

129

HC

HB 243

-

HB

289

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HB

289

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"A WRONG KIND OF LEGISLATION"
KENT-TV, Anchorage

Mar. 11, 1975

We have worked intimately with the development of communications in Alaska for over 35 years now. The territorial legislature and more recently the State legislature has both helped and has hindered, depending on the kind of lawmaking in the legislative mill on the shores of Gastineau Channel.

Now comes the worst kind of legislation in the form of House Bill 243. What will it do? It will abolish advertising ^{by} all kinds of utilities in Alaska. At first thought that may not sound like such an unreasonable idea.

But it's bad legislation -- for several reasons. The first objection that comes to mind is it could wipe out or put ^{an} ~~an~~ crimp in the currently emerging development of network satellite sports on TV. We of the Midnight Sun network in recent years have worked closely with RCA and the NBC Network and key local sponsors in trying to give the Alaska sports fan an increasing schedule of national sports attractions. As witness our late-March plans to bring national basketball from NBC to make Alaska just a bit less isolated. Our friends and competitors with CBS in ^{the state} ~~Alaska~~ have also worked hard to achieve the satellite sports attractions of today in Alaska. It hasn't been easy, it hasn't been profitable, and the job is far from having been completed.

Now comes boneheaded House Bill 243 that is orchestrated to decimate the progress we have made in Alaska on the real thing -- live and direct and in living color, straight from the field of play. As a business matter in the TV industry, these games - football, baseball, and now basketball have been marginal if not unprofitable. And now we are told that our elected lawmakers will no longer allow such stalwart supporters as RCA, Chugach Electric Anchorage Natural gas -- or any of the ~~utility~~ ^{and environs} power companies or phone companies in Anchorage, Fairbanks and Juneau to help make all this possible. This bill threatens to put Alaska satellite television back ten years, ^{to} when it was nothing at all. And let's observe that what these entities spend in advertising is but a minute part of their overall gross income.

And there are other strong reasons for delivering the deep six to House Bill 243. A utility firm lives and breathes on public consent -- it must tell its story, tell what its doing and where and for what purpose. They want to tell how they are progressing for Alaska's benefit.

Another reason for a utility advertising is they sometimes have a need for showing the public how to use new equipment. For example right now they are preparing radio, TV, and newspaper material to show the public in the Juneau area how to use the new DDD - direct distance dialing -- equipment. Suppose they couldn't advertise this service? Beautiful!

Right here in Anchorage earlier this winter we had a prime example of why utilities should spend money for advertising. The community developed some hairy power supply problems which in the dead of winter might have brought this town to its knees -- in terms of loss of life, suffering, and property damage. But the utilities used the media with well planned advertising campaigns to keep the public fully informed on a day-to-day basis, and hopefully by this time the crisis is in the past tense.

Sometimes I think it's too bad our legislators aren't tested for brain damage before we send them to Juneau. There is no better example than House Bill 243. If we all don't do something about it -- we'll have to live with it and without satellite sports on TV, without emergency information about our utilities. They will be required to operate in the dark, so to speak. If House Bill 243 bothers you like it bothers me I suggest you raise hell with your State Senators and State House of Representative members. They're supposed to be there to be of help to you.

Alvin C. Bramwell
Alvin C. Bramwell
Box 1160,
Anchorage



March 11, 1975

Representative Bob Bradley
Alaska State House of Representatives
Juneau, AK 99801

Dear Representative Bradley:

There are many insidious methods of practicing censorship of the media. One method is legislation eliminating advertising of businesses and services. Regardless of the pretext under which the legislation is introduced censorship is the end result. This effect is just one of the reasons the Advertising Club of Alaska objects to House Bill 243 introduced by Representatives Fred Brown and Mike Bradner.

Utility advertisers are already conscious of the inappropriateness of advertising promoting unnecessary energy consumption. It is not necessary to legislate against this type of advertising. There are many examples of worthwhile advertising by utilities in a market area in which the utility has no direct competition for its product or services. One example is a telephone utility advising people of the low traffic hours on long distance telephone lines. If the public is to get maximum use of the utilities that are available to them, and for which they are paying, it seems more reasonable to require the utilities to tell about their services.

There are many other things that could be said, but in the sake of brevity I will outline some of the principles of our country that are violated by legislation restricting advertising.

Does the public have the right to not pay for adv. that does not benefit them?

1. The right to advertise truthfully, a right of all the people.
2. The right of people--taxpaying citizens--to be informed.
3. The right of companies to communicate properly and truthfully with their customers and the general public. This right includes the privilege of choosing the method of communication they prefer.
4. And to repeat, the right to free, uncensored communications.

OF WHAT IS THE QUESTION + trying for it.
OBJECTIVELY

The proposed legislation also brings two immediate questions to mind. Will the sale of electric powered and other energy-using appliances be banned? Are public relations type news articles about a utility and its plans for the future to be banned? And finally, who is to decide exactly what advertisements, what wording, what illustrations, what ad headings, what facts are good or bad in a utility advertisement. Just thinking of the people it will take to decide this leads me to think the consumer will pay more for the regulatory agency than they might pay for costs related to advertising.

Speaking for the Advertising Club of Alaska, I urge you to do everything you can to see that this legislation does not progress any further. I welcome your comments.

Ask for unqualified answer!
 Sincerely,
 Vic Hussey

Vic Hussey, President
 Advertising Club of Alaska

Can't say own profession (adv.) and liars.

kdg

Question: Do all soapfully soap Co. adv. truthfully - are they liars? Answer: YES

Question: Do all soap Co. adv. objectively? Answer: Should be NO - they try + sell their product.

FACTS ARE ACCEPTABLE FOR THE PUBLIC TO PAY



ALASKA BROADCASTERS ASSOCIATION

March 7, 1975

Representative Bob Bradley
Alaska State House
Juneau, Alaska 99801

Dear Bob:

Rep. Fred Brown and Mike Bradner of Fairbanks have introduced a bill (HB 243) in the Alaska State House that would deny public utilities the right to advertise as they wish. The bill would usurp first amendment freedoms guaranteed by the Constitution and place the public in a very precarious position. You need only ask a resident of the Anchorage and Peninsula areas about their frightening experiences during our recent blackouts.

Not only is it necessary for utilities to be free to advertise during a crisis in the amount and the time they feel would benefit the public but it is of equal importance for a utility to be free to advise the public of new technical developments and services available.

Speaking for the Alaska Broadcasters association, I am asking you to do everything you can to see that this legislation does not progress any further. Please let me know, by return mail, your feelings on this matter.

Sincerely,

Roy Robinson
President

cc: KYAK, KBYR, KENI, KHAR, KFQD
KIMO-TV, KTVA, KENI-TV
The Anchorage Times
The Anchorage Daily News

RR/cg

Alaska State Legislature

Representative
CLARK GRUENING
940 Tyonek Drive
Anchorage, Alaska
99501

907-274-2446



HB. 243

House of Representatives

POUCH V JUNEAU 99811

March 14, 1975

Mr. Roy Robinson, President
Alaska Broadcasters Association
9200 Lake Otis Parkway
Anchorage, Alaska 99507

Dear Roy:

Thank you for your views on HB 243, a copy of which I have enclosed for your information.

This bill does not, as you will discover upon reading, deny public utilities the right to advertise as they wish. It does, however, disallow the inclusion of certain advertising expenditures in the tariffs of public utilities.

Your point that utilities should be able to advertise during a crisis and to advise the public of new technical developments and services is well taken. To the extent that it disallows certain advertising expenses to be included in the tariff this bill would discourage advertising in certain areas including advising the public of new technical developments and services although probably expenses incurred in a crisis situation would be allowed.

The purpose of the bill is to prevent huge advertising budgets of utilities from substantially raising the public's rates. I'm not convinced at this point there is any need to attempt to so restrict the advertising budgets and even if such a need were shown I would not favor HB 243 in its present form inasmuch as it tends to restrict advertising except in two areas and would tend to discourage utilities from advising the public of new technical developments and services.

I have already discussed the bill with the sponsors and they

page 2

March 14, 1975

have both conceded that a loosening of these restrictions may be warranted. HB243 is presently assigned to the House Commerce Committee and I have provided the chairman of that committee, Bob Bradley, with a copy of your remarks. I have requested Mr. Bradley to notify you in advance of any hearings that may be held on the bill.

Roy, after you have had time to read the bill and consider possible amendments, if any, to improve it I would welcome any additional comments you may have.

Sincerely,

Clark Gruening

CG/mm

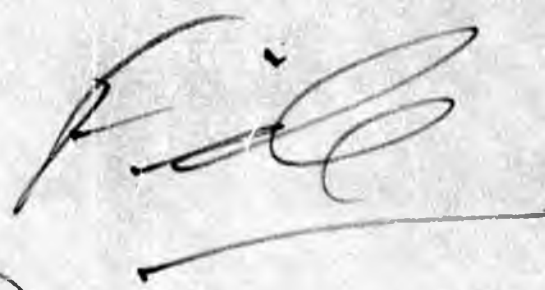
enclosure

cc: Representative Bob Bradley ✓

KENAI UTILITY SERVICE CORPORATION

A BLUE FLAME COMPANY
BENCO BUILDING P.O. BOX 614
KENAI, ALASKA 99611
(907) 283-7932

March 16, 1975



Dear Legislator:

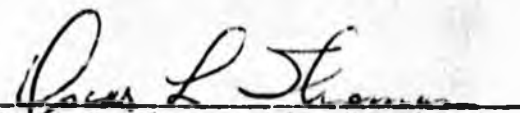
Reference is made to H.B. 243 which would provide restrictions on advertising and promotional expense incurred by public utility companies.

Although we agree with the objectives of the proposed legislation we take strong issue with the means set forth for achievement. The regulation of utility rates should remain the sole province of the Alaska Public Utilities Commission. This agency is fully funded and, to our knowledge, the only body in the state with the capacity for a total overview of individual utility functions on a company by company basis. The commission's staff support includes a consumer protection section as well as financial analysts, tariff experts and engineering specialists. By law, the commission has full regulatory authority over the utility companies of Alaska, excepting those which are municipally owned. In that the commission is readily available to the legislature, the public and the utilities we fail to see why the alleged improprieties of one company, which have reportedly instigated H.B. 243, should not be handled through the existing channels. To correct through legislation might well interfere with legitimate and well founded programs of public utilities throughout Alaska.

By way of example, our company currently budgets \$1,500.00 annually for advertising and promotion. This amount represents less than 3/10 of 1% of our total anticipated revenues. About half of the advertising budget goes to sponsor Little League baseball and Youth Hockey teams along with support to the local high school athletic and theatrical groups. The balance goes into direct communication with our consumers on subjects of interest to them. We would hope that the legislature would not act in such a manner as to interfere with this type of activity.

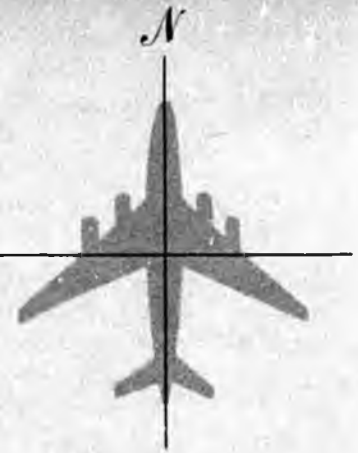
Very truly yours,

KENAI UTILITY SERVICE CORPORATION


Oscar L. Thomas, Vice-President

Greater Anchorage
CHAMBER of COMMERCE

H.B.
243



Crossroads of the Air World

POLICY RECOMMENDATION FROM STATE LEGISLATIVE COMMITTEE

*** Approved by Greater Anchorage Chamber of Commerce Board of Directors
In Regular Session, March 21, 1975**

WHEREAS, the Greater Anchorage Area is in need of knowing, for the public's good, what is taking place in Public Utilities, and the Anchorage population is interested in knowing and learning about the improvement of service from Public Utilities. A Public Utility must maintain a constant community awareness about current use and needs, future use and needs, and potential changes in the utility system.

A Public Utility by virtue of its service is working with and for practically every citizen in the community; the constant community communication and activity of Public Utility employees in key leadership areas of Anchorage produce a vital service to the future of the Utility and its public responsibility, and

WHEREAS, Public Utility budgets encompass operational and promotional monies for these vital functions, and these monies also provide for employment in the community of a substantial, contributive and educational nature.

NOW, THEREFORE, BE IT RESOLVED THAT the Greater Anchorage Chamber of Commerce encourages the maximum of essential public information gathering and dissemination by each utility.

BE IT FURTHER RESOLVED THAT any legislative effort to diminish this vital function be eliminated and that the Alaska Public Utilities Commission consider acting in its designated role in a positive manner to monitor the need and expenditures of such communication between Public Utilities and the community which they serve.



murray, kraft & rockey, inc.
advertising & public relations

3925 Reka Drive, Anchorage, Alaska 99504, (907) 279-3516, Telex (090) 26-449

March 19, 1975

The Honorable Clark Gruening
Alaska State House of Representatives
Pouch "V" State Capitol Building
Juneau, Alaska 99811

A.B. 243

Dear Clark:

Thanks for your letter and the copy of House Bill No. 243.

I am also grateful to you for your discussion with the sponsors of the bill, although I think that rather than a loosening of restrictions, the sensible thing to do would be to eliminate this bill completely.

Mechanics for control have already been allocated to other governmental agencies -- this merely drags the State legislature in, too.

As to your question regarding continuation of advertising outside the rate base, I think I can assure you that this would simply not happen. Unless advertising and public relations can be counted as a normal cost of doing business, along with the other avenues of sales, customer relations, and so forth, it would simply be eliminated -- which in turn would strike a blow at our industry.

Clark, the people of Alaska have not asked for this type of legislation. If Brown is quoted accurately in the press, he is using the State legislature as a weapon to settle a private vendetta with RCA. Frankly, I am hopeful that the balance of the legislature will not make that body a party to the settlement of personal arguments.

I would certainly strongly urge you to oppose House Bill No. 243.

Very truly yours,

Connel Murray

Connel Murray
President

CM/db

cc: Representative Bob Bradley
Roy Robinson
Vic Hussey

STATE OF ALASKA
Inter-Department Route Slip

TO:
MAIL STATION NUMBER 3101
DEPARTMENT Legislature - House
ATTENTION Rep. Bob Bradley

- | | |
|--|--|
| <input type="checkbox"/> Approval | <input type="checkbox"/> Note & Return |
| <input type="checkbox"/> Signature | <input type="checkbox"/> Initial & Return |
| <input type="checkbox"/> Comment | <input type="checkbox"/> Return As Requested |
| <input type="checkbox"/> Contact Me | <input type="checkbox"/> Return For Approval |
| <input type="checkbox"/> Prepare Reply | <input type="checkbox"/> Necessary Action |
| <input type="checkbox"/> For Your File | <input checked="" type="checkbox"/> Your Information |

Remarks:

*Gordon Zerbetz comments
re: NR 243... for your
files.
Bm*

FROM:
MAIL STATION NUMBER _____

DEPARTMENT Commerce

BY B. Miller DATE 4/1/75

TO: _____

DATE: March 20, 1975

(SENATE - HOUSE) BILL 243

RE: "An Act relating to public utility rates; and providing
for an effective date."

Check One:

- 1. TOP PRIORITY - in favor of. _____
- 2. FAVOR - in favor of, but not top priority. _____
- 3. OF - no definite stand. _____
- 4. NOT IN FAVOR - _____ X
- 5. TOP PRIORITY - "Strongly Opposed" _____
- 6. BILL DOES NOT PERTAIN TO DIVISION _____


COMMENTS: (Justification must be stated for the above line checked -
Continue on another page if needed.)

HB 243 amends AS 42.05.381(a) by adding the following sentence:

No rate may include an allowance for costs of advertising or public relations except for reasonable amounts spent for energy conservation efforts or reasonable amounts spent for business promotion in a market area in which the utility has direct competition for its product ^{OK} of service.

For the reasons stated below, it is my opinion that this portion of AS 42.05.381(a) should be replaced by the following provision:

The revenue requirements of a utility may not include advertising expenses except reasonable amounts spent for efficiency or conservation efforts and for business promotion in a market area in which the utility has direct competition for its services.

Writer's Signature: 
Writer's Title: Chairman
(DEADLINE 24 hours)

(SEE ATTACHED PAGE 2)

COMMENTS: (continued)

As you will note, the phrase "revenue requirements" has been substituted for the word "rate" because the word "rate" as used in this phrase provides that the utility cannot spend for advertising that portion of the rate collected which is the utility's profit. As you know, each utility is allowed to earn a reasonable rate of return on its equity which is normally considered the profit of the utility. Historically, this profit has never been regulated by any public utility commission or federal regulatory body. Regulation of the dispersment of this profit may be unconstitutional. It is strongly suggested that this Commission not recommend regulation of the "profit" of a utility. Furthermore, the "rate" charged by a utility is computed by distributing among the utility's customers the revenue requirements of the utility (expenses) and a return on the rate base of the utility to cover the utility's cost of debt and cost of equity. The advertising expense which is the subject of HB 243 is a part of the utility's revenue requirements and is not reflected in the rate base or other computations upon which a consumer's rate is calculated.

The second change which you will note in the suggested replacement is the addition of the word "efficiency" to the phrase and deletion of the word "energy." This would allow utilities to reflect in their revenue requirements funds spent for promoting efficiency as well as conservation. The case law on this matter generally permits utilities to reflect in their revenue requirements funds expended for efficiency and conservation. It would appear to be in the public interest to allow a utility to include in its revenue requirements advertising expenses spent to inform the public of the efficient ways of using the utility's services. The word "energy" was deleted because other utilities including telephone, gas, sewer and water entities should be allowed a reasonable advertising expense where the advertising directly refers to efficiencies or conservation that would benefit its consumers.

The next minor change found in the replacement section is the deletion of the word "product" in the last line. The reason for this deletion is that AS 42.05.701(3) defines "service" to mean "...every commodity, product, use, facility, convenience or other form of service which is offered for and provided by a public utility for the convenience and necessity of the public." It is apparent that the word "product" in the last line of HB 243 is surplusage and repetitive.

An additional point should be raised with respect to HB 243, and that is its effect on municipally owned utilities. As you are aware, many of the municipally owned utilities in the State are exempt from AS 42.05.381 as well as other Commission regulation and consequently could pass on to their customers advertising expenses.



March 18, 1975

Mr. Connel Murray, President
Murray, Kraft & Rockey, Inc.
3925 Reka Drive
Anchorage, Alaska 99504

Dear Conn;

Thanks much for your letter of March 7th relative to the bill which limits advertising in public relations by Utilities. At the present time this bill is under consideration by the Commerce Committee, Bob Bradley Chairman. I have taken the liberty of sending Bob a copy of your letter.

Thanks much for letting me know your thoughts in this matter. I am most appreciative.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Miller".

Mike Miller

REPRESENTATIVE
MIKE MILLER
ALASKA STATE LEGISLATURE
P.O. Box 1494
JUNEAU, ALASKA 99802
HOME PHONE 556-3067
LEGISLATIVE PHONE 465-3739

HOUSE MAJORITY LEADER
VICE CHAIRMAN, LEGISLATIVE COUNCIL
VICE CHAIRMAN, STATE AFFAIRS COMMITTEE
MEMBER, RULES COMMITTEE
MEMBER, COMMITTEE ON COMMITTEES



murray, kraft & rokey, inc
advertising & public relations

3925 Reka Drive, Anchorage, Alaska 99504, (907) 279-3516, Telex (090) 26-449

March 7, 1975

The Honorable Mike Miller
Alaska State House of Representatives
Box 1494
Juneau, Alaska 99811

Dear Mike:

This letter is in response to a news release in the Anchorage Times concerning a bill introduced by Fairbanks democrats, Fred Brown and Mike Bradner, and apparently aimed at the advertising industry.

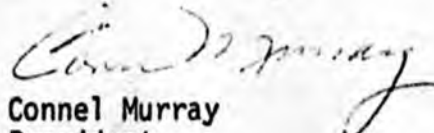
This bill threatens the livelihood of a number of Alaskan members of the advertising industry. These are people who have worked hard to upgrade their chosen profession, who live in Alaska, raise their families here, and pay their taxes to help support State government. If the Brown-Bradner bill were passed as presently written, it would constitute a serious blow to this industry.

In what is ostensibly an effort to protect the consumer, this bill instead would deprive the public of much needed information and/or education. As written it restricts utility advertising to "reasonable promotional expenditures in competitive areas" or "energy conservation measures." What about service interruptions? New installations? New procedures? Reminders about seasonal precautions? Meeting notices? These are just a few areas of needed communications which would be excluded by the Brown-Bradner bill.

Any business -- and utility is a business -- must depend upon public acceptance for its ultimate survival. This even includes good will advertising, since it is vitally important to have the good will of the public when the inevitable crisis arises. And when considering the many man-hours which must be expended in answering public complaints, handling real or threaten law suits, and the other results of bad public relations, it might safely be said that such good will might indeed be a bargain for the consumer.

I join nearly two dozen other members of this agency and, I am sure, hundreds of other Alaskans in urging you to oppose this bill.

Very truly yours,


Connel Murray
President

CM/rb

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 4, 1976

TO: Representative Bob Bradley
Chairman, House Commerce Committee

FROM: Billy G. Berrier *BGB*
Director, Legal Services

H.B. 243

You have asked whether the exclusion of costs of advertising or public relations with certain exceptions for the rates demanded to receive by a public utility for service would preclude the utility for making expenditures for advertising other than the accepted expenditures. In my opinion it would not. Of course, such expenditures could not be recovered by the utility in its rates.

To over simplify, utility rates consist of the amount necessary to recover the expenses of the utility and a reasonable rate of return upon the investment made by the utility. This rate of return is the profit to the utility and, of course, may be spent as the utility determines. While advertising expense, except for the allowed categories, would neither be an expense for which recovery could be had nor an investment on which a return could be earned it would be a permissible expenditure from the return earned by the utility since this is in effect a profit to the utility for its unstricted use.

BGB:smh

25% CO
kfod
750

NINETY TWO HUNDRED LAKE OTIS PARKWAY • ANCHORAGE, ALASKA 99507 • 267-44-9622

50,000 WATTS

March 12, 1976

Representative Bob Bradley
Chairman, House Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Bradley:

H.B. 243

I understand your Committee is currently scrutinizing HB243, a Bill designed to curtail most of the advertising done by utilities in Alaska.

I am writing to you as a Director of the Alaska Broadcasters Association, as a member of the Advertising Club of Alaska, as General Manager of KFQD Radio, as a citizen, and speaking for all, we strongly oppose this legislation. It did not get out of Committee last year. I hope the same is true this year.

The bill would usurp First Amendment freedoms guaranteed by the Constitution and would definitely be detrimental to the public. Not only is it necessary for utilities to be free to advertise during a crisis in the amount and the time they feel would benefit the public but it is of equal importance for a utility to be free to advise the public of new technical developments and services available.

Thank you for your consideration.

Sincerely, *Roy Robinson*

Roy Robinson
General Manager
KFQD, Inc.

cc: Tim Wallis, Vice-Chairman
Oral Freeman, Ramona Kelley, Leo Rhode, Rick Urion
Lisa Rudd, Joe McKinnon, Helen Fischer

Superase

HB

257

258

HB 257 + 258

Tape #

Date

14

3/19

15

3/19

15

3/20

"An Act making a special appropriation to the Gas Pipeline Impact Committee; and providing for an effective date."

COMMITTEE REPORT

3/4/75

HOUSE

FINANCE

Mr. Speaker:

Date 3/20/75

The Committee on Commerce has had HR 257

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

[Signature] _____

[Signature] _____

[Signature] _____

[Signature] _____

Members NOT concurring in the Majority report:

[Signature] recommends: no rec

[Signature] recommends: NO Rec

_____ recommends:

_____ recommends:

_____ recommends:

[Signature] Chairman

"An Act creating the Gas Pipeline Impact Committee; and providing for an effective date."

COMMITTEE REPORT

3/4/75

HOUSE

FINANCE

Mr. Speaker:

Date 3/30/75

The Committee on Commerce has had HE 258

under consideration. A Majority of the members of the Committee

() recommends it DO PASS

() recommends it DO NOT PASS

() recommends it DO PASS WITH ATTACHED AMENDMENT(S) + *letter of interest*

() recommends it BE REPLACED WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

() "and" recommends it BE REFERRED TO THE _____

COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

A. F. Bradley - Dolan _____
_____ _____
_____ _____
_____ _____

Members NOT concurring in the Majority report:

_____ recommends: no rec
Freeman recommends: no Rec
_____ recommends:
_____ recommends:
_____ recommends:

A. F. Bradley Chairman

A M E N D M E N T

OFFERED IN THE HOUSE:

By: Commerce Committee

To: _____ HOUSE BILL No. 258

SENATE BILL No. _____

PAGE: 1

LINE: 18

After the words "board members" delete the words
"and compensation in the amount of \$100 per day".

March 21, 1975

Representative M. Bradner
Speaker of the House
Juneau, Alaska

Dear Mr. Speaker,

In discussion among the committee members, it was agreed that the speaker should appoint at least one member from the minority to the committee when it is formed.

Sincerely,

Bob Bradley

BB/mr

HB

264

271

NB 264 + 271

Tape No.

Date

25

4/9

24

4/9

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

JAY S. HAMMOND, Governor

POUCH K - STATE CAPITOL

JUNEAU 99801

April 25, 1975

*File under
HB 271*

The Honorable Robert Bradley
Chairman
Commerce Committee
House of Representatives
Pouch V
Juneau, Alaska 99811

RE: Funeral Industry
Legislation

Dear Mr. Bradley:

Your letter requesting comment by this department on the preparation of funeral industry legislation has been received.

This department has developed a basic comprehensive funeral industry bill which will be transmitted to the Governor prior to the next legislative session for his consideration as to its inclusion in his legislative package. Portions of the proposed bill are being reviewed, and additional information from experts and interested parties would certainly be useful in their finalization.

Kain:
The preparation of such a bill does not appear to be extremely complex. However, since your letter indicates that you view the bill otherwise, it might be wise for us to discuss this matter personally in greater detail. Please contact me at 465-3692 or 465-3695 if you wish to arrange for a meeting on this matter.

Sincerely,

AVRUM M. GROSS
ATTORNEY GENERAL

By: *Theresa L. Bannister*
Theresa L. Bannister
Assistant Attorney General
Consumer Protection Section

*Set up a
conference with this
gal. ple.*

TLB:nnk

cc: Art Peterson

BOB BRADLEY

state house



CHAIRMAN, COMMERCE COMMITTEE
POUCH V
JUNEAU, ALASKA 99811
465-3824

VICE CHAIRMAN, JUDICIARY
601 N. BRAGAW
ANCHORAGE, ALASKA 99504
272-0275

April 14, 1975

Mr. Avrum Gross
Attorney General
State of Alaska

Dear Avrum,

I have before my committee two bills, HB264 and HB271 dealing with funeral homes in one capacity or another. It's been my impression through conversations with Representative Helen Beirne and others, and through talks with industry representatives that the Hammond administration prior to the session had been discussing submission of an administrator bill on the total subject matter of funeral homes.

It's my feeling that because of the complexity, personal impact, and exceptional consumer considerations that it would be in the best interests of the state for the administration over the summer to convene a study group to submit legislation to the second session of this legislature. Members should be representatives of your office from the law sense and the Consumer Protection Division, representatives of the medical profession, representatives from the Department of Commerce, representatives of Health and Social Services, along with possibly the representatives of industry.

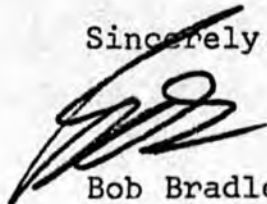
The reason why I bring this to your attention is because, frankly, the subject is of such a complex nature but of such an unusual concern and impact, that it's my feeling that the administration is best

Page 2
Avrum Gross
Attorney General
State of Alaska

equipped to study this problem and to propose standards and regulations and guidelines regarding the overall practices of funeral homes.

I would appreciate a reply on this matter prior to adjournment, and if I can be of any further help through personal contact with your office or otherwise, please let me know.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Bob Bradley', written in a cursive style.

Bob Bradley

BB/mr



Bruce Funeral Home

P.O. Box 2351
Anchorage, Alaska 99510

April 5, 1975

Representative Bob Bradley
State House of Representatives
Pouch V
Juneau, Alaska 99801

Dear Mr. Bradley:

I want to thank you for taking time from your busy schedule, especially on a Sunday, to listen to my concerns on House Bills 264 and 271 - and for allowing me to speak before the Commerce Committee while I was in Juneau.

I would welcome the opportunity to discuss these, or any other bills pertaining to funeral legislation with you at greater length. As you suggested, the whole area might bear some study and scrutiny during the recess between sessions.

I wish I could return to Juneau when House Bill 271 is again studied, but presently that doesn't seem possible. I will, however, keep in touch by phone.

Thanks again for your consideration and kind assistance. If I can provide you with any other information that might be helpful, I will be happy to do so.

Sincerely,

MARGARET (PEGGY) WITZLEBEN

POSITION PAPER

An act relating to the practice of mortuary science and providing for an effective date.

This proposed legislation is being sought and proposed for reasons stemming from several different situations. First and foremost of which is a desire by the proposers to give the Alaskan public protection from the unscrupulous and unethical operator and a reason to have confidence in the ethical Alaskan Mortician.

Alaska's present laws concerning the licensing and control of embalmers are among the lowest in the 50 states, and license's embalmers^{only}. It is generally true that most people do not differentiate between the funeral director and an embalmer. We find that the public is best served when the person who comes to their home to remove the remains, embalms the body, makes the funeral arrangements, directs the services, assists them in receiving the necessary legal documents and advises and counsels them in many different ways.

When you begin to divide up these tasks and assign them to different individuals it becomes very confusing for those we are serving and adds to their grief. The funeral loses its personal touch and becomes very cross and commercial.

These are but very few institutions in the country that educate just the funeral director or just the embalmer. The direction of funeral service education today is that of educating and training the "whole man." This education ~~unless~~^{centers} on a college or university program which leads to an Associates Degree or a Bachelor's Degree in Mortuary Science. These programs have come about because the public has recognized that it is not enough to train a man to embalm, or to train him to direct a funeral. Other areas of education such as ethics, morals, counseling, law and the humanities need to be approached and considered.

While ~~not~~ one can guarantee that a graduate of an institution with higher educational standards is going to be more ethical or competent, past performance indicates that

those states which educate and license the "whole man", have morticians with excellent reputation and few consumer complaints.

Some states have replaced the dual license law, others have never had it, and still others are currently replacing the dual law with a single license law. The ^{NATIONAL Funeral Directors Assn.} Nal F D A. strongly endorses the single license as being in the best interest of the public and the profession. A dual law is cumbersome to administer and confusing in many ways compared with a single license.

The proposed legislation is drawn from basically four sources. One, from the ^dNEFA proposed law, two; from the Minnesota law, ~~and~~ three; from Oregon law and four, from our present Alaska law.

It is somewhat more stringent in requirements for licensure - basically an increase in educational requirements and a period of apprenticeship. (resident trainee) It is also more stringent in its control of the licenses man as set out in our Revocation of license section.

Reciprocity section grants licensure to any person licensed in another state who basically meets our requirements, and of course, ~~or~~ a grandfather clause grants the new license to those now holding a valid Alaska embalmers license.

Section 08:42.020 #3 sets out the requirements for a permit in areas (bush) not serviced by a licensed mortician, but allows that no person need have a permit in these areas unless he is helping families for compensation.

Section 08.42.110 requires that all funeral establishments must have a permit to operate. This is aimed at corporat^ely held businesses whose owners may not be licensed morticians, and therefore not covered by the Revocation or suspension portions of the bill. The funeral home permit could be revoked if the business is found guilty of any misdeeds as act out in the Revocation section. This was also recommended by the A.G.'s office as an item to include in new legislation.

Section 08.42.120 Preneed Funeral Legislation of this type was recommended by the Consumer Protection Section of the A.G.'s office. This type of legislation is included to give control over funds paid to funeral homes, or preneed promoters, in advance of the death of an individual. The Council of Better Business Bureau's have several pamphlets prepared on Prearranged and Prefinanced funeral plans. The general consensus of these plans say that these plans, unless closely controlled, are fraught with the possibilities of fraud. Any time you pay someone a sum of money for service and merchandise to be provided at a time possibly many years after the payment, make the opportunities for fraud great, and risk of insolvency, with consequent inability to perform, apparent. Forty-three out of the present 50 states have laws governing (some forbidding) ^{pre} ~~per~~ need funeral plans. Of these 43 states 25 states require 100% of the funds received by placed in trust until service are performed or until the money is refunded to the buyer. Twenty-nine states require that all interest or income from the trust becomes our part of the trust and, 21 states require that the buyer can withdraw 100% of the funds in the trust.

The proposed section provides that 100% of the funds received go into a trust. That all interest or income accrued becomes a part of the trust ^{and} ~~of~~ that 100% of the trust must be returned to the buyer on his demand.

At present, Alaska has no law concerning Preneed Funeral Plans. We ^{feel} ~~felt~~ it is imperative, especially in these "boom" times that these controls be instituted. This is not a restraint of trade, but a protection of the consumer, and should be viewed in that light. Preneed plans are still very much open to the public, but the 30% commission salesman, not controlled by funeral ethics legislation, would be out of the picture. There are large corporations outside who have preneed sales forces operating in many states. The companies do, however, pay salesmen, not out of the funds paid by the preneed buyer, but from profits made in the legitimate operation of funeral homes which they

own. As long as the preneed funds are placed in trust until service are performed, and the buyer retains the option to end the plan and get all this money back with interest we feel this is legitimate. The state must provide this control.

Section 08.42.130 disclosure of costs. This is an answer to the Federal Fair Trade laws which will require the itemization of funeral costs. This is a form recommended by the NFA^d and I believe taken from the Oregon laws. It is tight enough that the public is made aware of what they are paying for, and how they must pay for it yet loose enough to give a funeral home some leeway in sensibly pricing their services and merchandise. It has been found in states with extremely detailed itemization requirements that funeral costs have gone up for the consumer. New York is a good example. This law as written is excellent and should not be further detailed.

Chapter 44, Section 08.44.010 is the enabling legislation for our present ^{rules} ~~rules~~ governing embalmers. Totally inadequate, and I'm sure that the rules and regulations promulgated by the Department of Health and Social Services in Regulation 37, Title 7, Chapter 89 would have difficulty in standing under legal pressures. Red Morely of the Division of Environmental Health, Health and Social Services has given an un-official vote of confidence to this new proposed bill. ^{He} ~~His~~ is not, however, in a position to give an official endorsement.

The licensing of morticians and their examination should fall under the Commerce Department as do most professions. The promulgation of rules and regulations and the general health portions of this bill should remain with Health and Social Services.

We are currently licensed by Department of Revenue.

Respectfully,

R.D. Rome
Evergreen Memorial Chapel Inc.

Representing: R.D. Rome, R.J. Franke, Dale Rosenberg, Lee Moeglein, Gregory Jerich,
Bob Britt and Gary Rook - all currently licensed embalmers in the State of Alaska.

In reference to H.B. 271

Testimony by: Margaret E. (Peggy) Witzleben
Owner - Bruce Funeral Home
P.O. Box 2351
Anchorage, Alaska 99510
279-1963 or 279-7786

ARTICLE 4 - FUNERALS
Sec. 45.45.120 Disclosure of Costs

I would like to begin by saying that I am in total and complete agreement with the need of cost disclosure legislation to more fully protect the consumer. It is, and has been, our company's policy to provide the families we serve with an itemized funeral purchase order that lists all services, merchandise and accommodations, as suggested by the Federal Trade Commission. A copy of our purchase order is attached.

I do feel that House Bill 271, as presently written, does not go far enough. Please note that Section 45.45.120. (1) still allows lump sum pricing as opposed to itemized categorized pricing. No where does it require a separate item category for casket specifications and price.

I would like to suggest the following changes and additions to House Bill 271 (See attachment).

RATIONAL:

In addition to our wish to better inform and serve families, there are some unique problems in funeral service that, I feel, bear consideration.

The words "of rendering the service" in lines 4 and 5 of the present bill, place the funeral establishment in an impossible position. Some service MUST, in fact, be rendered by a funeral establishment

BEFORE the completion of arrangements by the survivor(s) if, as is frequently the case, the survivor(s): 1. cannot be immediately notified of the death or 2. is not immediately available to complete the necessary arrangements. These services include removal of the remains from the place of death to the funeral home and the embalming of the remains as specified by the State Administrative Code.

If enacted as presently written, I can foresee the following abuse. The State administrative code says that a funeral establishment must not hold a remains if the person entitled to its custody (the survivor) has requested its release to another establishment. We have no quarrel with this. However, it has been our experience that a certain funeral establishment, when belatedly selected by a family, refuses to pay the first funeral establishment for its services - and has instructed the family that it is not their duty to do so either. The second funeral home then charges the family a full lump sum service charge, including those services actually performed by another establishment. The cost of those services, in terms of staff time, facility and equipment usage are not insignificant.

For these reasons, we feel that you should seriously consider the amendments and additions we have suggested. We feel that they will provide more comprehensive legislation that:

1. Protects the consumer by requiring more complete itemization as suggested by the Federal Trade Commission;
2. Requires that the funeral establishment maintain a copy of the written contract in its files along with other records for a period of five years as is required by the Alaska Vital Statistics Act - AS 18.50.340.(d);

Bruce Funeral Home

P.O. Box 2351
Anchorage, Alaska 99510

DATE:

FUNERAL EXPENSES FOR:

ORDERED BY:

FUNERAL PURCHASE ORDER

CASKET SELECTION	\$ _____
PROFESSIONAL & PERSONAL SERVICES	_____
USE OF MORTUARY FACILITIES & EQUIPMENT	_____
CEMETERY EXPENSES:	
GRAVE SPACE(s)	_____
OPENING & CLOSING OF GRAVE	_____
VAULT, LINER, OTHER.	_____
MARKER SETTING FEE	_____
GRAVE MARKER: DESIGN # _____, SIZE _____ x _____, NAME _____	_____
TRANSPORTATION (OUTSIDE LOCAL ZONE).	_____
CERTIFIED COPIES OF DEATH CERTIFICATE (# _____).	_____
ACKNOWLEDGEMENTS (Minister)(Organist)(Vocalist).	_____
MISCELLANEOUS.	_____
TOTAL CHARGES.	\$ _____
LESS: (Deposit _____)(Soc. Sec. _____)(Vet. Ben. _____)(Other _____)	_____
BALANCE DUE ON ACCOUNT	\$ _____

I (we) hereby authorize the above Funeral Expenses, and I (we) hereby represent that I (we) have sufficient resources or that the estate of the above-named deceased has resources legally available to Alaska Memorial Services, Inc, dba Bruce Funeral Home, for the payment of the aforesaid sum, and I (we) hereby covenant and agree to pay the same. Terms of the contract shall be Net in 30 days, followed by finance charges applying Periodic Rates of 1.5% of that portion of the adjusted balance up to \$1,000.00 and 1% to any excess over \$1,000.00 (subject to a minimum charge of 50 cents on balance of \$5.00 to \$33.00), with an ANNUAL PERCENTAGE RATE OF 18% on that portion of the Adjusted Balance up to \$1,000.00 and 12% on any excess over \$1000.00. ESTATE PAYMENT (including filing of claim for payment within 12 months) \$ _____. This reflects a 12% finance charge or \$ _____. Annual percentage rate is 12%.

I (we) acknowledge receipt of a completed copy of this statement at the time of execution.

REPRESENTATIVE OF FUNERAL HOME: _____

Testimony on House Bill 271
By Margaret E. Witzleben
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3. Discloses costs to the family when more than one funeral establishment is involved and protects the initial funeral establishment's right to receive compensation for services rendered.

If you have any further questions, please feel free to contact me either by phone or mail.

MARGARET E. WITZLEBEN

2 Attachments:

- 1 - Copy of present Funeral Purchase Order by Bruce Funeral Home
- 1 - Suggested Amendments and Additions to House Bill 271

LIST OF WHAT IS INCLUDED IN REFERENCED CATEGORIES:

1. PROFESSIONAL AND PERSONAL SERVICES -

- a. Preparation of the remains (disinfection, preservation and restoration) and other specialized care.
- b. Staff assistance from place of death, at mortuary, at place of service and cemetery, crematory or common carrier terminal.
- c. Procurement and recording of all vital statistics, certified copies and permits.
- d. Notification of Newspapers, both locally and out of town.
- e. 24 hour response to wishes of family or legal authorities for the removal of human remains from place of death.
- f. 24 hour attention to all details and supervision of all arrangements pertaining to services, clergy, cemetery, crematory or common carrier.
- g. Assistance with legal authorities in the investigation of deaths (autopsies) at funeral establishment.
- h. Assistance with insurance, social security benefits, veterans administration benefits, labor organizations benefits and the direction of families to the necessary offices regarding legal procedures.

2. USE OF MORTUARY FACILITIES AND EQUIPMENT -

- a. All mortuary facilities:
 - (1) Operating Room to include: Embalming Equipment (Tables and machines); Embalming Fluids; Other Embalming Chemicals; Specialized instruments; Cosmetics; Hair styling equipment and supplies; and other necessary materials (i.e. gloves, aprons, cotton, thread, cleaning disinfecting solutions and sanitary equipment).
 - (2) Chapel: For use during services and/or visitations to include all its furnishings.
 - (3) All equipment used in chapel, church, lodge and/or graveside services.
 - (4) Music before and after services and throughout the period of visitation.
 - (5) Equipment necessary for the care, placement and transportation of flowers
- b. Service Car with cot(s) and funeral coach with driver (supplied only within the limits of our local zone).
- c. Other specialized equipment for handling of remains (i.e. disaster pouches and sealers).
- d. Office equipment and supplies (i.e. desk, filing cabinet, chairs, typewriter, and other office equipment; paper materials, manuals, trade journals, postage, public information and utilities necessary to the maintenance and operation of the business.)
- e. Building maintenance and building and grounds maintenance equipment and supplies. (i.e. carpentry, electrical or plumbing; light bulbs, cleaning supplies, paint, brooms, snow shovels, lawnmower, ladder, tools, etc.)
- f. Memorial Ensemble (Register Book, Service Folders, Acknowledgement Cards and Clergy Record.

3. CASKETS - A diverse inventory of both adult and children caskets for the benefit of the families served.

4. TYPICAL ITEMS OF CASH ADVANCEMENTS -

Family Car; Special Music; Clergymen's, Organist and/or Vocalist Honorarium; Toll Calls and Telegrams; Cemetery Charges; Common Carrier Charges; Certified Copies of Death Certificate, Crematory Charges, Obituaries (if charged by newspapers) and Clothing.

SUGGESTED AMENDMENTS AND ADDITIONS TO HOUSE BILL 271

Sec. 45.45.120. DISCLOSURE OF COSTS. 1. Every person performing services or providing merchandise relating to the disposition of a dead human body shall give to the person arranging for the disposition, at the time the arrangements are completed, and before the time of providing the merchandise, a written statement (contract) itemizing all merchandise, services and all accommodations by the way of cash advancement on behalf of the purchaser in connection with the care of the decedent(s). Such contractual itemization shall include the following minimum categories:

- (A) Professional services, Use of facilities and equipment.
- (B) Casket Manufacture, manufacturer's description and retail price.
- (C) Supplemental items of service or merchandise, and the price of each item.
- (D) If known, the cost of the items or services for which funds will be advanced as an accommodation.
- (E) Terms and method of payment.

2. The written contract shall be dated and signed by the purchaser and by the person providing services and merchandise or his agents. The original contract shall be retained by the person operating the funeral establishment for at least five years and shall be open to inspection of the State. A duplicate of the written contract shall be given to the purchaser at the time of its execution.

3. No funeral establishment shall ever interfere when another funeral establishment has been called to take charge of a decedent. Under no circumstances shall one funeral establishment take charge of a decedent until the funeral establishment first called upon has been compensated for his services, has issued an itemized receipt for services rendered to the second funeral establishment and then has withdrawn. This paid receipt will then become part of the funeral records on said decedent(s).

In reference to H.B. 264

Testimony by: Margaret E. (Peggy) Witzleben
Owner - Bruce Funeral Home
P. O. Box 2351
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279-1963 or 279-7786

Section 1. AS45.50.471 (22)

This bill supports to protect the consumer by insuring that any money paid by him/her into a pre-need funeral arrangement be secured in a trust account "in a financial institution whose deposits are insured by an instrumentality of the federal government as a separate account in the name of the person benefitted" (lines 5-8). This purpose of this bill is NOT protection of the consumer however, but rather the protection of a small special-interest group controlled by a large Anchorage funeral establishment. The owner of that establishment has sworn to spend his last dollar seeing that pre-need plans are outlawed in Alaska. And why? Not because of the potential for fraud that he so nobly proclaims is his motivation - but because funeral home traditionally make larger sales and hence, larger profits, at-need (or the actual time of death) than they do if dealing with families who are planning for future eventualities at an unemotional, ungrief laden time. These are hard words, not ment to be taken as a general indictment of the funeral service industry, but only of those elements who have earned them by their statements and actions.

There are, in fact, precedents for pre-need plans in other states. They are operating successfully, and to the benefit of the consumer, in Hawaii, Colorado, Utah, Kansas, Texas, Missouri and Nevada (this is not a full list).

What is pre-need and how did it come about here?

Pre-need is a program whereby an individual can select the kind of final

Testimony on House Bill 265

By: Margaret E. Witzleben

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services he/she would like (be that a traditional funeral, a memorial service, burial or cremation), and pay for it at current contract prices in installments that fit his budget, when he is working and best able to pay for it. It provides a hedge against inflation as no burial insurance policy can, because the sum survivors receive from burial insurance is only as good as the inflated market at the time of death. A pre-need plan provides a paid-up final service and burial or cremation no matter what inflation has done to at-need costs. The individual purchasing the plan can feel confident that a grief stricken survivor will not be pressured into an expensive contract that must be paid off in thirty to ninety days. Cash on hand can then be used by the survivors to pay other necessary day to day expenses.

A pre-need plan covers all normal funeral expenses: local transportation of the remains, embalming, specified casket, all services of the funeral home, final services, grave space (plus opening and closing costs) in a perpetual care cemetery, concrete burial vault and marker, or cremation. Incidental expenses such as minister, organist, vocalist honorariums, flowers and certified copies of the death certificate are not, however, included. Plans that cover just burial costs, excluding funeral home charges, can also be purchased at the discretion of the consumer.

The plan that is presently operating in Anchorage evolved from the requests of families for a better, more comprehensive plan. One of the Valley Memory Gardens trustees began selling only cemetery lots in 1955. In 1962, at the request of families he began selling burial plans which included all cemetery costs - grave space, opening and closing costs,

Testimony on House Bill 264
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concrete burial vaults and markers. In 1967, again at the request of families, he began selling complete pre-need funeral plans as I have described earlier.

In the thirteen years since his program began, over two thousand contracts have been sold in the Anchorage area. Approximately 47 of those contracts have been serviced - both in and out of Alaska (one in New York at a sizable additional expense which was absorbed by the Trust). A survey of families has indicated overwhelming satisfaction with the way plans have been sold and serviced.

A word about the selling of plans - high pressure salesmanship is definitely not encouraged. Cards are sent out an area at a time asking if the receiver would be interested in hearing about the plans available. If he returns the card with an affirmative reply, a salesman is sent out to contact him. Personal referrals are also contacted.

No one has ever lost money on the plans being sold by the Valley Memory Gardens Trust. If, for some reason, the actual cost to the Trust has been more than anticipated, the Trust has absorbed the difference - with the exception, that if a survivor prefers to purchase a more expensive casket, he must pay that difference himself.

There are additional cost-free benefits to families holding Valley Memory Gardens plans. If the head of the household dies before he has completed paying for the contract, the balance is liquidated and absorbed by the Trust with full benefits provided.

Also, if a family loses one or more children under the age of eighteen,

Testimony on House Bill 265
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the full services of the plan they carry are provided for the dependent FREE OF CHARGE. Those services are provided in addition to the services for the family members specifically covered by the plan (the parents). The additional cost is absorbed by the Trust. No burial insurance plan, that I know of, does this, nor individual plans as would be set up under this bill.

In closing, let me say this, the people who oppose pre-need plans and who seek to get House Bill 264 passed, are not concerned with benefit to the consumer. They say, that in addition to the potential for fraud, they feel that no one who is not a funeral director should earn a commission on any part of funeral service. They call it solicitation. I won't even deal with that argument because I feel that the brief prepared by a knowledgeable Illinois law firm* which I have given the committee chairman does a far better job than I can of refuting that cry. What they hope to accomplish with this bill is to eliminate the part of the Trust earnings (the interest) that enable the Trust to:

1. Pay the necessary operating expenses of the plan (salesmen's commissions, office costs, etc.);
2. Publicize the benefits of pre-need funeral plans to the public; and
3. Provide the extra benefits I have already mentioned.

The basic question, I guess is this: Can a small special interest group FORCE the public, by this Bill, to buy funeral services only at-need?

MARGARET E. WITZLEBEN

* Fiffer & D'Angelo, Suite 1100-209
S. LaSalle Street, Chicago, Ill 60604

HB

276

HB 276

Tape #

Date

17

3/24

18

3/24

20

3/26

3/10/75

COMMITTEE REPORT

JUDICIARY

HOUSE

Mr. Speaker:

Date _____

The Committee on COMMERCE has had HB 276

under consideration. A Majority of the members of the Committee

() recommends it DO PASS

() recommends it DO NOT PASS

() recommends it DO PASS WITH ATTACHED AMENDMENT(S)

(X) recommends it BE REPLACED WITH CS FOR 276 AND THAT

CS FOR 276 DO PASS *is included*

() "and" recommends it BE REFERRED TO THE _____

COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

<u><i>A.S. Bradley</i></u>	<u><i>Freeman</i></u>	_____
<u><i>John M. Smith</i></u>	<u><i>Tom J. Kelly</i></u>	_____
<u><i>W. B. Phoebe</i></u>	<u><i>Paul H. ...</i></u>	_____
<u><i>Kenneth Kelly</i></u>	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

A.S. Bradley Chairman

A M E N D M E N T

OFFERED IN THE HOUSE:

By: Commerce Committee

To: _____ HOUSE BILL No. CSHB 276

SENATE BILL No. _____

PAGE: 3

LINE: 7

Line 7, Page 3

After the words "financial institution" add the words
"except those employees who are engaged in appraising
for public acquisition."

POINT No. 1

COST OF ADMINISTERING THE BILL

SEC. 08.89.030 STATES THAT THE COMMISSIONER OF COMMERCE IS TO BE THE EXECUTIVE SECRETARY OF THE COMMISSION. UNDER SECT. 08.89.020, HIS POWERS AND DUTIES WOULD REQUIRE NOT LESS THAN TWO PEOPLE TO KEEP SUCH AN OFFICE OPEN TO THE PUBLIC AND KEEP THE REQUIRED RECORDS. BY A HEAD COUNT OF FIRMS AND INDIVIDUALS WHO ARE MEMBERS OF ALASKA APPRAISAL ORGANIZATIONS AND OTHERS, SUCH AS REALTORS; IN TOTAL, IN THE STATE OF ALASKA, WE ARE TALKING ABOUT 75 OR LESS PERSONS. IT DOESN'T REQUIRE MUCH MATH TO FIGURE THAT THE INCOME FROM SUCH A BILL WOULD ONLY PRODUCE ABOUT \$7,500 THE FIRST YEAR AT \$100.00 EACH; \$3,700 PER YEAR PLUS NEW LICENSES AND EXAMINATION FEES. THIS CAN NOT POSSIBLY START TO OFFSET THE COST OF \$20,000 TO \$25,000 PER YEAR TO ADMINISTRATION.

MR. CHAIRMAN AND COMMITTEE MEMBERS: I THANK YOU FOR ALLOWING ME TO BE HEARD ON HB 276.

I AM LEWIS W. STURGES REVIEW APPRAISER FOR THE DEPARTMENT OF HIGHWAYS, BUT I APPEAR BEFORE YOU AS AN INDIVIDUAL, NOT A REPRESENTATIVE OF THE HIGHWAY DEPARTMENT. I HAVE SEVENTEEN YEARS OF APPRAISAL AND REVIEWING EXPERIENCE.

I WOULD LIKE TO MAKE FOUR POINTS AGAINST THE PASSAGE OF THIS BILL.

POINT No. 2

RESTRICTION AND ERADICATION OF PUBLIC AGENCIES EMPLOYMENT OF STAFF APPRAISERS AND THEIR CONTINUING EDUCATION OF PROPER APPRAISAL PRACTICES.

SEC. 08.89.060 OF THIS BILL IS SELF SERVING TO ELIMINATE PUBLIC AGENCIES FROM HAVING THEIR OWN APPRAISAL STAFFS, AND TO FORCE THESE AGENCIES TO HIRE FEE APPRAISERS AT AN INCREASED COST TO THE STATE OR AGENCY.

TO QUOTE:

SEC. 08.89.060. EXEMPTION. THE REQUIREMENTS OF SECTION 50 OF THIS CHAPTER DOES NOT APPLY TO REAL ESTATE APPRAISERS WHO ARE SALARIED EMPLOYEES OF THE UNITED STATES, THE STATE, OR POLITICAL SUBDIVISION OR MUNICIPALITY OF THE STATE, OR OF FINANCIAL INSTITUTIONS, EXCEPT THOSE EMPLOYEES WHO ARE ENGAGED IN APPRAISING FOR PUBLIC ACQUISITION.

THIS IS CLEARLY AIMED AT THE DEPARTMENT OF HIGHWAYS WHO TRAINS AND MAINTAINS A STAFF OF APPRAISERS. IT WOULD ALSO SERIOUSLY CRIPPLE IF NOT ELIMINATE THE TRAINING PROGRAM THAT THE HIGHWAY DEPARTMENT HAS DEVELOPED AND OPENED TO ALL PUBLIC AGENCIES OVER THE LAST FIVE YEARS.

ONE OTHER LARGE ITEM IN TRAINING AND ADVANCEMENT OF THE APPRAISAL PROFESSION THAT SEEMS TO HAVE BEEN FORGOTTEN BY THE PEOPLE PROMOTING THIS BILL IS THAT WITHOUT THE SUPPORT OF THESE SAME PUBLIC AGENCIES; THE EDUCATION SCHOOLS AND SEMINARS OF THE PAST WOULD HAVE BEEN VIRTUALLY IMPOSSIBLE TO FINANCE.

POINT No. 3

EXCESSIVE REQUIREMENTS

SEC. 08.89.120 EXCEPTION FO REQUIREMENTS. (GRANDFATHER CLAUSE)

(A) FOR SIX MONTHS FOLLOWING THE EFFECTIVE DATE OF THIS CHAPTER, THE COMMISSION SHALL WAIVE THE REQUIREMENTS OF EXAMINATION FOR A RESIDENT APPLICANT

(B) FOR SIX MONTHS FOLLOWING THE EFFECTIVE DATE OF THIS CHAPTER, THE COMMISSION SHALL WAIVE THE REQUIREMENTS OF EXAMINATION FOR A RESIDENT APPLICANT FOR A GENERAL APPRAISER LICENSE;

I HAVE NO QUARREL WITH THIS SECTION OF THE ACT EXCEPT AS IT ALUDES TO THE CONTENTS OF THE EXAMINATIONS FOR BOTH RESIDENTIAL AND GENERAL REAL ESTATE APPRAISER.

SEC. 08.89.100(A)(5) ON THE RESIDENTIAL EXAMINATION STATES THAT:

KNOWLEDGE OF THE LAW APPLICABLE TO REAL ESTATE IN ALASKA.

AND (B)(4) ON THE CONTENTS OF THE EXAMINATION FOR GENERAL REAL ESTATE APPRAISER LICENSE, STATES THAT:

KNOWLEDGE OF REAL ESTATE FINANCING IN ALASKA INCLUDING LEGAL RAMIFICATIONS OF FINANCIAL DOCUMENTS NORMALLY USED, KNOWLEDGE OF ALASKA USURY LAWS, AND KNOWLEDGE OF STATE CREATED FINANCING AGENCIES INCLUDING KNOWLEDGE OF THEIR LOAN QUALIFICATIONS, LIMITS, AND INTEREST RATES.

THESE TWO SUBSECTIONS HAVE NO BUSINESS IN AN APPRAISAL LICENSING BILL.

ATTACHED TO THIS PAPER ARE STATEMENTS OF CONDITIONS AND ASSUMPTION WHICH ARE A PART OF APPRAISALS SUBMITTED BY FOUR PROMOTERS OF THIS ACT WHICH BY THEIR OWN WRITING THEY ARE NOT RESPONSIBLE FOR:

(A) TITLE; (B) BOUNDRIES OF THE PROPERTY; (C) ENCUMBRANCES;

(D) ENCROACHMENTS; (E) EASEMENTS; (F) MATTERS OF A LEGAL NATURE;
(G) WHETHER TAXES AND ASSESSMENTS HAVE BEEN PAID; (H) OR OWNERSHIP
OF THE PROPERTY APPRAISED.

WHEN COMPARED WITH SEC. 08.89.100(B)(4), THIS IS ESSENCE IN
HIPPOCRACY, AND INFRINGES ON THE LEGAL PROFESSION.

ALSO ATTACHED ARE EXCERPTS FROM THE TEXTS USED BOTH BY THE INSTI-
TUTE OF REAL ESTATE APPRAISERS AND THE SOCIETY OF REAL ESTATE APPRAISERS,
ALUDING TO EXCLUSION FROM THE APPRAISAL MATTERS OF TITLE, LAW, ETC., .
FROM APPRAISALS.

POINT No. 4

LICENSING IS OPPOSED BY THE SOCIETY OF REAL ESTATE APPRAISERS, SEE ATTACHED APPRAISAL BRIEF DATED MAY 30, 1973. NOTHING HAS COME TO MY ATTENTION REVERSING THIS POLICY STATEMENT, AND I AM A REGULAR SUBSCRIBER TO THIS NEWS BRIEF.

A REVIEW OF THIS PROPOSED BILL; IT IS:

1. COSTLY TO THE STATE
2. RESTRICTIVE AND CRIPPLING TO THE STATE'S TRAINING PROGRAM
3. DISCRIMINATORY AND SELF SERVING
4. DOES NOT CONFORM TO THE NATIONAL POLICY OF THE MAJOR APPRAISAL ORGANIZATIONS OR ENHANCE PROFESSIONAL LEARNING

THANK YOU FOR YOUR INDULGENCE ON THIS PRESENTATION.

GENERAL ASSUMPTIONS AND LIMITING CONDITIONS

1. Reproduction of this report or distribution to other than associates of the client, financial institutions or to attorneys in condemnation cases is prohibited without written permission of the authors. Distribution, for instance to promote a sale of the property, is permitted only after the appraiser has edited the report to eliminate certain comparable information of a confidential nature, and provided that use of the entire, edited report is required, with no alterations.
2. Disclosure of the contents of this report is further governed by the By-Laws and Regulations of the American Institute of Real Estate Appraisers of the National Association of Real Estate Boards. Neither all, nor any part, of the contents of this report (especially any conclusions as to value, the identity of the appraisers, or any reference to the American Institute of Real Estate Appraisers or the M.A.I. designation) shall be disseminated to the public through advertising media, public relations media, news media, sales media or any other public means of communication, without the prior written consent and approval of the authors.
3. This report bears an effective date of appraisal, and is based upon data known at that time, or reasonably construed to have been available at that time, and events since that date most probably have changed Subject value, sometimes radically in our present economy.
4. The property is appraised as if free and clear unless noted otherwise, with no responsibility assumed for title and legal matters.
5. All information supplied or found through available records and sources is assumed correct unless noted otherwise. If errors are found, the right is reserved to modify the conclusions.
6. The data and conclusions embodied in this appraisal are a part of the whole valuation. Any part of this appraisal may or may not stand alone, is not to be used out of context, and constitutes only part of the evidence upon which a value judgement of the whole is based.
7. The appraisal does not imply the right to court testimony on the part of the appraisers without mutually satisfactory arrangements.
8. Fair Market Value is defined as the highest price estimated in terms of money which a property will bring if exposed for sale in the open market, allowing a reasonable time to find a willing purchaser who buys with knowledge of all the uses to which it is adapted and for which it is capable of being used.

ASSUMPTIONS AND LIMITING CONDITIONS

1. It is assumed that title to the property appraised is good and marketable.
2. Value is estimated without regard to questions of title, boundaries, encumbrances or encroachments unless otherwise stipulated in the individual reports.
3. No responsibility is assumed for matters of a legal nature.
4. It is assumed that all taxes and assessments have been paid.
5. Value is reported in dollars on the basis of the currency prevailing on the date of the appraisal.
6. That where the valuations of the land and the improvements thereon are shown or itemized separately, the value of each is segregated only to serve as an aid to better estimate the value of the whole ownership and what each contributes to the market value of the entire property, and the individual itemized amount for each component part is not intended for use by itself as it may or may not be its correct market value as a separate entity.
7. It is assumed that the data, statistics, estimates, and opinions furnished by others as indicated in the appraisal report are correct, and no responsibility for their accuracy is assumed by the appraiser.
8. That this appraisal is made in conformance with all laws of the State of Alaska known by this appraiser; and the regulations, procedures, policies and instructions of the State of Alaska, Department of Highways, which are applicable to and commensurate with the appraisal of right of ways, and to the best knowledge of this appraiser, no valuation, opinions or conclusions are assigned or reported which may not be compensable under the laws of the State of Alaska or which may be contrary to the opinions of its Attorney General.
9. That in the event of any future required court appearance of testimony of any kind in connection with this appraisal, this appraiser reserves the right to make any alterations, changes or corrections which may be felt necessary in order to recognize any possible change in market conditions or revisions in the engineering or construction plans of this proposed highway project which may arise between the date of the appraisal and the date of the taking of right-of-way or the date of such court appearance or testimony.
10. That no minerals, mineral rights or mineral interests are appraised, except as directly affecting the surface rights of ownership or land use of the subject property.

11

ASSUMPTIONS AND LIMITING CONDITIONS

11. That in computing and itemizing the final estimate of value of the total ownership, the remainder and the right-of-way to be acquired, the figures have been adjusted to the nearest significant amounts.
12. Unless otherwise specified within the report, it is assumed that the utilities to the remainder will be unchanged, or that if during the construction process certain utilities are relocated, the remainder will be provided with an alternate connection that is as functional and convenient as were the utility connections before the taking.
13. That the methods, procedures, and techniques employed in making this appraisal are in conformance with recognized standards of appraisal practice and code of ethics as advocated by the American Institute of Real Estate Appraisers.
14. Neither all nor any part of the contents of this report may be disseminated to the public through advertising media, public relations media, news media, sales media or any other public means of communication without the prior written consent and approval of the author of this appraisal report.

ASSUMPTIONS AND LIMITING CONDITIONS

1. No legal questions are considered in this analysis, such as titles, encumbrances, etc.. The property is considered as if free and clear.
2. All dimensions and legal descriptions are assumed to be correct, as furnished.
3. All information, as found in data furnished, is deemed to be reliable. If any errors are found, the right is reserved to modify the conclusions reached.
4. No study has been made to determine whether structures may have an infestation, such as termites or dry rot. In the absence of such study, it is assumed the property is free of such problems.
5. While various "approaches to value" and various mathematical calculations have been used in estimating value, these are but aids to the formulation of the opinion of value expressed by the appraiser in this report. In these calculations, certain arithmetical figures are rounded off to the nearest significant amount.
6. The data and conclusions embodied in this appraisal are a part of the whole valuation. No part of this appraisal is to be used out of context; and, by itself alone, no part of this appraisal is necessarily correct, as being only part of the evidence upon which final judgment as to value is based.
7. Employment to make this appraisal does not require testimony in court, unless mutually satisfactory arrangements are made in advance.
8. This appraisal is made in accordance with the standards of the American Institute of Real Estate Appraisers.
9. Fair Market Value is defined as "the price it (the real estate) will bring between a willing buyer and a willing seller, with equity to both.
10. This report is delivered subject to the stipulation that neither all nor any part of the contents shall be conveyed to the public media through advertising, public relations, news, sales or any other media without the written consent and approval of the author, particularly as to valuation conclusions, the identity of the appraiser, his firm, or any reference to the American Institute of Real Estate Appraisers.

STATEMENT OF CONDITIONS AND ASSUMPTIONS

→ 1. It is assumed that title to the property appraised is good and marketable.

→ 2. Value is estimated without regard to questions of title, boundaries, encumbrances, or encroachments.

→ 3. No responsibility is assumed for matters of a legal nature.

→ 4. It is assumed that all taxes and assessments have been paid.

5. Value is reported in dollars on the basis of the currency prevailing on the date of the appraisal, May 15, 199.

6. That where the valuations, of the land and the improvements thereon, are shown or itemized separately, the value of each is segregated only to serve as an aid to better estimate the value of the whole ownership and what each contributes to the market value of the entire property, and the individual itemized amount for each component part is not intended for use by itself as it may or may not be its correct market value as a separate entity.

7. It is assumed that the data, statistics, estimates, and opinions furnished by others as indicated in the appraisal report are correct, and no responsibility for their accuracy is assumed by the appraiser.

8. That this appraisal is made in conformance with all laws of the State of Alaska, known by this appraiser; and the regulations, procedures, policies and instructions of the State of

Alaska, Department of Highways, which are applicable to and
commensurate with the appraisal of rights of way; and to the
best knowledge of this appraiser, no valuation; opinions or
conclusions are assigned or reported which may not be compensable
under the laws of the State of Alaska, or which may be contrary
to the opinion of its Attorney General.

9. That in the event of any future required court appearance or testimony of any kind, in connection with this appraisal, this appraiser reserves the right to make any alterations, changes or corrections, which may be felt necessary in order to recognize any possible change in market conditions, or revisions in the engineering or construction plans of this proposed highway project, which may arise between the date of this appraisal and the date of the taking of right of way, or the date of such court appearance or testimony.

10. That no minerals, mineral rights or mineral interests
are appraised, except as directly affecting the surface rights
of ownership or land use of the subject property.

11. That in computing and itemizing the final estimate of value, of the total ownership, the remainder and the right of way to be acquired, the figures have been adjusted to the nearest significant amounts.

12. That the methods, procedures and techniques employed in making this appraisal are in conformance with recognized standards of appraisal practice and code of ethics, as advocated by the American Institute of Real Estate Appraisers.

Contingent and Limiting Conditions

If there are not too many limiting conditions, they may be stated somewhere in the letter of transmittal, or the combined letter and certification, or in the section which identifies the property. Although these are negative statements, for the appraiser's protection and for the information and protection of the client and others using the report, appropriate contingent and limiting conditions should be set forth. A complete statement might be as follows:

THIS APPRAISAL IS SUBJECT TO THE FOLLOWING LIMITING CONDITIONS:

The legal description furnished us is assumed to be correct. We take no responsibility for matters legal in character nor do we render any opinion as to the title, which is assumed to be good. All existing liens and encumbrances have been disregarded and the property is appraised as though free and clear under responsible ownership and competent management.

The sketch in this report is included to assist the reader in visualizing the property. We have made no survey of the property and assume no responsibility in connection with such matters.

We believe the information which was furnished to us by others to be reliable, but we assume no responsibility for its accuracy.

Possession of this report, or a copy thereof, does not carry with it the right of publication, nor may it be used for any purpose by any but the applicant without the previous written consent of the appraiser or the applicant and then only with proper qualification.

We are not required to give testimony or to appear in court by reason of this appraisal, with reference to the property in question, unless arrangements have been previously made therefor.

The distribution of the total valuation in this report between land and improvements applies only under the existing program of utilization. The separate valuations for land and building must not be used in conjunction with any other appraisal and are invalid if so used.

Qualifications of the Appraiser

A statement of the diversified qualifications of the appraiser usually is included in the appraisal report as evidence that he is qualified to make such an appraisal. Such statements include facts about the appraiser's education, technical training, type and years of experience, trade and professional organizations of which he is

Ring and ed 1970

Appraisal Planning and Reporting 347

4. Make a preliminary estimate of the time, labor, and expense involved in the completion of the appraisal assignment, and secure a written request for the appraisal services in which should be stated the fee agreed on for services to be rendered.
5. Plan the appraisal, assign the work details, and assemble the essential appraisal data.
6. Make a study of the general economic, social, and political influences which bear on the value of the property to be appraised.
7. Analyze the appraisal data, and reach a value conclusion under each of the following approaches to value: cost, market, and income.
8. Correlate the value findings.
9. Submit an appraisal report.¹

The first and most important step in the process is to determine the appraisal problem. Some owners, buyers, or investors are not only interested in ascertaining an accurate estimate of value but also expect information regarding ownership or title interests, rights of tenants, property encroachments, claims of mortgagees and other lienors, conditions shown by accurate survey, tax liens, violations, and so forth. The appraiser should not accept the valuation assignment unless the client clearly understands the limits of the appraiser's professional responsibility and the area of study to which his specialized knowledge is confined. The appraiser, in essence, practices in the field of economics—for value is in fact the heart of economics. The appraiser should not consider himself a lawyer, architect, builder, engineer, surveyor, or title abstractor. If his client requests information in these specialized fields, authority should be secured to engage such qualified experts as the problem necessitates, arranging for independent compensation of the outside firms or individuals called on for the specified service. Unless otherwise stated, the appraiser must assume (1) that the title is held in fee simple and that no legal claims, easements, restrictions, or other rights affect the title or use of the property except those stated to the appraiser by the applicant; (2) that the title and his valuation are subject to corrections which an accurate survey of the property may reveal; (3) that the sale of the property will be on a cash or cash equivalent basis, since good or cumbersome financial arrangements do affect the price at which the property may sell in the market; and (4) that no responsibility can be taken by the appraiser for matters legal in character.

Some valuation problems, too, require special owner or tenant cooperation or aid from neighboring property owners or users. Where such is the case, the assignment must be accepted contingent on the cooperation of the parties involved. Only when the problem is clearly defined, and its

¹ Alfred A. Ring and Nelson L. North, *Real Estate Principles and Practices* (Englewood Cliffs, N. J.: Prentice-Hall, Inc., 6th ed., 1967), Chapter 23.

Society Will Not Support Model Bill

The Society has adopted a new policy statement that strengthens its opposition to licensing of real estate appraisers.

The new position is that the Society is "opposed to the licensing of appraisers in any form," including licensing under the provisions of a model bill once prepared by the Society and the American Institute of Real Estate Appraisers.

The bill was drafted for support in states where licensing was "imminent."

Now under the new policy statement, chapters in a state where licensing has been proposed could not actively support the model bill, though they could submit it for review of legislators who are drafting licensing bills.

The executive committee of the Society adopted the newer, stronger policy statement with the authority of the Board of Governors. Committee members agreed that to be opposed to licensing while in favor of model bill was basically an inconsistent policy.

They were also influenced to adopt a stronger policy by recommendations of the New York State commission on eminent domain to its legislature, which were published in *Appraisal Briefs*, (April 4).

A commission report said that licensing would not remedy the complaints of the court that testimony of expert witnesses was often partisan, poorly prepared and unsupported, nor eliminate disparity between appraisals of the same property.

It pointed out that the standards and techniques within the profession were rapidly improving. Summarizing the report, the New York commission said:

"We personally do not see, however, that State licensing is likely to accomplish the goal of insuring that real estate experts appearing in condemnation cases be truly qualified. The result could be to freeze or dignify mediocrity.

"The appraisal field, as mentioned, is a youthful and developing field that has made great strides in upgrading its own profession through work of its various societies. It is quite possible that many appraisers who would otherwise embark on a difficult and demanding, disciplined program of training, examination and demonstration now required by one of

several of these major societies will consider State licensing sufficient evidence of his expertise."

In several states where licensing has been proposed, the objections of designated appraisers have been centered on the level of educational requirements, and so-called "grandfather" clauses which

would permit the waiver of examination and other requirements for applicants who could show they are practicing appraisers.

Governors and Vice Governors have been asked to report the action of legislators on bills introduced in their states.

Volume 8 • Number 22

MAY 30, 1973

appraisal briefs

WEEKLY NEWSLETTER OF THE SOCIETY OF REAL ESTATE APPRAISERS



At Atlanta Conference

Former Governor on Residences

An Indianapolis SRPA, who is also former Governor of his district, shares teaching duties at the Residential Workshop scheduled for the Society's Conference in Atlanta this summer.



Mr. White . . . houses at the conference, July 29-Aug. 1.

Mr. White, an MAI and a member of the American Right of Way Association,

is an independent fee appraiser with offices at 704 Union Title Building. The author of several articles on real estate appraising, he has also taught appraisal courses.

Mr. White, a graduate of Purdue University, is a member of the Society's SRA-SRPA Admissions Committee and past president of Indianapolis (Ind.) Chapter # 5.

At this conference, for the first time, all workshops will be repeated four times. Others offered are Apartment Appraisals, discussion of a case study of appraising an apartment; The Appraiser's Edge, an explanation of the instant mortgage-equity technique; and Neighborhood Shopping Centers, a case study of the development and appraisal of a neighborhood shopping center.

SHORETT & RIELY
REAL ESTATE APPRAISERS & CONSULTANTS
880 "H" STREET, SUITE 206, ANCHORAGE, ALASKA 99501

ANCHORAGE (907) 274-4017
SEATTLE (206) 682-0456

April 21, 1975

File

HB 276

Honorable Bob Bradley
601 North Bragaw
Anchorage, Alaska 99504

Dear Representative Bradley:

I am writing in regards to bills which were introduced in the State House and Senate on March 27, 1975, providing for the licensing of real estate appraisers. Specifically, these are Senate Bill No. 331 and CS for House Bill No. 276.

In order that my comments might be placed in proper perspective let me first tell you something about myself. I am a real estate appraiser who, in January, moved to Anchorage for the purpose of opening a branch office for the firm of Shorett & Riely, real estate appraisers and consultants based in Seattle, Washington. Three members of our firm, including Mr. Shorett and Mr. Riely are members of the American Institute of Real Estate Appraisers. Two other members of the firm including myself are candidates for membership in the institute.

Prior to moving to Alaska, I acquired two years of experience in real estate appraisal with Shorett & Riely after having been involved professionally with other types of real estate activity. During the course of my two years in Seattle with Shorett & Riely, I have written full narrative appraisal reports on several types of major real properties in Washington State as well as in Alaska. Virtually all of my appraisal reports have been co-signed by either Mr. Shorett or Mr. Riely as members of the Appraisal Institute and we have continued this practice in the operation of our branch office here in Anchorage.

When it came to my attention that legislation had been introduced providing for the licensing of real estate appraisers, my immediate reaction was favorable. It is my understanding that throughout most of the lower 48 states, appraiser licensing laws do not exist, apparently due to adequate self-regulation by the American Institute of Real Estate Appraisers and the Society of Real Estate Appraisers. However, due to the geographical separation of the State of Alaska from the lower 48 and the tremendous amounts of real estate development currently being experienced, governmental regulation of the appraisal profession appears to be necessary to insure that the quality of the appraisal work done in the State of Alaska meets the highest standards. In principal, then, I agree with the overall purpose of the appraisal licensing which has been introduced as well

April 21, 1975

as the requirements for the proposed general and residential licenses which correspond to a large degree to the requirements of the Appraisal Institute.

In going over the bills which have been introduced in the legislature, I have found one material difference between them. The Senate Bill has provision for issuance of a non-resident license to an appraiser who otherwise meets the qualifications of the legislation, who maintains a regular place of business in the state of his domicile and a registered agent in the State of Alaska upon whom process may be served. The House Bill has no such provision for issuance for non-resident licenses.

Should the appraiser licensing bill become law as set forth in the House Bill, it would no longer be possible for me to continue to appraise in the state of Alaska for our firm under the present arrangement since I do not have adequate experience to allow me to take the general real estate appraiser examination at this time and there are no plans for members of our firm who do qualify to take the examination to move to Alaska.

It is obvious, then, I and other members of our firm have substantial professional interest in the final outcome of the proposed appraiser licensing legislation. The only way that we would be able to continue to conduct business in this state is if the law as finally passed contains a provision for licensing of non-residents of Alaska. There are, however, further considerations which I feel would make it in the best interests of the State to provide for licensing of non-resident appraisers.

Currently, there is a substantial amount of appraisal work done in the State of Alaska by non-resident appraisers for clients both within and outside of the state. Many of these appraisers are highly qualified and do excellent appraisal work and as is the case in any profession, some do not. There are, of course, also many highly qualified appraisers residing within the state and some who are not. It is my opinion that without provision for issuance of non-resident appraisal licenses, the temptation to a qualified appraiser from outside of the state of Alaska who has been hired by a non-Alaskan client who perhaps may not be aware of the licensing law would be great to come to Alaska and gather information about a property and return to his home state to write the appraisal report. I know, from personal experience, that it is possible to gather much of the information possible for an appraisal report without the knowledge of virtually all of the members of the local real estate community. I believe that enforcement of the requirement for an appraisal license to appraise within the state in this type of a situation would be quite difficult. The temptation for a qualified non-resident appraiser to appraise in the state of Alaska on this basis would be substantially removed by availability of a non-resident license.

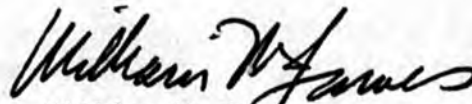
In summary, then, it is obvious that it would be in the best interests of our firm if the proposed appraiser licensing legislation contained a provision for issuance

Honorable Bob Bradley
Page Three

April 21, 1975

of non-resident licenses as included in the Senate Bill. I believe that such a provision would also be in the best interest of the Alaska appraisal industry as well as the state in general. Any efforts you are able to make in this regard would be greatly appreciated. If there is any further information that we could provide or anything else that we could do to promote this cause, please let me know.

Most sincerely,



William M. James
Appraiser-Manager

WMJ:pw

HB

289

298

Date
3/31
4/4
4/28
4/28

Topic #
22
24
35
36

* 298

NB 289

"An Act relating to the definition of security."

COMMITTEE REPORT

3/13/75

HOUSE

JUDICIARY

Mr. Speaker:

Date _____

The Committee on Commerce has had HB 298

under consideration. A Majority of the members of the Committee

() recommends it DO PASS

() recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

() recommends it BE REPLACED WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

() "and" recommends it BE REFERRED TO THE _____

COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

[Signature] _____
[Signature] _____
[Signature] _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

[Signature] Chairman

A M E N D M E N T

Offered in the HOUSE

By Commerce Committee

To: _____ HOUSE BILL NO. 298

_____ SENATE BILL NO. _____

AMENDMENT: Page _____ Line _____

Page 1

Line 22

After the word "from" delete the word "the".

Line 25

After the word "investors" delete the words "a contract or" and insert the word "an".

Page 2

Line 34 4

After the words "money or" delete the words "valuable assets" and insert the words "money's worth".

Line 4

After the words "furnished and" insert the word "or".

Line 5

After the words "expectation of some" delete the word "nonmonetary".

Line 7

In the word "decision" add the letters "al".



IN REPLYING PLEASE QUOTE

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
REGIONAL OFFICE
████████████████████
SEATTLE, WASHINGTON ██████

RECEIVED
FEB 21 1975

SECURITIES AND EXCHANGE COMMISSION
ROOM 3040 FEDERAL BUILDING
915 SECOND AVENUE
SEATTLE, WASHINGTON 98174

DEPARTMENT OF COMMERCE
DIVISION OF BANKING
SECURITIES AND SMALL LOANS
February 19, 1975

James L. Thompson
Securities Examiner
Alaska Dept. of Commerce
Pouch D
Juneau, Alaska 99801

file

Re: Proposed revision of AS 45.55

Dear Mr. Thompson:

Thank you for forwarding this office a copy of the proposed revision of AS 45.55.140(b)(5) under the Alaska State Securities Act.

As we have discussed in the past, amendments and rules adopted by the federal Securities and Exchange Commission are not intended to be models for the state authorities. The existence of strong state regulation permits the Commission to spread our thin staff over more interstate and international violations and leave geographically isolated securities offerings to such local regulation.

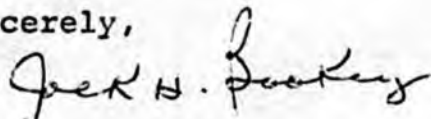
Therefore, we are somewhat alarmed if state governments pattern exemptions from local regulation on exemptions which the federal authorities feel are appropriate in large part because we rely on state governments to police them. This creates loopholes, which in turn results in a demand by the public for stronger federal regulation.

With this in mind, we note that the proposal you sent us, which proposes to exempt sales to 35 residents of Alaska, would create the danger of a loophole which might result in an absence of regulation of very large offerings. The proposal does not provide for the safeguards, such as sophisticated ability to evaluate the business risks, or ability to bear the possibilities of total loss, which the Federal Rule 146 requires. The federal rule hinges upon this ability to fend for oneself, thus making registration of sales to 35

persons less necessary (suitably restricted so that nominees, companies, trusts and the like are counted as one investor for each beneficial owner of interests in such nominees, companies, trusts, etc.)

If Alaska exempts from registration offerings to a limited number of persons, the proposal by your office that the exemption be limited to 20 would appear to be the maximum number which the state should consider, and the definition of those persons should be made so as to avoid evasions through corporations and trusts which themselves have securities to offer. Also, as you propose, the dollar amount, notification requirement, sophistication test and prospectus test should be retained, in our opinion.

Sincerely,

A handwritten signature in cursive script that reads "Jack H. Bookey". The signature is written in dark ink and is positioned above the typed name.

Jack H. Bookey
Regional Administrator

MEMORANDUM

File

LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811

TO: *Mr. Bradley*

DATE: *2/28/75*

FROM: *Dave Walker*

WO# *570*
SUBJECT: *Amendment to the
AK. Securities Act.*

Following our conversation this afternoon I attempted to get in touch with Mr. Schlosberg. He is on vacation and unavailable until sometime the early part of March. (Prob. March 10). Mr. Thompson advises that his memo to the committee of 2/4/75 stands as the firm position of the staff of the Div. of Banking. He further advises that the Securities Exchange Commission is unfavorably opposed to Schlosberg's proposal. I recommend you sit on this until Schlosberg arrives and then determine what how to proceed.

BOB BRADLEY

state house



CHAIRMAN, COMMERCE COMMITTEE
POUCH V
JUNEAU, ALASKA 99811
465-3824

VICE CHAIRMAN, JUDICIARY
601 N. BRAGAW
ANCHORAGE, ALASKA 99504
272-0275

March 19, 1975

Mr. Jack Bookey
Regional Administrator
Securities Exchange Committee
Room 3040 Federal Building
915 2nd Avenue
Seattle, Washington 98174

Dear Mr. Bookey,

The House Commerce Committee is considering the enclosed bills, HB 293 and HB 298. The hearings on these bills is scheduled for Friday, March 28 at 8:00 a.m. Your testimony is invited, however, if you are unable to attend we would appreciate any written comments you might care to make. Please submit written testimony before March 28. If you have any questions please contact my office, the number is 465-3824.

Sincerely,

Bob Bradley

BB/mr

cc James Reeves
Stan Howitt
William Anderson
Willis Kirkpatrick
Fred Kokin

Witnesses

Stanley Howitt, Esq.
Director, Consumer Protection

360 K St.

Kenneth Hume, President
Anchorage Chamber of Commerce
(former Pres. of Alaska State Bank)

612 F St. 01

James L. Thompson
Securities Examiner, Division of Banking & Securities
AK Dept. of Commerce

Leslie Pace, President
Area Realty Inc.
Anchorage, AK

Ralph Whitmore, Chairman
Alaska State Bank, Anchorage

James E. Johnson, vice-president
First National Bank of Anchorage
Anchorage, AK

Bennett Williams
Sales Associate, Jack White Company
Anchorage, AK 909 W. 9th Ave, 01

James Reeves
Ass. AG 360 K St.
Anc

Miles Schlosberg
1026 4th Ave. Suite 206
AncAK

Jan 31

Proposed Bill on Alaska Securities Law

AS 45.55.140 (6) (5) change to "a transaction exempt as a private offering under U.S. Securities and Exchange Commission Rule 146, provided that the offeror shall by writing notify the Administrator of the offering prior to making the offering on such form as the Administrator shall by rule or order prescribe.

HB 289
298

~~W~~
Jack Bookey
Regional Administrator
Securities Exchange Committee
Room 3040 Federal Building
915 2nd Ave
Seattle Washington 98174

James Reeves
Asst. Attorney General
360 K St.
Anchorage Alaska

Stan Howitt
Consumer Protection-Anchorage

William Anderson
Asst. Comm.
Div. of Securities
230 State Office Building
Denver Colorado

Willis Kirkpatrick
Alaska Federal Saving + Loan Ass'n
301 Franklin St.

Fred Koken
Foster + Marshall
114 S Franklin St. Juneau

Dear _____

The House Commerce Comm. is considering the enclosed bills, HB 289 and HB 298. The hearings on these bills is scheduled for Friday March 28 at 8:00 AM. ~~Ways~~ → however your testimony is invited. If you are unable to attend we would appreciate any ~~or~~ written comments you might care to make. Please submit written testimony before March 28. If you have any questions please contact my office, the number is 465 3824.

Sincerely

Bob

BY REPRESENTATIVES Sack and Kopel; also SENATOR Bermingham.

A BILL FOR AN ACT

1 DECLARING PYRAMID PROMOTIONAL SCHEMES TO BE DECEPTIVE TRADE
"COLORADO"
2 PRACTICES UNDER THE/CONSUMER PROTECTION ACT".

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 55-5-1, Colorado Revised Statutes 1963 (1969
5 Supp.), is amended BY THE ADDITION OF THE FOLLOWING NEW
6 SUBSECTIONS to read:

7 55-5-1. Definitions. (13) "Pyramid promotional scheme"
8 means any program utilizing a pyramid or chain process by which a
9 participant in the program gives a valuable consideration in excess of
9a one hundred dollars for the opportunity
10 or right to receive compensation or other things of value in
11 return for inducing other persons to become participants in the
12 program. Ordinary sales of goods or services to persons who are
13 not purchasing in order to participate in such a scheme are not
14 within this definition.

15 (14) "Promoting a pyramid promotional scheme" means
16 inducing one or more other persons to become participants, or
17 attempting to so induce, or assisting another in promoting a
18 pyramid promotional scheme by means of references or otherwise.

19 SECTION 2. 55-5-2 (1), Colorado Revised Statutes 1963, as
20 amended, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

21 55-5-2. Deceptive trade practices. (1) (r) Contrives,

Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

As amended 2nd reading
FEB 9 1973
HOUSE

1 prepares, sets up, operates, publicizes by means of
2 advertisements, or promotes any pyramid promotional scheme.

3 SECTION 3. 55-5-10 (2) (c), Colorado Revised Statutes 1963
4 (1969 Supp.), is amended to read:

5 55-5-10. Duties of district attorneys. (2) (c) To
6 transmit such complaints to the attorney general, ^{AND} ~~EXCEPT AS~~
7 TO PYRAMID PROMOTIONAL SCHEMES, TO ACT UPON SUCH COMPLAINTS
8 IN THE ENFORCEMENT OF THE PROVISIONS OF THIS ARTICLE.

9 SECTION 4. 55-5-11, Colorado Revised Statutes 1963
10 (1969 Supp.), is amended to read:

11 55-5-11. Enforcement. In order to promote the uniform
12 administration of this article in this state, the attorney
13 general shall be responsible for its enforcement, but he may
14 direct any district attorney in this state to enforce the
15 provisions of this article, EXCEPT THAT ANY DISTRICT ATTOR-
16 NEY HAS CONCURRENT JURISDICTION TO ENFORCE THE PROVISIONS OF
17 THIS ARTICLE WITH RESPECT TO PYRAMID PROMOTIONAL SCHEMES. IN
18 EITHER ~~in~~-which case the district attorney shall have the
19 powers of the attorney general prescribed in this article.

20 SECTION 5. Article 5 of chapter 55, Colorado Revised
21 Statutes 1963, as amended, is amended BY THE ADDITION OF A
22 NEW SECTION to read:

23 55-5-14. Criminal penalties. Any person who promotes
24 a pyramid promotional scheme in this state, upon a first
25 conviction, is guilty of a class 1 misdemeanor, as defined
26 in section 40-1-106, C.R.S. 1963, and upon a second or subse-
27 quent conviction, is guilty of a class 5 felony, as defined
28 in section 40-1-105, C.R.S. 1963.

1 SECTION 6. Effective date. This act shall take effect July
2 1, 1973, and shall apply to offenses committed on and after such date.

3 SECTION 7. Safety clause. The general assembly hereby
4 finds, determines, and declares that this act is necessary for
5 the immediate preservation of the public peace, health, and
6 safety.

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HOUSE BILL NO. 1278

ENGROSSED WITH AMENDMENT ADOPTED AT
MARCH 20 MEETING

FOR USE FOR COMMITTEE
DISCUSSION ONLY

A BILL FOR AN ACT

1 CONCERNING SECURITIES, AND PROVIDING FOR LICENSING PERSONS
2 DEALING THEREIN AND REGULATING PRACTICES RELATING THERETO.

Bill Summary

(NOTE: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Adds to the list of persons regulated as salesmen under the securities law a new class called investment adviser, defined as one who, for compensation, engages in the business of advising others, by analyses, reports, or otherwise, concerning the value, future prospects, etc. of securities. Lists in detail occupations not included under that term. Defines in more detail what securities are. Allows the securities commissioner to censure or fine licensees violating certain provisions and to impose costs of proceedings on licensees. Under exemptions from registration, lists additional stock exchanges, defines commercial paper in detail, and redefines what are public offerings of securities. Authorizes the securities commissioner to enter orders to show cause or to cease and desist if necessary to prevent violations of the securities law. Details practices which are not permitted for investment advisers, and sets forth requirements for advisory contracts relating to compensation, restriction on assignments, and custody of securities. Repeals provisions of the securities law authorizing registration by notification as well as the exemption from registration of certain securities and persons dealing in securities.

3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 11-51-102 (9) and (12), Colorado Revised
5 Statutes 1973, are amended to read:

*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*