term is redefined to "managed care plan" and includes individual health insurance plans</li> <li>➤ As in Sec. 3. changes the term "health care services" to "medical care services" since medical care is a defined term used in the federal and state HIPAA laws to refer to health care services</li> </ul>
20.	21.07.250(12)	Amended	As in prior sections removes reference to "group managed care plan" since the term is redefined to "managed care plan" and includes individual health insurance plans
21.	21.07.250(13)	Amended	As in Sec. 3. changes the term "health care services" to "medical care services" since medical care is a defined term used in the federal and state HIPAA laws to refer to health care services
22.	21.07.250 (15)	Amended	Clarifies definition of "religious nonmedical provider"
23.	21.07.250(16)	Amended	<ul style="list-style-type: none"> <li>➤ As in Sec. 3. changes the term "health care services" to "medical care services" since medical care is a defined term used in the federal and state HIPAA laws to refer to health care services</li> <li>➤ As in prior sections removes reference to "group managed care plan" since the term is redefined to "managed care plan" and includes individual health insurance plans</li> </ul>
24.	21.07.250(18) and (19)	Amended	Adds new definition of managed care plan to include individual health insurance plans and adds the definition of medical which is the term used throughout 21.07.
25.	21.09.207	New	This section provides an additional tool that the division can use to more quickly identify an insurer that may be in a troubled financial situation by giving the division information on how the insurer's reserves, as shown in the financial statement, compare to the estimates developed by the actuary. A domestic insurer who is required to file a statement of actuarial opinion with the director must now also file an actuarial opinion summary. The actuarial opinion summary is a confidential document that includes the actuary's estimate or range of reasonable estimates of reserves, explains adverse development and any difference between the actuary's estimate and management's reserves as stated in the insurer's annual statement. Confidentiality of the document is necessary as the actuary's indicated reserves

			presented in the summary are not otherwise published and can be taken out of context by the public when evaluating an insurer's financial situation without looking at the full actuarial report, which for some insurer's may be volumes of data and calculations.
26.	21.27.020(c)	Amended	Removes the requirement for corporations to disclose its officers and directors, consistent with national uniformity license requirements.
27.	21.27.020(g)	Amended	Removes reference that one of the continuing education advisory committee representatives be from the limited lines area since the national standards for continuing education do not require continuing education for limited lines licensees.
28.	21.27.040	New	Provides a time period as to when an applicant must act on an incomplete filing; otherwise, the filing will be considered withdrawn.
29.	21.27.620(a)	Amended	Adds a requirement for a managing general agent (MGA) who qualifies for exemption to file a certification with the director; clarifies when the contract and termination must be filed with the director and eliminates additional approval requirements for resident MGAs.
30.	21.27.650(a)	Amended	Streamlines the notification requirement of the third party administrator's employees to key personnel instead of all employees.
31.	21.34.050	Amended	Allows division to publish the white list by posting it on the web site [instead of mailing it]; clarifies that failure to pay the continuation fee or file the required financial statement is grounds for removal from the list; and provides authority that the director may reinstate a company to the list under specific conditions, including the payment of a late fee.
32.	21.36.128	New	Consistent with Sec. 38 contains the prompt pay requirements moved from 21.54.020 and in addition applies the requirements to both individual and group policies.
33.	21.36.260	Amended	Expands authority to allow for electronic communications if electronic confirmation can be obtained.
34.	21.45.305(b)	Amended	Clean-up to make consistent with NAIC Standard Nonforfeiture Law
35.	21.45.305(c)	Amended	Allows director discretion to give an insurer approval to use a higher discount rate for complying with 21.45.305(g)
36.	21.45.305(g)	Amended	Changes to this section will have the effect of limiting surrender charges on an annuity to about 10% and in addition will not allow surrender charges after maturity. Under current law an insurer may set the maturity age at, for example, 115, in order to increase surrender charges. Most annuities are in fact surrendered and do not reach maturity.
37.	21.51.120(a)	Amended	Since the prompt payment provisions in Sec.32. will apply to individual health insurance plans, these sections are amended

			to remove an inconsistency with those provisions.
38.	21.54.020	Amended	Removes the group prompt payment provisions and moves to 21.36.128 in Sec. 32.
39.	21.54.151	New	Adds HIPAA mental health parity provisions. These provisions were originally adopted in 1997 but sunset. Congress continues to extend the parity act and therefore these provisions need to be readopted. No sunset is proposed.
40.	21.56.120(a)	Amended	Removes reference to assessments consistent with the repeal of the Small Employer Health Reinsurance Association.
41.	21.56.140(a)	Amended	This amendment requires the director to approve the basic and standard health plans.
42.	21.56.140	New	Since the Small Employer Health Reinsurance Association is repealed in Sec. 48 and the Association determines the benefits offered in the basic and standard health care insurance plans that insurers are required to offer to small employers, this amendment allows the director to determine the benefits.
43.	21.66.480(8)	Amended	Modifies the definition to require licensure for any officer or salaried employees of a title insurance company that transacts insurance business, consistent with other license classes.
44.	21.90.900(17)	Amended	Modifies the definition, in conformance with national uniform licensing standards.
45.	21.90.900(29)	Amended	Modifies the definition, in conformance with national uniform licensing standards.
46.	25.24.160(b)	Amended	21.54 was amended which required this section to be updated to reflect the new section.
47.	25.24.230(h)	Amended	21.54 was amended which required this section to be updated to reflect the new section.
48.	21.07.250(4); 21.07.250(6); 21.27.900(10); 21.51.110; 21.56.010; 21.56.020; 21.56.030; 21.56.040; 21.56.050 21.56.060 21.56.070; 21.56.075; 21.56.080; 21.56.090; 21.56.100; 21.56.250(6);	Repealed	21.07.250(4) repeals "group managed care plan" which is replaced with "managed care plan" in Sec. 21 and includes individual health insurance plans; 21.27.900(9) is also defined in 21.90.900; 21.07.250(6) repeals "health care services" since that term is replaced with "medical care" services which is already defined in 21.90.900 21.56.010-250 repeals the Small Employer Health Reinsurance Association and references to the association throughout chapter 56.

	21.56.250(9); 21.56.250(17); 21.56.250(19); 21.56.250(22); 21.56.250(24); and 21.56.250(25)		
49.	Uncodified Law	Amended	Makes the changes to Sec. 36 apply only to contracts issued after January 1, 2007 and therefore these provisions would not apply to any contracts that were issued before that date.
50.	Uncodified Law	Amended	Allows transition to allow the Small Employer Health Reinsurance Association to wind up the affairs of the association and provides guidelines for closure.
51.	Effective Date		Makes certain sections effective immediately.
52.	Effective Date		Makes some sections effective January 1, 2007.
53.	Effective Date		Makes other sections effective July 1, 2006.



DEPARTMENT OF  
**COMMERCE**  
COMMUNITY AND  
ECONOMIC DEVELOPMENT

Division of Insurance

*Frank H. Murkowski, Governor*  
*William C. Noll, Commissioner*  
*Linda S. Hall, Director*

April 3, 2006

The Honorable Con Bunde  
Senate Labor & Commerce  
State Capital

RE: Senate Bill 289

Senator Bunde,

The Division of Insurance strongly supports SB 289. The insurance bill proposes statutory changes that will promote consistency between Alaska and other states, provide increasing public protection, and improve the efficiency of Division operations.

Among the proposed modifications are changes in terminology to conform to terms used in federal and state laws, provisions for additional electronic payments and provisions for electronic notices. Other changes involve continuing reforms to make license regulation in Alaska consistent with national standards, modifications in the annuity nonforfeiture law in order to limit excessive surrender charges, extending certain provisions regulating group health insurance to individual policies and adoption of the National Association of Insurance Commissioners model law for actuarial opinion summary for property and casualty insurers.

I would appreciate support for the measures contained in SB 289.

Thank you.

Sincerely,

Linda S. Hall  
Director

**SB**

**289**

**SFIN**

**FILE**

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT  
MAR 29 2006  
SENATE FINANCE COMMITTEE

DATE: 2/27/06

FURTHER:

DATE TURNED  
IN TO OFFICE: 3/29/06

Finance Committee considered

SENATE BILL NO. 289

SB 289 INSURANCE

"An Act relating to the payment of insurer examination expenses, to the regulation of managed care insurance plans, to actuarial opinions and supporting documentation for an insurer, to insurance firms, managing general agents, and third-party administrators, to eligibility of surplus lines insurers, to suitability of life and health insurance policies and annuity contracts, to unfair discrimination under a health insurance policy, to prompt payment of health care insurance claims, to required notice by an insurer, to individual deferred annuities, to direct payment to providers under a health insurance policy, to mental health benefits under a health care insurance plan, to the definitions of 'title insurance limited producer' and of other terms used in the title regulating the practice of the business of insurance, and to small employer health insurance; repealing the Small Employer Health Reinsurance Association; making conforming amendments; and providing for an effective date."

and recommends:

- be replaced with \_\_\_\_\_ CS SB 289 (FIN)
- adopt previous \_\_\_\_\_ CS CS Forthcoming
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

CS Senate Bill:  
 Same Title  
 New Title

SCS House Bill:  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Ind.	Zero	FN#
DCED	2/16/06			<input checked="" type="checkbox"/>	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>			<input checked="" type="checkbox"/>	
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	<input checked="" type="checkbox"/>			
COCHAIR: <i>[Signature]</i>	<input checked="" type="checkbox"/>			
COCHAIR: <i>[Signature]</i>	<input checked="" type="checkbox"/>			

REPORTED OUT  
**MAR 29 2006**  
 SENATE FINANCE COMMITTEE

## FISCAL NOTE

STATE OF ALASKA  
 2006 LEGISLATIVE SESSION

Fiscal Note Number: 1  
 Bill Version: CSSB 289(L&C)  
 (S) Publish Date: 2/27/06

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Commerce  
 Title Insurance RDU Insurance (116)  
 Component Insurance Operations  
 Sponsor Labor & Commerce by Request  
 Requester Labor & Commerce Component No. 354

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

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**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)						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation contains numerous changes to Title 21 that are designed to ensure that state statutes are consistent with federal law, the National Association of Insurance Commissioners (NAIC) model acts, standards and guidelines, and to update procedures and transactions and to provide protections to consumers that purchase life, annuity and health insurance. This legislation does not have a fiscal impact on the operations of the division.

Prepared by: Linda S. Hall, Director  
 Division: Insurance  
 Approved by: William C. Noll, Commissioner  
 Agency: Commerce, Community and Economic Development

Phone 907-269-7900  
 Date/Time 2/16/06 9:42 AM  
 Date 2/16/2006

(Revised 9/7/2005 OMB)

# 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

March 29, 2006

**SUBJECT:** Conforming change to title to reflect removal of section relating to suitability of life and health insurance policies. (CSSB 289(FIN)) (Work Order No. 24-LS1563\S)

**TO:** Senator Lyda Green  
Senator Gary Wilken  
Co-Chairs of the Senate Finance Committee  
Attn: Robin Paul

**FROM:** Dennis C. Bailey *DCB*  
Legislative Counsel

Please note that I have made a conforming change to CSSB 289(FIN) correcting the title by deleting "to suitability of life and health insurance policies and annuity contracts." This change reflects the committee's amendment removing sec. 32, addressing "suitability," in order to more accurately describe the subject of the bill in the title.

If this is not acceptable please let me know.

DCB:ljw  
06-165.ljw

Enclosure

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES

ADOPTED

SENATE FINANCE  
COMMITTEE

Amendment # 1

To Bill Number: SB 289

Sponsor: Green

Date: 3/29/06 Logged by: Robin

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR GREEN

TO: CSSB 289(L&C)

- 1 Page 1, line 5 – 6, following “annuity contracts,”
- 2 Delete “to unfair discrimination under a health insurance policy,”
- 3
- 4 Page 25, line 13, through page 26, line 2:
- 5 Delete all material.

SENATE FINANCE COMMITTEE

3 / 29 / 2006

COMMITTEE ACTION

Bill Number	SB 289		
Amendment	#1		
Motion	to adopt		
<u>Motion by</u>	Green		
<u>Objection by</u>	Green		
<u>Removed</u>	✓		
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	<u>Vote</u>	N
Senator Stedman			
Senator Bunde			
Senator Dyson			
Senator Hoffman			
Senator Olson			
Co-Chair Wilken			
Co-Chair Green			
<u>Tally</u>			
Yea			
Nay			
Absent			
<b>MOTION</b>	ADOPTED		



# Alaska State Senate

## Senate Finance Committee

Official Business

Mail Stop 3100  
State Capitol  
Juneau, Alaska 99801-1182

### FAX COVER SHEET

DATE: 3/29/06 TIME: 9:25am

TO: Legal

NUMBER OF PAGES, INCLUDING COVER SHEET: 2

FROM: ROBIN PAUL  
SENATE FINANCE CMTE. ASST. SECRETARY  
PHONE: 465-2618  
FAX: 465-2187

NOTES: FINAL PLS. CS SB 289 (FIN)  
Version 24-LS1563/I  
plus Amendment #1  
Attached.

*Thank You!  
Robin*

Our Proof

24-LS1563S

CS FOR SENATE BILL NO. 289(FIN)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to the payment of insurer examination expenses, to the regulation of  
2 managed care insurance plans, to actuarial opinions and supporting documentation for  
3 an insurer, to insurance firms, managing general agents, and third-party  
4 administrators, to eligibility of surplus lines insurers, to prompt payment of health care  
5 insurance claims, to required notice by an insurer, to individual deferred annuities, to  
6 mental health benefits under a health care insurance plan, to the definitions of 'title  
7 insurance limited producer' and of other terms used in the title regulating the practice  
8 of the business of insurance, and to small employer health insurance; repealing the  
9 Small Employer Health Reinsurance Association; making conforming amendments; and  
10 providing for an effective date."

Language  
deleted  
per  
Amend  
#1  
and  
Legal

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

12 \* Section 1. AS 21.06.110(8) is amended to read: