

132

HC

HB

356

-

HB

403

73

expected to exceed \$100 million.

Of the total monies invested in the TAB, 13 percent is deducted and the remaining 87 percent is paid in dividends. Of the amount deducted, 5.5 percent goes to the state government and 7.5 percent is used to cover TAB operating costs and a distribution to the race clubs. The TAB operating cost last year was 4.5 percent of turnover.

In the U.S., OTB legislation exists in three states and is being considered in 14 others.

Racetrack Betting Betting procedures at racetracks result in fast ticket selling over a short period of time for each race. The ticket windows open about one-half hour before post time and each window generally handles only one bet type for a single amount (for example, \$2 Win, \$5, Show, \$10 Place) and for the upcoming race only. Once at the desired window, the bettor need only give the teller the number of the horse, pay his money, and receive his ticket. The teller presses the appropriate button; the ticket is issued; and the wager recorded. To place a different type of bet, the bettor must go to another line. Under this procedure, tellers can sell tickets at a rate of about 20 per minute.

Off-Track Betting The nature of off-track betting dictates a totally different procedure from on-track betting. Betting opens for all operating tracks and races at the beginning of the working day. The variety of types of bets that may be placed at an off-track betting office precludes the use of specialized windows. One teller handles all bet types such as Win, Place, Show, Daily Double, Exacta, and Quinella, in all denominations, for up to 10 races, at each of several tracks. The bettor must specify his choice of track, race, horse, bet type, and amount for each bet he wishes to place. The teller must place the bet, validate the bet information, issue a ticket, and calculate and receive the total money due.

The ticket-issuing machine must be able to enter a bet, consisting of the above information and number of tickets, and in a short response time (approximately 3-6 seconds) issue a wallet-sized ticket, with the printed data describing the bet. This is a perfect duplication of the betting procedure a bettor would have had to perform at an on-track site, with one exception as mentioned the amount of data communicated at an off-track site is greater than that communicated on-track.

These steps can slow the off-track operation to about two bets per minute, thus creating long, slow-moving lines and discouraging the bettors. At this rate, the amount of money a teller can take in is limited, thus severely restricting the profit to the state as an off-track betting operator. Since a significant percentage of the gross must be spent on the teller operation, an increase in the number of tellers raises costs almost in proportion to the revenue generated.

This article describes the general requirements for an off-track betting system. A major system currently installed in New South Wales in Australia and a second system to be installed in Western Australia next year are also described.

Typically off-track betting is carried out in two forms. Remote branch office betting where the bettor must present himself to place bets or collect winnings and telephone betting where bets given over the telephone are placed by an operator against the bettor's account.

Central Control Function At the beginning of each day, the system is initialized from the central office using data forwarded from the previous day in addition to the track profile for the day. Branch offices are opened for business, after which branch supervisors and tellers may sign on to the system. As the system functions throughout the day, information is made available to authorized personnel concerning the status of individual tellers and branch offices as well as the system as a whole. Supervisors may also effect security changes within their area of responsibility, such as inserting, modifying, or deleting teller information. At the end of the day, the system is shut down in an orderly fashion. Terminals and branch offices are closed for business, and any data such as track profiles or winnings needed for the following day is recorded.

During system initialization, the day's racing information is gathered and entered in the track profile table. These records include (for each track) identification, races, race close times, horses, bet types, pool summaries, initial odds, allowances, and provisions for scratches, cancellations, and payout amounts. A directory of table entries is kept in main storage during betting.

When the supervisor is satisfied that the system has been correctly initialized, he may proceed to the established data verification and test procedures and, finally, to the opening of branch offices and the day's betting.

Whether a branch office opens automatically at system initialization time or by a specific command at a later time, the system must inform each branch that the off-track betting system is ready to accept transactions and initialize a cash-on-hand counter for each branch opened. The branch responds with a confirming message and terminals then may sign on when they are ready to accept transactions.

The central office also handles the information that is exchanged between the track and the off-track betting system. From the track to the off-track system comes information about scheduled races and horses, horses scratched, race cancellations, and race results; to the track from the off-track system comes the data from the bet pools—that is, the total amounts of money bet on each race and horse.

To scratch a horse, the system administrator enters the track, race, and horse identification. When the transaction is confirmed, the system flags the horse in the track profile table and the horse record in the track profile record as scratched. The system prevents further betting on the horse. The bets on the bet files remain unchanged until payout. At that time, the horse is treated as a winner, with the payout equaling the original bet. If a customer wishes to redeem a bet placed on a horse he knows is scratched, he should cancel his bet. Thus, if the horse is reinstated, previously uncanceled bets go as placed.

To shut down a track for conditions such as inclement weather, the off-track betting system administrator inputs the track name and date. Once the entry is validated, the system locates the track profile table and determines the

first race not yet run for the track. The race record is marked "canceled" and the payout routine procedure is performed, making the payouts equal to the original bets.

At a given time before the race, usually a half hour, the race close-transaction is issued and the system ceases to accept bets for that race. The race close-transaction can be issued either from the system timing function or from an off-track betting system administrator at the central system.

When the system receives a race close-transaction, the track profile race record is located and flagged to discontinue betting. The transaction then waits for a fixed period, allowing any bet transactions in process to complete their updating of the pool data. The accumulated pool data is then transmitted to the system administrator. For in-state tracks, he passes the information on to the track, where it is integrated with the on-track pools. For out-of-state races, the pool data is retained until the results entry transaction is completed.

After a race has been run, the system administrator enters the results into the system, thus activating the payout of winning bets. He enters the track, date, race, finishes (up to five in the case of some perfectas) and, in the case of in-state races, the track-calculated payouts.

Payout tables are built in computer memory, either from the track-provided payouts for in-state tracks, or from parimutuel calculations based on the pool data records for out-of-state tracks.

The system displays the input data for verification of content and, once correct, locates and updates the necessary track profile information. A printed report is then available on demand to the branch office supervisor.

Betting Office Operations A teller signs on using a special entry procedure which normally includes his employee number and cash drawer balance on hand. When all input has been validated, the betting terminal may process transactions.

A teller signs off by a sign-off procedure using his employee number. The system typically responds with the closing cash drawer balance and the number of tickets sold, cashed, and canceled. Date and time of sign-off and hours worked are also recorded. No further transactions may be processed at that terminal position until a teller has signed on again.

The design of the betting and payout system incorporates fast response time with accuracy. The high volume of bets demands the ability to process bets and payouts quickly.

The primary input data consists of the track, day, race, bet type, horse(s), and amount.

The bet is placed using key-operated or optical-mark-read terminals, and the data is transmitted to the computer. Typically, the length of a bet message is 13 digits plus terminal and branch identification. Using the track profile table for reference, the selection is edited for consistency such as (1) the bettor must select two horses if the bet is a daily double, (2) betting for the selected race must be open, (3) a valid horse number must be selected, and (4) the horse must not have been scratched. For errors, the computer generates an explanatory message to be returned to the originating terminal, where the message is displayed or printed, and the transaction is terminated.

If all criteria for a valid bet are satisfied, the bet is recorded. The system logs the transaction, assigns a serial number to the bet, and creates a bet record containing the bet serial number, bet origin (teller, branch office), date and time, race date, track, race, horse, bet type, amount, payout amount, payout location, and cancellation and scratch information. Each bet entered also updates the cash-drawer balance maintained in the system for each teller terminal.

Along with the cash-on-hand maintenance for each teller are statistics such as his sign-on and sign-off times as well as value and number of tickets sold, paid out, and canceled. These are all recorded in the teller statistics file.

The betting ticket is given to the bettor. The ticket usually contains betting information, the serial number, and date. In the event of an error, the ticket may be printed with an error message.

After the race results have been processed, all the winning bets or scratching refunds (or in the case of canceled races, every bet on that race) have their payouts calculated and written onto the winning bets file.

Normally Win, Place, and Show bet processing is handled differently from other bet types. After the race is completed and before the results are official, a list of the probable winners is entered into the system. This is used to extract all of the probable winning bets from the bet file. When the final winners are known, the small work file is scanned first and the payouts calculated. This scan of the bet file is also used to prepare statistics on each branch and number of tickets sold. This makes use of the time between race completed and official results, which gives faster turnaround on payout.

On doubles, after the first race has been run and the results have been declared, the bet file is scanned for all bets corresponding to the first winner. These bets are placed in a file for processing after the second race of the double is completed. Usually all other bet types such as quinella and triella are handled by a single pass through the bet file once the results have become official.

Statistics prepared during these passes of the bet file include the total number of winners, the payout amounts, and the number of tickets and amounts for each pool. These statistics are normally broken down by branch.

To pay out a winning bet, the cashier either keys in the ticket serial number or passes the ticket through a special reader. In any event, the serial number is transmitted to the computer for verification. The system retrieves the bet record and verifies that it is, in fact, a winning (or scratched) ticket that has not been previously paid or canceled. Winning bets that have been paid off by a branch are marked on the winning bets file so that any subsequent attempts to pay off this bet will be flagged. The payout amount is then transmitted to the terminal for printing or displaying. The teller's cash-drawer total is decremented by the amount of the payout.

If the ticket is not a winner, a descriptive message is returned to the terminal and the worthless ticket is returned to the bettor for his review. In the case of a scratched horse or canceled race, the bettor is refunded an amount equal to the original wager.

To cancel a bet, the serial number of the bet encoded on the betting ticket must be entered. Upon receiving the serial number of the bet to be canceled, the system locates the

bet record, notifies the teller of the bet, debits the amount from the pool(s), and updates the cash-drawer balance (for a branch office bet).

The betting authority determines how long a bet record remains payable on-line. After this period, bets are carried only off-line and winning tickets can be redeemed only by mail or at a central location.

Telephone Betting Operations The telephone accounting subsystem performs the administrative functions required for telephone betting. It is similar to a "banking operation" in that accounts are opened or closed on written authority only.

Telephone account-opening processing includes checking the completeness and reasonableness of data, providing a unique account number, establishing a password, building and adding a new account record to the telephone record file, and flagging the record to permit betting once the deposit is firm. The telephone betting account file contains all the details of the accounts that are needed during on-line operations (that is to say, the account code and number, the date and time of last transaction, and the current balance), and it contains links to the day's transactions and dividends. This file contains one record for each of the accounts, so it can be accessed either sequentially by scanning the whole file or directly by using a simple algorithm to convert the account number into a disk address. This file is updated continuously during the day's operations with all transactions—bets, dividends, deposits, and withdrawals—which can affect the balance or status of the account at any time.

Telephone account deposit requires retrieval of the telephone account record based on the account number and password. The deposit amount is added to the current balance in the record and the updated record returned to the data file.

For telephone account withdrawal, the telephone account record is retrieved on the basis of the account number and password. The current balance is checked to see if the withdrawal request can be met. The current balance must remain above the withdrawal. Once the withdrawal is approved, the current balance is reduced by the withdrawal amount and the updated record is returned to the data file.

Statements are prepared as requested by the bettors. They show opening balance, transactions occurring in the period, and closing balance.

Telephone account closing requires positively identifying the bettor as defined by the user, logging all details of the closing, deleting the account from the files, and preparing a closing statement and a check for the amount remaining in the account.

To place a telephone bet, the operator at the telephone betting station enters the customer account number into the system via the keyboard and, for a valid account number, the system displays a password, account status, date and time of last transaction, and account balance.

Once enabled, the account is blocked to all other accesses. The operator then requests the password from the customer. When the password is accepted, the operator requests betting information from the bettor and enters the

bet as a transaction to the computer account. The system validates it as for a branch office transaction with an additional check to ensure that the bets do not exceed the customer account balance. If the updated account balance is negative, the last transaction is rejected.

Once the bet is accepted, the bet entry is basically the same as for branch office bets but with three additional considerations:

- The account balance is debited with each bet amount instead of updating the teller cash-drawer balance.
- The bet record created is keyed to the account number to enable later crediting of winnings.
- No ticket is generated; however, data is retained to generate an account statement, if required.

As each bet is entered, the telephone betting file logs the details of each bet. It also contains details of deposits, withdrawals, and account changes originated either from a branch or from a Telephone Betting Terminal, or by the system by race result processing. All the transactions for any one account are linked together to allow easy retrieval of any transaction.

After the last bet is entered, the system displays the new account balance, the total value of the bets, and the time. At this time, the processors update their telephone betting status table in memory is now updated to reflect the removal of active accounts.

Telephone bet payout differs from branch office bet payout mainly in its manner of initiation. When race results become known, the entire telephone betting bet file is scanned for any winning bets on the results just obtained. As they are found, the bet details are used to calculate the payout, and they are placed on the telephone betting payout file. This file contains details of all the winning telephone bets. After the race result processing is complete, this file is scanned, and the payout value is extracted and credited to the appropriate account. While this is being done, the file is linked in the same fashion as the bet file so that all the dividends for any one account can be easily found.

To assist with telephone betting inquiries, a display format file is used which contains the various formats displayed on the screen in response to format number entry. The functions that are normally entered include race result, scratching, inquiries as to race status, or system status.

Remote Off-Line Betting Operation A third form of bet entry is made from very remote branches using dial-up, teletypewriter-like terminals. The difference is that the bets are collated manually at the remote branch and only the collated data is transmitted. The incoming data is accepted and checked in the same way as normal bets. These bets are logged on the bet file with special identifying codes.

System Shutdown In advance of anticipated system shutdown, each branch supervisor is notified of the scheduled shutdown so that he may terminate his own operation in an orderly fashion. At shutdown time, any terminals and/or branches still open are closed automatically at the finish of the bettor transaction in process.

When a branch closes, either by specific conditions or system shutdown, the system sends summary accounting data to the branch office supervisor's terminal and prevents further processing from that branch.

When the network activity ceases, housekeeping activities begin:

1. Bet and pool information to be forwarded to the next day is recorded.
2. Bet records for the day's races are reorganized to include only those requiring payout.
3. Payout records that have passed the system retention date (typically one month) are purged to the unpaid archives file.
4. A message is written to the master system terminal indicating the completion of system shutdown.

During the day's operation, a transmission file is used which contains output messages for the teletypewriter located at the branches. These messages may either be specific messages dealing with a branch's operation, statistics, or liabilities, or may be general broadcast messages such as race results, changes, scratches, closed tracks, and system shutdown schedule.

Additional report information is made available as required and on demand at shutdown. Examples are as follows:

- tickets sold by type/amount, by teller/branch/system;
- cash on hand by teller/branch/system;
- branch liability, when race results are known;
- selected pool data;
- telephone account status.

At the end of the operating day before system shutdown, information items are selected, grouped, and sorted into a new sequence for reports of varying detail, such as:

- system liability report;
- accounting reports by location;
- average bet amount;
- race activity;
- telephone account statement;
- average number and frequency of bets per bettor (telephone);
- bets by track;
- bets by type and location;
- bet cancellation by location;
- payouts by locations;
- purged pay tickets;
- branch office activity comparisons;
- hourly branch office activity.

Fallback, Error Recovery, and Restart The system attempts to preserve data integrity and minimize inconvenience caused by some failures. High priority is given to recovering pool data since the off-track operation is liable, for practical purposes, for the track payout amounts on races where pools are combined. In addition, current bets, track profiles, and statistics must be recovered.

The central system is usually duplexed, allowing considerable equipment failure before any general effect is noted. As more and more units in the central processing

system fail, less important functions are successively dropped until the system is just collecting bets, logging them, and pooling them.

One CPU, designated the master, outputs messages to the terminals. The communication controllers attached to the system detect system failures by ensuring that they are polled on a regular basis by both CPUs. Should the master fail, the subordinate immediately becomes the master, while if the subordinate fails, the master merely takes note of the fact and commences to update the subordinate disk files as well as its own.

To minimize the effect of a disk drive failure, each set of disk drives (one per CPU) has two copies of the control program and application programs. Also, if any disk drive fails on the master CPU, it begins to use the corresponding drive on the subordinate. In the event of total failure of both sets of disks, the system is reduced to the input and pooling of bets and logging them on magnetic tape. This tape can be used at the end of the day for the reconstruction of the disk files that should have been created during the day. There are a number of tape drives on each CPU, and if one should fail, the CPU automatically uses another.

If the line printer being used for the output of collations should fail, the computer operator can manually switch the other printer onto the master in place of the defective one.

In the extreme case where both sets of disk drives have failed, or if the same disk drive has failed on both systems, the off-line recovery procedures are executed at day end. The magnetic tape containing a time-sequenced log of the day's betting input is read into the CPU, and the bet messages are written to the various disk files. Once these bet files have been regenerated, it is possible to perform the race result processing. Thus it is possible, via off-line recovery, to achieve the same day-end processing completion as would have been achieved without the equipment failure.

Terminal failures at a branch are recovered through plug-for-plug replacement of a defective terminal with a known good terminal from a central pool.

Current New South Wales System

The system currently installed in New South Wales (N.S.W.) uses specialized hardware to handle the high transaction rates. The system is handling 8000 transactions per minute now and the 1978 projection is 15,000 bets per minute.

The N.S.W. ticket terminal was designed and built by Amalgamated Wire of Australia (AWA). The terminal is key-driven on a numeric keyboard from paper betting slips filled out by the bettor before he reaches the window. A gas discharge display of up to 12 digits displays the bet to the operator during keying. Bets are transmitted bet-at-a-time at 150 bps DC signalling to a remote multiplexer. The printer used is an adapted adding machine print unit. Bet information printed on the ticket is taken directly from keyed data. Throughput is directly dependent on the skill of the operator in getting the data correctly from the customer and keying it correctly.

... consists of improved 200K 1000- and 4000- CPUs driving IBM 3970 Data Set Adapter Units through four IBM 3967 Communications Controllers (with a fifth as standby) on the AWA, Teletype,* and Telex† terminals (Figure 1).

Telephone betting is handled by 96 terminals also supplied by AWA which are a modification of the cash betting terminal.

Each of the four IBM 3967's performs identical functions and handles a maximum of 400 communications lines. Their main functions are as follows:

- Line control procedures for the various terminal types.

- Message queuing between the terminals and the CPU's.
- † Code conversion. All CPU outputs to the 3967 are in EBCDIC while the IBM 3967 inputs to the CPU are either EBCDIC or unsigned packed decimal.

All incoming messages are blocked in each IBM 3967, and at frequent intervals the CPU's ask for any completed blocks. On receipt of a block of messages, both central processors first validate each bet, then add it to the appropriate pools, and then generate the bet ticket number, which is sent back to the communications controller for transmission to the terminal. Thus, while the branch is printing the bet ticket, the bet details are being placed into a disk buffer area in the CPU for logging on the appropriate bet file.

Although fully hardware duplexed, on "quiet" race days the system is run in simplex while the second system is used for program development. In case of failure, the second system can be made ready within seconds.

©Registered trademark of International Business Machines Corporation.

*Trademark of the Teletype Corporation.

†Trademark.

All terminals are ONE PER LINE basis

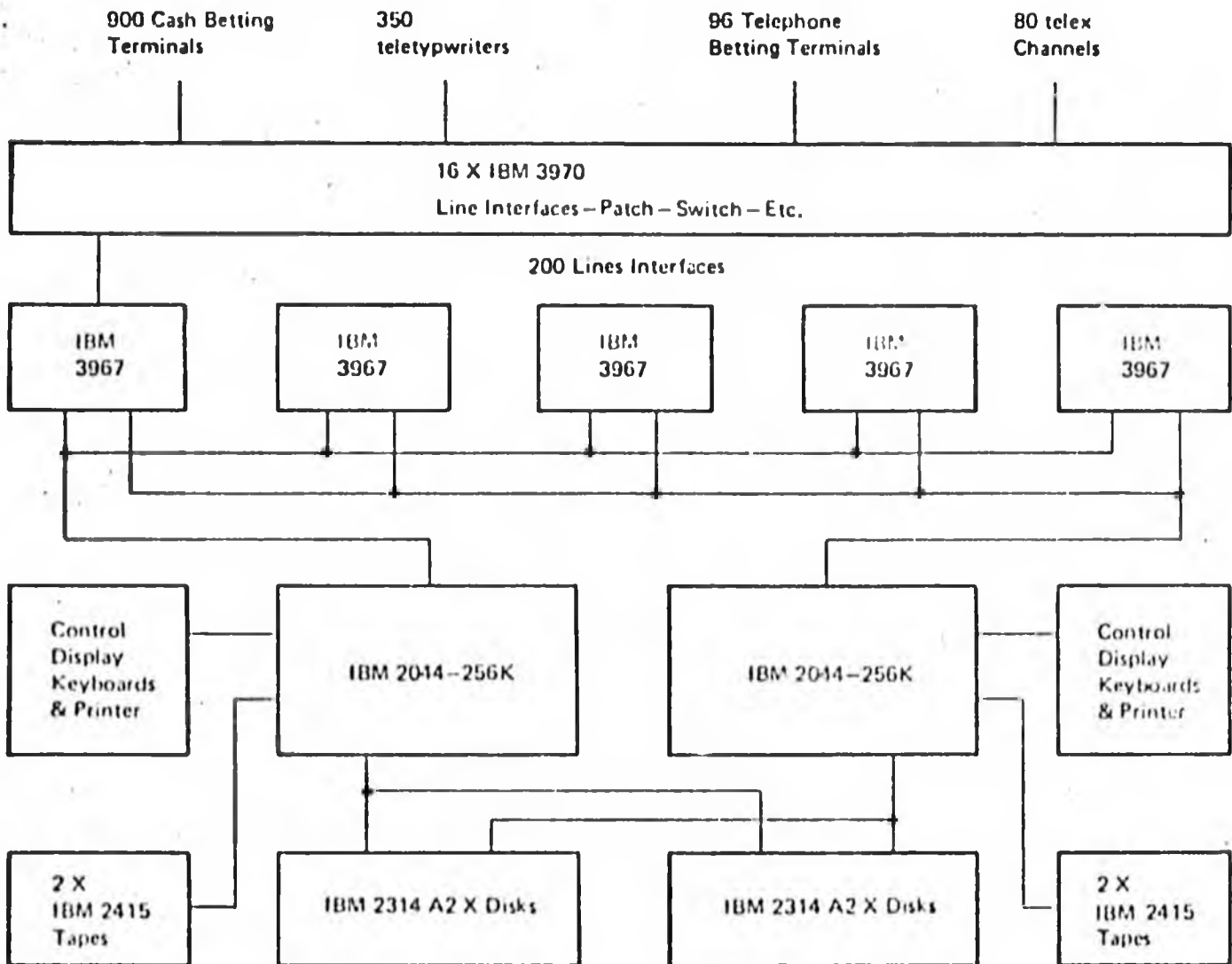


Figure 1. New South Wales TAB System

five drives giving a total capacity of 1.35 million bytes. Of this, 200 cylinders are allocated for bet files, 20 cylinders for telephone betting, and 140 cylinders for winning bets and paid tickets. In addition, parts of two disk drives are used for control program systems residence, applications program residence, and work files.

There are two 30 kb tape drives on each CPU. Their primary purpose is the dumping of disk files at day-end for historical purposes and the reconstruction of a day's betting activities as may be required for audit purposes. During periods of on-line operation, one tape drive on each CPU is used for the logging of all system inputs, to guard against the loss of data in the unlikely event of failure of both disk control units.

The line printer is used to list horse total investments at the same time as they are transmitted to the control center. The card reader is used only for the input of meeting and race initialization data at the commencement of each day.

Future Western Australia System

The Western Australia (W.A.) system is scheduled for installation in late 1975. To increase flexibility and throughput, they are taking a different tack entirely—

himself by using optical mark reading and standard system hardware (Figure 2).

The bettors place bets by marking their selections on IBM System/3-size paper cards (Figure 4, or longer card stock for complex bets) and inserting them directly into the terminal. The terminal, an IBM 5934-102 Ticket Terminal (Figure 3), reads the pencil marks and transmits them at 1200 bps to a remote multiplexer. After verification and editing, print information is returned over the teleprocessing line to the terminal to print the bettor's selections on the same card (Figure 5). Besides the entry method, a second major difference is that the system also prints a unique machine-readable bar code on the betting ticket, which identifies this particular bet. Invalid bet tickets are returned with an error message across the top, describing the error. Reasons for rejecting tickets include incomplete information (such as only one horse marked for a daily double, scratched horses, invalid bet amounts and types, race already closed).

After the race has been run, the bettor inserts his bet card back into the same terminal (or any terminal in the system), and this time the previously printed bar code is read in conjunction with the marked information. This bar coded serial number is used to look up the bet in the win

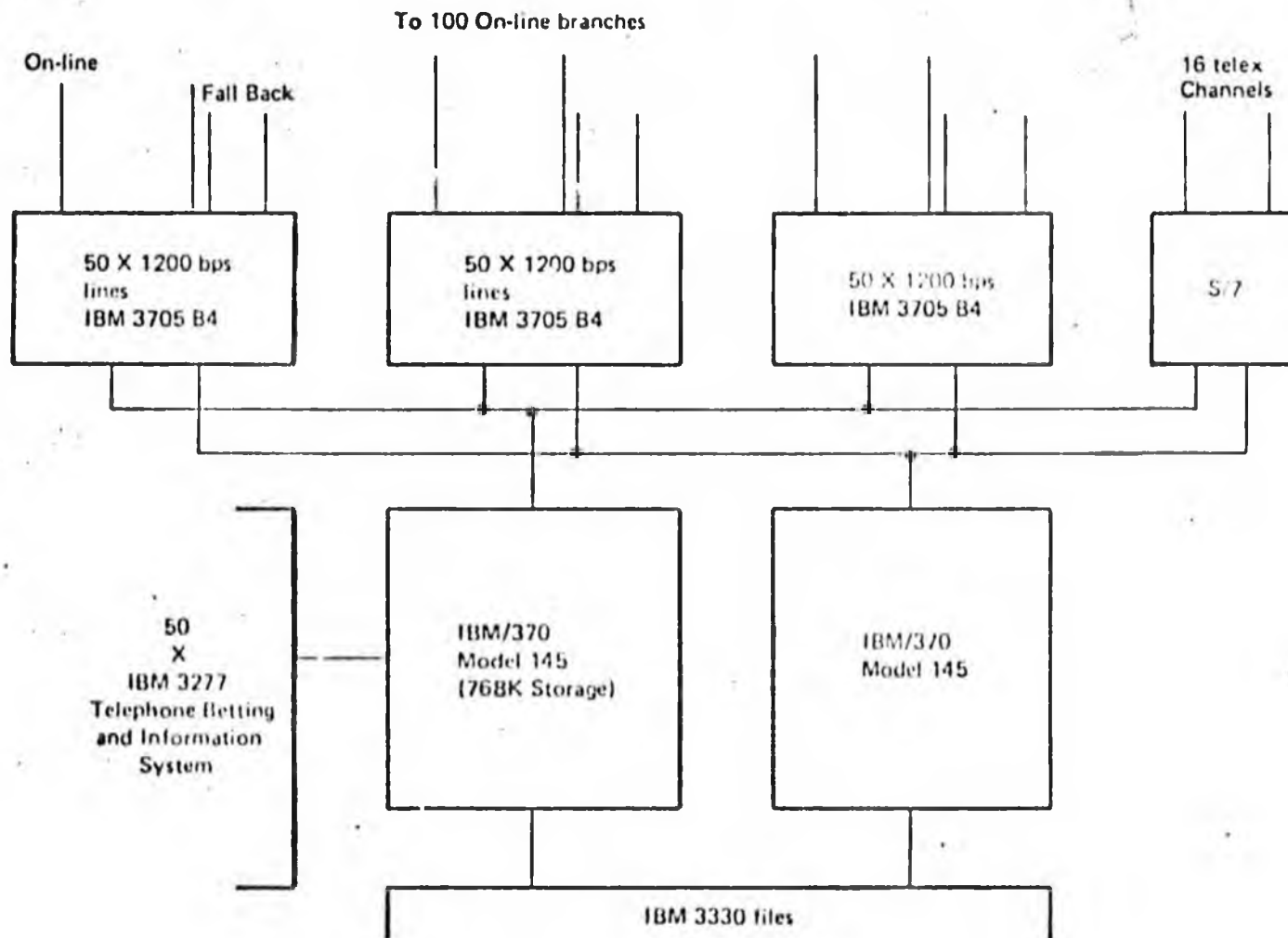


Figure 2. Western Australia TAB System

HB

381

#

TELEGRAM

WCA ALASKA COMMUNICATIONS, INC.

PHONE: 586-6440

JUNEAU, ALASKA 99801

1975 MAY 3 PM 2 35

18002 POM GOLOVIN ALASKA 15 05-03 1120A BDT

PMS REP BOB BRADLEY

266

CHAIRMAN HOUSE COMMERCE COMMITTEE

JUNEAU

THE GOLOVIN CITY COUNCIL HAS EXPRESSED THEIR OPPOSITION TO
THE PASSAGE OF HOUSE BILL 381.

GOLOVIN CITY COUNCIL, SECRETARY STANLEY AMAROK

TELETYPE UNIT

TELETYPE COMMUNICATIONS, INC.
99801

MMMM

1975 APR 24 AM 11 34

13006 KETCHIKAN ALASKA 15 04-24 1130A PDT

PMS BOB BRADEY CHAIRMAN COMMERCE COMMITTEE

2429

POUCH V

Fall

JUN

WEBBER AIRLINES INC STRONGLY OPPOSES HOUSE BILL 381.

JACK R SWAIM, PRESIDENT



BERING STRAITS NATIVE CORPORATION

P.O. BOX 1008 · NOME, ALASKA 99762 · (907) 443-5252

April 30, 1975

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

Representative Terry Gardiner
Chairman
House Judiciary Committee
Pouch V
Juneau, Alaska 99811

Dear Representatives Bradley & Gardiner:

Gentlemen, House Bill No. 381, "An Act relating to the activities of the Alaska ~~Transportation Commission~~; and providing for an effective date", has been brought to my attention.

In all honesty, the proposed restrictions that would be imposed on the Air Taxi Services would have a detrimental impact and adverse effect towards the people within the Bering Straits region. They rely on travel and freight service that is needed and essentially, in addition to the scheduled airline, that is presently operating out of Nome. From past experience, the scheduled airline has a heavy demand and schedule that they must meet to give the villages adequate service.

If House Bill No. 381 is passed, it will impose unnecessary hardship, inconvenience, and an additional expense to the populace; that is so dependent on the Air Taxi Service in addition to scheduled airline service, to and from the villages for travel and freight service.

The Air Taxi Services that serve the Bering Straits region have given commendable, dependable, reliable, and personal services to all concerned. Their availability to the BSNC staff and Board for travel has been a convenience and a money saver to us. If House Bill No. 381 is passed, it would create a monopoly controlled by one party. This would also have a detrimental impact and adverse effect toward the Air Taxi Services throughout Alaska. Competition is a must to counter-balance the quality of services rendered by the airlines.



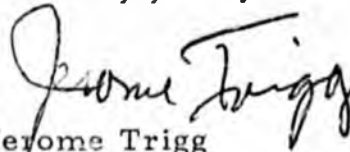
Representatives Bradley & Gardiner

Page two

April 30, 1975

The Bering Straits region would like for you, gentlemen, to have it go down on record that we strongly oppose House Bill No. 381 and urge that it is defeated when it is brought to the floor.

Sincerely yours,



Jerome Trigg
President

JT:lm

cc: State Senator Frank Ferguson
Representative Larry Davis
Air Taxi Operators, Bering Straits region
NANA Regional Corporation

29 April 1975

Bob Bradley
Chairman, House Commerce Committee
Alaska State House of Representatives

Dear Sir:

The City of Koyuk strongly urges defeat of House Bill #381. We feel that providing the scheduled air carrier with such an advantage would not only be unfair to small air carriers who serve our village, but would also result in poorer service and limited freedom of action. We feel that this bill in its essence is contrary to the principal of free enterprise. We feel that the 5 day a week schedule is in itself a dubious proposition as we have evidenced that the scheduled air carrier which serves our village quite often does not appear on scheduled days, while the smaller air carriers do come.

Sincerely,

David Otton Sr.
David Otton, Mayor
City of Koyuk

DO/tgd

cc: Senator Frank Ferguson
Representative Larry Davis

The undersigned council members and citizens of Koyuk, urge the defeat of House Bill #381.

Thomas M. Wong
Stanley J. Adams
Lila Otkon
BO. DAY
Albert S. Chalk
Leslie S. Charles
Mandy J. Charles
Maryann Warden
Charles Charles
Dennis Adams
Don Day
Kenneth Dewey Sr.

Elsie Otkon
Galeel Otkon
Ed. Kimoktoak
Annie Kimoktoak
Stella Edan
Ed B. Kimoktoak
Richard A. Nasuk
Roger Nasuk
Lolita Nasuk
Gene Kavairook
Albert Kimoktoak

Alfred Adams
Ethel Adams
Grace Kavairook
Henry Kavairook
Lorena Nasuk
Don Nasuk Sr.
Karen Nasuk
Charlie Atmik
Lucky Charles
Donald C. Gillespie
Lynn A. Gillespie

John N. Patterson
Box 7
Craig, Alaska 99921
May 2, 1975

Honorable Robert Bradley, Chairman
Commerce Committee
Alaska House of Representatives
Pouch V
Juneau, Alaska 99801

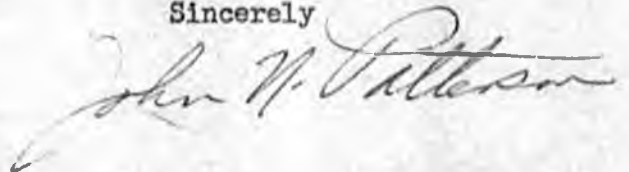
Dear Mr. Bradley;

I strongly urge you to not support H. B. 381. If this bill becomes law it will set communities like Craig back several years.

Letting only scheduled carriers offer seat fare basis flights strangles competing non scheduled carriers. It also reduces service to the people of the many small communities in Alaska. Why change a good thing for something less. The way it is now a person can fly to town almost anytime he chooses and go in by fare basis. Isn't this what we have been striving for all these years, better transportation for Alaskans.

I am sending copies of this letter to Representatives Oral Freeman, Terry Gardiner and Governor Hammond hoping they see that supporting H.B. 381 will be a giant step backwards for flying Alaskans.

Sincerely



c.c.

Representatives
Terry Gardiner
Oral Freeman
Governor Jay Hammond

May 1, 1975

Mr. Robert Bradley
Chairman Commerce Committee
Pouch V
Juneau, Alaska 99801

Dear Congressman Bradley:

We Don't need anymore Government interference with
free enterprise. DO NOT pass house bill 381, that proposes
to eliminate seat fare rates for Air Taxis to points being
served by scheduled carriers.

Sincerely,

Nelda C. Lynch
Teacher

May 1, 1975

Mr. Robert Bradley
Chairman Commerce Committee
Pouch V
Juneau, Alaska 99801

Dear Mr. Bradley:

I am opposed to House Bill 381 that proposes to eliminate Air Taxis being allowed to charge seat fares to points served by scheduled carriers.

Such action would severely limit competition and be a great inconvenience to The Traveling Public, who are frequently better served by the Air Taxis than by the scheduled carriers.

Sincerely,

Sam Nicholson Jr

Box 73

Klawock Alaska

May 1, 1975

Mr. Robert Bradley
Chairman Commerce Committee
Pouch V
Juneau, Alaska 99801

Dear Mr. Bradley:

HB 381 is obviously being pushed by a FEW scheduled air carriers for their own economic benefit.

The detrimental effect on The Traveling Public should be considered. Travelers like to know what a trip is going to cost precisely. Seat fares give them this cost spelled out in easy to understand terms. Don't eliminate seat fares for Air Taxis to points served by scheduled Air Carriers. Many of the problems brought on by scheduled carriers are a result of poor service not lack of potential customers.

Sincerely,

D. Morrow Lynch
Supt.
Klawock Public Schools
Klawock, Alaska - 99925

29 April 1975

Mr. Robert Bradley, Chm.
Commerce Committee
Pouch V
Juneau, Alaska 99801

Dear Mr. Bradley:

As a minister serving bush communities in Southeast Alaska, I am opposed to House Bill 381 which would severely restrict air taxis' use of seat fares on scheduled routes. I normally find it more convenient to travel with the air taxis than with scheduled carriers, because I get better service.

Very truly yours,

Claron A. Carland Pastor
Craig - Hydaburg Parish (Presbyterian)
Box 29
Hydaburg, AK 99922

Mr. Robert Bradley
Chairman Commerce Committee
Ditch ✓
Juneau Alaska 99801

HB 381 is obviously being
pushed by a few scheduled
air carriers for their own
economic benefit

The detrimental effect on
the traveling public should
be considered. Travelers like
to know what a trip is going
to cost precisely. Seat fares
give them this cost spelled
out in easy to understand
terms. Don't eliminate seat
fares for air taxis, to pilots
served by scheduled air carriers.
many of the problems brought on
by scheduled carriers are a
result of poor service, not
lack of potential customers.
Polly Breed.

May 1, 1975

Mr. Robert Bradley
Chairman Commerce Committee
Pouch V
Juneau, Alaska 99801

Dear Congressman Bradley:

We Don't need any ~~more~~ Government interference with free enterprise. DO NOT pass house bill 381, that proposes to eliminate seat fare rates for Air Taxis to points being served by scheduled carriers.

Sincerely,

Francis Jackson

REVILLA FLYING SERVICE
P. O. Box 2516
KETCHIKAN, ALASKA 99901

Box 54
Klawock, Ak
April 30, 1975 99025

Mr. Robert Bradley
Chairman Commerce Committee
Pouch V
Juneau, Alaska 99801

Dear Mr. Bradley:

HB 381 is obviously being pushed by a FEW scheduled Air Carriers for their own economic benefit.

The detrimental effect on The Traveling Public should be considered. Travelers like to know what a trip is going to cost precisley, seat fares give them this cost spelled out in easy to understand terms. Don't eliminate seat fares for Air Taxis, to points served by scheduled Air Carriers. Many of the problems brought on by scheduled carriers are a result of poor service- not lack of potential customers.

Sincerely

Martin J. Fabry
Verne L. Fabry

May 1, 1975

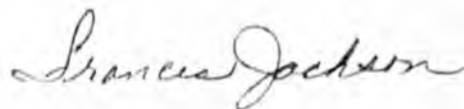
Mr. Robert Bradley
Chairman Commerce Committee
Pouch V
Juneau, Alaska 99801

Dear Mr. Bradley:

I am opposed to House Bill 381 that proposes to eliminate Air Taxis being allowed to charge seat fares to points served by scheduled carriers.

Such action would severely limit competition and be a great inconvenience to The Traveling Public, who are frequently better served by the Air Taxis than by the scheduled carriers.

Sincerely,



REVILLA FLYING SERVICE
P. O. Box 2515
KETCHIKAN, ALASKA 99901

May 1, 1975

Mr. Robert Bradley
Chairman Commerce Committee
Pouch V
Juneau, Alaska 99801

Dear Mr. Bradley:

HB 381 is obviously being pushed by a FEW scheduled air Carriers for their own economic benefit.

The detrimental effect on The Traveling Public should be considered. Travelers like to know what a trip is going to cost precisely. Seat fares give them this cost spelled out in easy to understand terms. Don't eliminate seat fares for Air Taxis to points served by scheduled Air Carriers. Many of the problems brought on by scheduled carriers are a result of poor service not lack of potential customers.

Sincerely,

Francis Jackson

REVILLA FLYING SERVICE
P. O. Box 2516
KETCHIKAN, ALASKA 99901

Paul H. Breed
d/b/a FLAIR AIR
Box 63
Klawock, Alaska 99925
April 24, 1975

Representative Robert Bradley
Chairman Commerce Committee
Pouch V
Juneau, Alaska

Dear Mr. Bradley:

House Bill 381 is obviously being pushed by The scheduled Air Carriers, to give them a competitive advantage over unscheduled Air Taxi's.

They already have the Tariff protection that no Air Taxi can charge less, to the points they serve, than the scheduled carrier.

They now want to eliminate unscheduled Air Taxis being Allowed to use seat fares to or from the points they serve. This effectively would give them almost a monopoly, in well traveled areas, because the public wants the convenience of seat fares and to know exactly what its going to cost to go from A to B. A seat fare tells them this. On a Charter basis they don't know since the flight time varies with the weather and the cost per person varies with the number of passengers on the aircraft.

Don't try to bolster a few scheduled Air Carriers on routes where no schedule may even be necessary at the expense of healthy Air TAXI businesses, that the public is supporting.

I've shown The Provisions of 381 to several of my passengers and they were all horrified that The State was even considering meddling in such an area and virtually eliminating their right to choose who they can fly with, through economic manipulation.

The CAB eliminated The Publics choice of what airline they flew with when they gave it to Alaska. Don't let The State be guilty of eliminating the publics choice of what Air Taxi they fly with.

Sincerely;


Paul H. Breed dba FLAIR AIR

cc: Governor Hammond
cc: Terry Gardner
cc: Oral Freeman

PB/bb

April 29, 1975

Dear Chairman Bradley,

This letter is to acquaint you with my thoughts on HB 381. The bill to eliminate air taxi seat fare on scheduled route.

Don't even let it get out of committee. I don't know whose back of such a bill, but I would be very suspicious.

How would you like to fly with a scheduled carrier that can't keep its pilots and is getting green hands regularly. One of the veteran pilots is nicknamed "Crash Bob" because he has had so many close calls.

This same scheduled carrier does not follow the schedule unless he has 3 passengers. That's not scheduled. Also the carrier is not known for its good maintenance.

Today I checked my flight plans to Sitka. The scheduled carrier had me leaving at 8:45am to ~~catch~~ catch the 5:05_{pm} jet to Sitka.

I'm going with another one at 3pm. Our scheduled carrier is not satisfactory with all the competition its got. What would it be like with no competition. I shudder to think.

Mary Schultz
Klawock Alaska

TO Rep. Bob Bradley
Alaska Legislature
Juneau, Alaska 99801

FROM Phone: 789 9160, Juneau
LAB FLYING SERVICE INC.
BOX 272
HAINES, ALASKA 99827

SUBJECT: House Bill No. 381 DATE: April 17, 1975

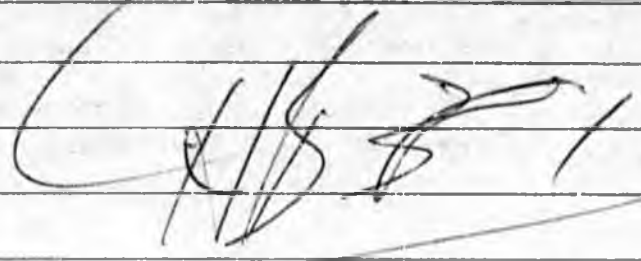
FOLD ↑ Dear Bob:

We are very much opposed to this bill. It would greatly reduce the service to small communities. It would also be detrimental to our business as the customer always wants to know the exact amount his trip will cost him. If this bill passes, we would have to tell him that the price from Haines to Juneau could be anything from \$16.66 to \$75.

We have several witnesses from Haines and Juneau who are anxious to testify on this bill, so we would appreciate your letting us know of any hearings.

We can be reached at the phone number above.

PLEASE REPLY TO → SIGNED Thank you *Lou Bennett* Lou Bennett



DATE _____ SIGNED _____

CRAIG CITY SCHOOL DISTRICT

STANLEY L. BIPPUS, Superintendent

P O, Box 166
CRAIG, ALASKA 99921

May 6, 1975

Mr. Robert Bradley
Chairman - Commerce Committee
Pouch V
Juneau, Alaska 99801

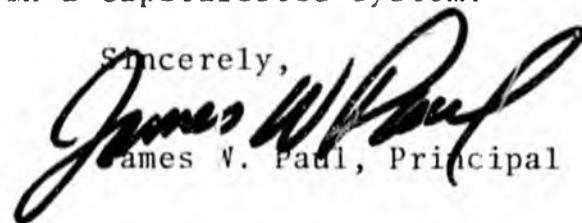
Dear Mr. Bradley:

I would like to comment on a proposal that I have heard is being considered - i.e.- the elimination of seat fares for air taxis not licensed as the scheduled air carrier.

I look upon this move as a way to cut competition and make it easier for the scheduled air carriers to make ends meet, which I agree, is important in order to continue providing scheduled air service. However, the scheduled carriers in my opinion, need not suffer from their competition if the quality of service to the public remains the same. What we have seen here is an air taxi providing friendly, amenable service and the scheduled air carrier decreasing their service (in terms of smiles, friendly assistance, etc.) apparently with the feeling that their being scheduled would guarantee them customers.

The air taxis already cannot charge less than the scheduled carrier, this in itself seems to be plenty. I would certainly be opposed to a further reduction in competition, because instead of increasing services for the people, decreasing competition decreases services in a capitalistic system.

Sincerely,


James W. Paul, Principal

Skyways flies on schedule again

Southeast Skyways has resumed its regular schedule of two flights a day, and the office at the airport is open regularly again, Marsha James, agent for the airline, reported today.

However, she said, routing for flights may vary: depending upon the traffic, flights may go Juneau-Haines-Skagway-Juneau, or Juneau-Skagway-Haines-Juneau, or Juneau-Haines-Skagway-Haines-Juneau.

The council went on record as opposing House Bill 381 which would prohibit air taxi services to charge seat fares on runs which are served by a scheduled carrier at least five days a week. The route between Haines and Juneau is such a one.

HOUSE BILL WOULD STOP AIR TAXI SEAT FARES

House Bill 381, introduced into the Alaska House of Representatives, would not permit air taxi operators to charge seat fares on runs between points served at least five days a week by a scheduled carrier.

The legislation would affect air taxi operators who fly Haines to Juneau. Both LAB Flying Service and Fox Air Service/Capital Air presently charge seat fares.

Mrs. H. A. Kebert
P.O. Box 89
Haines
Alaska 99827

28 April 1975

Mr. Robert Bradley
Chairman of Commerce Committee
Alaska Legislature
Juneau, Alaska 99801

Dear Sir:

And just who was the un-named (brave soul ?) that introduced House Bill #381 into the Alaska House of Representatives?

House Bill #381 reads as follows from Chilkat Valley News, 4/24/75:
~~Quote~~ "House Bill #381, introduced into the Alaska House of Representatives, would not permit air taxi operators to charge seat fares on runs between points served at least 5 days a week by a scheduled carrier." Unquote. HOW ABOUT THAT?

Is it not customary for the Representatives name to appear with his Bill in print for public knowledge?

Perhaps in this instance - it is the fault of our newspaper, but I sincerely doubt that.

What has or is happening to our free enterprise system?

When will some Representative get a wild notion to take away our ferry system to force us to take the "scheduled carrier"?

Our present "scheduled carrier", when "they" took over about a year ago, stated "they" would have i.e. :-

5 flights daily - Juneau, Haines, Skagway, Juneau - Juneau, Skagway, Haines, Juneau, etc. to enable passengers departing from Juneau to connect with other airlines.

Then - in a very short time of 5 flights daily "they" cut to 3 flights daily

Then - 2 flights daily

Then - 1 flight daily and when "they" did that - we at this part of Southeast Alaska were forced to phone Juneau to make reservations for "their" 1 daily flight per day (if they were able to fly at all on their 1:45 PM flight) and for connections with other airlines as "they" closed their office at 4 Mile. "They" were closed only for a few days but it was very inconvenient

and annoying.

I am not aware as to how Skagway or other communities, up and down the line have to manage but I am sure they feel the same as we do.

Do you know that a person can travel to lower California from Haines in 1 day by connecting with the early morning flight out of Juneau - via private carrier these days?

One is unable to do that with 1 or 2 flights daily with our "scheduled carrier" which just commenced 2 flights daily recently, again.

You are forced to overnight either in Juneau for the early morning flight or overnite in Seattle on the afternoon flight from Juneau to go south with our present "scheduled carrier" and "their" present 2 flights daily.

What does one do in case of "EMERGENCY" whereas it may be a matter of LIFE or DEATH?

I, for one, hope that I shall not be forced to travel with our present "scheduled carrier" in time to come.

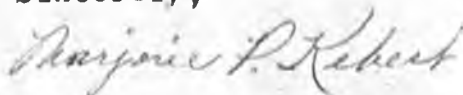
I'll take the ferry first (if we still have a ferry system) if I can no longer charter a private carrier of our choice.

It would be cheaper by ferry and since you would have to overnight in one place or the other - what would be the percentage of buying a 30 minute ride via "scheduled carrier" to Juneau?

P. S.

Neither myself or my husband are affiliated, in anyway, with any private carrier.

Sincerely,



Mrs. Marjorie P. Kebert



BOX 1028 • NOME, ALASKA 99782 • PHONE: 907-443-8292



Bob Bradley
Chairman, House Commerce Committee
Alaska State House of Representatives

Dear Sir,

This company strongly urges defeat of House Bill #381. It is a blatant attempt by the scheduled air carriers to completely monopolize the air traffic market to their advantage at public expense.

Foster Aviation revenue from individual fares in CY74 was \$73,564, i.e., approximately 1500 to 2000 passengers were carried in the Nome village area by individual tariff rate. A majority of these passengers were accommodated on aircraft chartered by other agencies that had seats available. Thus, if House bill #381 becomes law, then the scheduled air carrier serving Nome area villages need only schedule each village five times a week to completely monopolize village traffic, since it would be illegal for us to provide passenger and cargo rates. We would be limited exclusively to charter service. Not only would it be detrimental to our company, but the villages and Nome would suffer, e.g., if a passenger misses a scheduled flight to a village for any reason (i.e., aircraft full already or his schedule doesn't coincide with the scheduled flight, etc.), he would have to wait for the next scheduled flight or else charter an aircraft, even if we already have an aircraft on charter with seats available going to his village. Also, our aircraft frequently pick up individual fares from the villages while on charter. The law would make this service illegal. The law if enacted would force the individual passenger to fly only the scheduled air carrier and, if the passenger for some reason is unable to make that flight, forces him to wait for the next schedule or else charter an aircraft even if this company already has seats available on another aircraft on charter. Thus, the law forces a passenger to fly with a particular air carrier, leaving him no freedom of choice, with the distinct possibility of obtaining either poor service at fare rates with the schedule or fast service at charter rates--- even if the cost is unnecessary. Also, if the bill is enacted and a five day per week schedule is made by a carrier, the question arises: How is the public to be served by fare rates when a particular village(s) is not on a schedule for the other two days of the week? Individuals would be forced to charter. At present, an individual in the Nome area has the freedom of choice of travelling by fare with the Munz schedule or via Foster Aviation, Nome Flying Service, Northern Aviation, or Teller Air Service, Olson & Sons, or Unalakleet Air Taxi if in the area.



His chances of obtaining fare rates when he's ready to travel are obviously much greater with seven air carriers than if he is forced to travel fare rate if Munz is the only carrier.


Excluding Kotzebue, there are seven air carriers serving the Seward Peninsula. House Bill #381 would effectively limit all passengers travelling at tariff rates to Munz Airlines. In this respect, one of the prime concerns of the Alaska State Legislature should be to grant air carrier authority in order to serve and not to restrict public necessity and convenience. In this regard, the small air carrier would suffer in this attempt at public expense by the scheduled air carriers to obtain more business for themselves through legislation and not through the concept of free enterprise and competition.

In summary, the bill if enacted would serve to only one advantage---that of the scheduled carrier. This would be detrimental to the air taxi operator and more importantly to the public, which would be faced with:

1. LIMITED FREEDOM OF CHOICE with whom to fly at fare rates.
2. (a) LIMITED FREEDOM OF ACTION OUT OF NOME since to fly at fare rates one must wait for a schedule even if knowing that another aircraft would be available more convenient to one's own schedule.
(b) LIMITED FREEDOM OF ACTION OUT OF THE VILLAGES since to fly at fare rates one must wait for a schedule not knowing if there would be room for you once the aircraft stopped at your village, due to the unpredictable rate of village passenger traffic, even if knowing that another aircraft not on schedule was available and could accomodate you.
3. POOR SERVICE, IF DESIRING FARE RATES, since one would have to gear his own schedule to that of the scheduled carrier, even if other aircraft were available convenient to you.
4. HIGHER RATES, since if one could not make the scheduled flight, he would be forced to charter an aircraft, even if other aircraft on charter with available seats were already going to your desired destination.

We cannot perceive how legislation, with such illogical and unreasonable make-up, advantageous only to large air carriers and detrimental as it would be to hush areas, could even be proposed. This company vehemently opposes House Bill #381 and strongly urges that it be defeated.

Respectively,



NEAL R. FOSTER
MANAGER, FOSTER AVIATION
28 APR 75

cc: All members, House of Representatives
SENATORS BRADLEY, FERGUSON, SACKETT, RODEY
AIR TAXI OPERATORS, NW ALASKA

HAINES CHAMBER OF COMMERCE

Haines, Alaska 99827

NORTHERN GATEWAY TO THE ALASKA MARINE HIGHWAY
HOME OF THE FAMOUS CHILKAT DANCERS

April 18, 1975

Bob Bradley, Chairman
House Commerce Committee
Alaska State Legislature
Juneau, Alaska 99801

Dear Bob:

The Haines Chamber of Commerce would like to go on record as opposing HB #381 as being highly descrimatory to the small air taxi operator, and a definite cut-back of service to the traveling public.

It is felt that such a law would put the small operator out of business and will also prove to be a real disservice to the citizens of smaller communities. Lord knows it is hard enough to get around in this country without making it more difficult. Most of us cannot afford to charter a plane and simply would not make the trip if we had to pay an exhorbitant price to get there. Timing is important, too--making connections with jet schedules and being able to do business in Juneau without the cost of an overnight stay

We would appreciate your help in seeing that this bill ~~does not pass--hopefully does not even get out of committee.~~
You have many friends in Haines, don't let them down.

Sincerely

HAINES CHAMBER OF COMMERCE

Mimi
Mimi G. Gregg
Secretary

At the present time it appears that no
action will be taken on the bill.
Thank you again for writing

Sin

Bob

Dear Mimi,

Just a short note to let you know
that I received your letter regarding
HB# 381. ~~The bill is in my committee~~
~~at this time and I do not plan to take~~
~~any action on it ~~this year~~~~
~~bringing it before the committee at~~
~~anytime~~

The bill is in my committee and
I do not have any plans to bring it
up before the committee.

~~Thanks for the letter a~~

~~Let me know if there's anything~~

I'm always glad to help my friends
in Haines.

Sin
Bob

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL
JUNEAU 99801

April 9, 1975

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

Re: HB 381 - An Act relating
to the Alaska Transportation
Commission

Dear Mr. Bradley:

The Alaska Transportation Commission has asked that I bring certain information to the attention of your committee to explain the purpose of HB 381.

In 1972 the Legislature amended the Air Commerce Act, and the amendment had the effect of substantially liberalizing the operations authorized for air tax operators. In their administration of the act since its amendment, the commission has found that there is considerable reluctance on the part of many carriers holding unrestricted authority to limit their operations voluntarily in order to conform to the commission's interpretation of the type of service authorized for each carrier.

The commission has sought during the past several years to strengthen the concept of state certificated scheduled air carrier service. It is their opinion that this concept can have the effect of providing more dependable service to rural communities at a reduced cost. In order to be viable, however, the commission must have authority to protect the scheduled carriers' routes. Adequate authority does not now exist in the present statutes.

The need for strengthening intra-state scheduled carrier service is particularly important at this time when the service is particularly important at this time when the Civil Aeronautics

April 9, 1975

- 2 -

Board (CAB) is increasing their pressure on federally certified carriers to reduce their requirement for federal subsidy by withdrawing from marginally profitable routes. During the past two years there has been a substantial decrease in the number of points served directly by both Alaska and Wien Airlines. The commission is also being required to assume a greater responsibility for regulating intra-state air commerce. This bill would have the effect of strengthening the commission's authority to protect intra-state scheduled carriers and provide viable service on a regular basis for small rural communities.

The principal problem which has arisen particularly since the beginning of pipeline construction, is that carriers, both scheduled and air taxis, have been providing service between points on routes certificated to other carriers. This has had the effect of reducing the load factors of the certificated scheduled carriers and promoting a reluctance on the part of air taxi operators to compete for longer term charter business because they do not wish to publish reduced or special term rates applicable to a particular contract.

The competition with the scheduled carriers has been intense and has forced some operators to request suspension of marginal traffic routes. This has had the effect of depriving communities of scheduled service and making them dependent upon air taxi carriers, frequently involving substantially increased expense and greater inconvenience.

The proposed bill, which would prohibit air taxi operators from charging individual fares between scheduled points, does not restrict them from offering charter service between these points if it is otherwise authorized by their certificate.

Sincerely yours,

AVRUM M. GROSS
ATTORNEY GENERAL

By: *G. O. Williams*
Gerald O. Williams
Assistant Attorney General

HB

396

HB 396

Page #
29

Date
4/17

An Act relating to the sale of prepackaged non-narcotic, non-prescription medicines and drugs."

COMMITTEE REPORT

4/8/75

HOUSE

FINANCE

Mr. Speaker:

Date _____

The Committee on COMMERCE has had HB 396

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" *take also to Judiciary Comm.*

Members signing the Majority report:

<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

[Signature] Chairman

LAW OFFICES OF
FAULKNER, BANFIELD, DOOGAN & HOLMES
SUITE 201, 311 FRANKLIN STREET
JUNEAU, ALASKA 99801

HERBERT L. FAULKNER (1882-1972)
NORMAN C. BANFIELD
FRANK M. DOOGAN
MICHAEL M. HOLMES
RANDALL J. WEDDLE
WILLIAM B. ROZELL

JAN VAN DORT
LAWRENCE T. FEENEY
CHARLES N. DRENNAN

TEL. 586-2210
AREA CODE 907

March 14, 1975

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

Re: Sale of non-narcotic, non-prescription
and prepackaged drugs.

Dear Mr. Chairman:

My associate Jan Van Dort has gone east for medical attention and is expected to return in 10 days.

He told me had had talked to you about the Commerce Committee introducing a bill on the above subject. The bill has now been drafted and I attach three copies.

I would appreciate the opportunity of appearing before your Committee to explain the purposes of the bill or attend any hearing unless the Committee is satisfied it does not need any further information.

I would like to be notified when the bill is introduced to the legislature.

Thanking you for your cooperation and consideration in this matter, I remain

Very truly yours,

N. C. Banfield
N. C. Banfield

NCB/aw
Enc.

cc: William Bailey

Tom:
Take this
over to legis.
affairs - ask
Sen. Kertula about
it - FIRST

STATEMENT IN SUPPORT OF ALASKA H.B. 396

Alaska H.B. 396 is a bill intended to update current law relating to the sale of non-narcotic, non-prescription, over-the-counter (OTC) medicines (copy attached). Passage of Alaska H.B. 396 will assure that such OTC medicines which are determined by the Federal Food and Drug Administration (FDA) to be generally recognized as safe and effective and determined by the Alaska Commissioner of Health and Welfare to be safe for sale can be marketed in a wide variety of drug -- and general merchant -- outlets in Alaska. These medicines include such well-known products as Bayer Aspirin, Bufferin, Vicks, Dristan, Contac, Murine and the like.

There are a number of additional important reasons why Alaska H.B. 396 should be enacted:

1) In 1972 the Federal Food and Drug Administration began a comprehensive scientific review of all over-the-counter medicines by panels of experts. The findings from this review -- will determine those OTC medicines which are generally recognized as safe and effective by the panels and FDA and thus may be lawfully sold over-the-counter without a prescription. Passage of Alaska H.B. 396 would incorporate the results of this Federal review into the Alaska Pharmacy Act thereby assuring that Alaskan law will always be up-to-date on this point.

2) Passage of Alaska H.B. 396 will mean that Alaskan citizens will always have safe and effective non-prescription medicines readily available and at convenient locations -- something which is especially important to those living in rural and semi-rural areas, but helpful as well to urban and suburbanites who shop in supermarkets, department and variety stores, etc.

3) Passage of Alaska H.B. 396 will bring about the lowest possible prices on such important health aids by assuring the widest possible competition -- very important during a period of inflation.

4) Passage of Alaska H.B. 396 will guarantee that retailers -- drug and non-drug alike -- can continue to take advantage of modern cost-saving merchandising techniques such as self-service.



In summary, Alaska H.B. 396 is a timely and important bill for the 1975 Session. It is a measure which will spell out clearly the legislature's determination that:

-- non-narcotic, non-prescription OTC medicines approved the the Federal Food and Drug Administration as safe and effective and determined by the Alaska Commissioner of Health and Welfare as safe for sale can be sold by a wide variety of retail outlets in Alaska.

-- the public's right to buy products helpful to them in self-care at convenient locations and competitive prices will be assured.

-- the results of a comprehensive Federal scientific review of all non-prescription medications will be fully incorporated into Alaska law.

Passage of Alaska H.B. 396 will represent an important assurance from the state legislature to all Alaskan citizens that low-cost, safe and effective non-prescription medicines will be available for sale. Importantly, passage of Alaska H.B. 396 will mean that Alaska law will be in substantial uniformity with the corresponding provisions of the laws of the other forty-nine states of the United States.

April 11, 1975

HB

397

KB 397

Tape #

Date

33

4/23

34

4/23

398 404 434 440 468

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
315 FIFTH STREET, SUITE 8
JUNEAU, ALASKA 99801
TELEPHONE 586-~~XXXX~~6425
April 24, 1975

File

National Consumer Law Center
One Court Street
Boston, Massachusetts 02108

Subject: Retail installment sales interest rates

Gentle-wo-men:

H. D. 397

I am the lobbyist for Alaska Legal Services in our state legislature. A bill has been filed here to reduce the maximum interest rate on retail charge agreements to one per cent per month from one and one-half per cent. A copy is enclosed, along with a copy of the current law.

I'd like to get your opinion of the effect of this legislation on our clients, including your responses to the following points made against such a reduction.

1. It would reduce the availability of credit to low-income consumers, since higher credit risks would be denied credit.
2. It would increase prices for everyone.
3. It would force low-income consumers to borrow from finance companies and pawn brokers which have higher rates and less reputable business practices.

Since this legislature may act soon on the bill, I would appreciate a response from you as soon as possible.

Thank you.

Sincerely,

15/

Donald E. Clocksin
Deputy Director

DEC:btg
Enclosure
cc: ✓ Rep. Bob Bradley

In the absence of this written objection, the secured party may retain the collateral in satisfaction of the debtor's obligation. (§ 9.505 ch 114 SLA 1962)

Editor's note.—This section is set out above to supply an omission in the original.

Requiring notice of retention is for benefit of debtor. — The requirement of notice to the debtor by a secured party proposing to retain the chattel in satisfaction of the obligation is obviously for the benefit of the debtor. *Moran v. Holman*, Sup. Ct. Op. No. 945 (File No. 1650), 514 P.2d 817 (1973).

Failure to give notice does not prevent showing that collateral retained. — The creditor's failure to give notice of intention to retain the collateral in discharge of the debt does not prevent the debtor from showing that the collateral was in fact retained by the creditor and on the basis of such fact he may claim that he is discharged from further liability. *Moran v. Holman*, Sup. Ct. Op. No. 945 (File No. 1650), 514 P.2d 817 (1973).

The giving of notice protects the creditor from a subsequent claim that he should have sold the collateral. *Moran v. Holman*, Sup. Ct. Op. No. 945 (File No. 1650), 514 P.2d 817 (1973).

Where depreciating collateral held unduly long period of time. — When a secured party retains collateral which depreciates in value, such as a motor vehicle, for an unduly long period of time and uses the vehicle as his own, the debtor may validly claim that his obligation has been satisfied. To rule otherwise would permit overreaching and inequitable abuses by some secured parties. *Moran v. Holman*, Sup. Ct. Op. No. 945 (File No. 1650), 514 P.2d 817 (1973).

Since a motor vehicle such as a truck is a depreciating asset, where the parties are unsophisticated with reference to the myriad and involved provisions of the Uniform Commercial Code, the creditor's failure to retaken possession of the collateral, i.e., the motor vehicle, should not be permitted to wait an inordinate period, utilizing the vehicle in the meantime, and then elect to sue for the full amount of the debt. *Moran v. Holman*, Sup. Ct. Op. No. 945 (File No. 1650), 514 P.2d 817 (1973).

Sec. 45.05.794. Secured party's liability for failure to comply.

Noncompliance with AS 45.05.788(c).—Where noncompliance with the notice of sale provision of AS 45.05.788(c) has been shown, the burden of proving that the market value of the collateral was received at the sale is upon the secured party. *Weaver v.*

O'Mearn Motor Co., Sup. Ct. Op. No. 535 (File No. 961), 462 P.2d 87 (1969).

Cited in *Stanley v. Foodcrafters, Inc.*, 7 Alas. L.J. No. 3, p. 435 (Sept. 23, 1968); *Blumenstein v. Phillips Ins. Center, Inc.*, Sup. Ct. Op. No. 748 (File No. 1253), 490 P.2d 1213 (1971).

Chapter 10. Alaska Retail Installment Sales Act.

Section

120. Extent of service charge

Sec. 45.10.120. Extent of service charge. (a) The service charge shall include all charges incident to investigating and making the retail installment contract or charge agreement and for the privilege of making the installment payments under the contract or agreement. No other fee, expense, or charge may be taken, received, reserved, or contracted for investigating and making the contract or agreement, or for the privilege of making the payments.

(b) A seller or holder of a retail installment contract may charge, receive and collect a service charge which shall not exceed the following rates multiplied by the number of months, including a fraction of a month in excess of 15 days as one month, elapsing between the date of the contract and the due date of the last installment,

(1) on so much of the unpaid balance as does not exceed \$1,000, five-sixths of one per cent;

(2) if the unpaid balance exceeds \$1,000, on so much of the unpaid balance as exceeds \$1,000, two-thirds of one per cent;

(3) if the total service charge so computed is less than \$12, \$12, but if the due date of the last installment of the contract is eight months or less after its effective date, \$10.

(c) A seller or holder of a retail charge agreement, revolving charge agreement or other retail charge agreement may charge, receive and collect a service charge not to exceed the following rates computed on the outstanding balances from month to month,

(1) on so much of the outstanding balance as does not exceed \$1,000, one and one-half per cent per month;

(2) if the outstanding balance is more than \$1,000, one per cent per month on the excess over \$1,000 of the outstanding balance;

(3) if the service charge so computed is less than \$1 for any month, \$1;

(4) the service charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amount minus a differential of not more than \$5 provided that it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential. (§ 13 ch 141 SLA 1962; am § 1 ch 154 SLA 1966)

Cross reference.—As to revolving credit plans, see AS 06.05.208.

Effect of amendment.—The 1966 amendment designated the former

provisions of this section as subsection (a) and added subsections (b) and (c).

Sec. 45.10.220. Definitions.

Paragraph (12) contemplates that an additional charge may be made when goods are sold on a time pay-

ment basis. *Metcalf v. Bartrand*, 8 Alas. L.J. No. 12, p. 338 (Nov., 1970).

Chapter 30. Standard for Mobile Homes.

Section
10. Mobile home standards
20. [Repealed]
80. Administration

Section
40. Enforcement of compliance
50. Penalty
60. [Repealed]

HB

398

HB 398

Meeting 2-19-76

Justified:

1. Miles Schlosberg
Director of Banking
Dept. Commerce
2. Rep. Ted Smith
3. Mr. Broch, Pres.
Behrens Bank.
Ak Bankers Association



PEOPLES BANK & TRUST

POUCH 7007 • 8TH AVENUE AND G STREET • ANCHORAGE, ALASKA 99510
TELEPHONE (907) 279-7511

JOHN F. KAMPER
ASSISTANT VICE PRESIDENT

May 21, 1975

File

The Honorable Bob Bradley
Alaska State House of Representatives
Pouch V
State Capitol Building
Juneau, Alaska 99881

RE: House Bill #398
Section 34.15.370 Disclosure of closing costs

Dear Mr. Bradley:

In light of 12USC2601, commonly referred to as the Real Estate Settlement Procedures Act of 1974, becoming effective on June 20th of this year, it appears that the above referenced House bill is a case of over protection and over legislation.

I refer in particular to Section 6 of 12USC2605 of RESPA which reads:

"Any lender ... shall provide ... an itemized disclosure in writing of each charge arising in connection with such settlement."

12USC2601 places this and many other responsibilities on lenders and I urge you to read that law. House Bill #398 is accordingly not necessary, and it in effect closes the barn door after the horse is gone. It places a needless responsibility on lenders that are already overburdened in their responsibilities in regard to real estate closings.

I urge you not only to vote "nay" on this bill, but to urge your fellow representatives to realize the uselessness of such over-kill legislation.

Very truly yours,

John F. Kamper
John F. Kamper
Assistant Vice President

JFK/pm

A. U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT DISCLOSURE/SETTLEMENT STATEMENT	B. TYPE OF LOAN:	
	1. <input type="checkbox"/> FHA 2. <input type="checkbox"/> FMHA 3. <input type="checkbox"/> CONV. UNINS. 4. <input type="checkbox"/> VA 5. <input type="checkbox"/> CONV. INS.	
	6. FILE NUMBER	7. LOAN NUMBER
If the Truth-in-Lending Act applies to this transaction, a Truth-in-Lending statement is attached as page 3 of this form.		
8. MORTG. INS. CASE NO.		

C. NOTE: This form is furnished to you prior to settlement to give you information about your settlement costs, and again after settlement to show the actual costs you have paid. The present copy of the form is:

ADVANCE DISCLOSURE OF COSTS. Some items are estimated, and are marked "(e)". Some amounts may change if the settlement is held on a date other than the date estimated below. The preparer of this form is not responsible for errors or changes in amounts furnished by others.

STATEMENT OF ACTUAL COSTS. Amounts paid to and by the settlement agent are shown. Items marked "(p.o.c.)" were paid outside the closing; they are shown here for informational purposes and are not included in totals.

D. NAME OF BORROWER	E. SELLER	F. LENDER
G. PROPERTY LOCATION	H. SETTLEMENT AGENT	
	I. DATES	
	LOAN COMMITMENT	ADVANCE DISCLOSURE
	PLACE OF SETTLEMENT	DATE OF PRORATIONS IF DIFFERENT FROM SETTLEMENT

J. SUMMARY OF BORROWER'S TRANSACTION	K. SUMMARY OF SELLER'S TRANSACTION
100. GROSS AMOUNT DUE FROM BORROWER:	400. GROSS AMOUNT DUE TO SELLER:
101. Contract sales price	401. Contract sales price
102. Personal property	402. Personal property
103. Settlement charges to borrower (from line 1400, Section L)	403.
104.	404.
105.	Adjustments for items paid by seller in advance:
Adjustments for items paid by seller in advance:	405. City/town taxes to
106. City/town taxes to	406. County taxes to
107. County taxes to	407. Assessments to
108. Assessments to	408. to
109. to	409. to
110. to	410. to
111. to	411. to
112. to	420. GROSS AMOUNT DUE TO SELLER
120. GROSS AMOUNT DUE FROM BORROWER:	<i>NOTE: The following 500 and 600 series sections are not required to be completed when this form is used for advance disclosure of settlement costs prior to settlement.</i>
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:	500. REDUCTIONS IN AMOUNT DUE TO SELLER:
201. Deposit or earnest money	501. Payoff of first mortgage loan
202. Principal amount of new loan(s)	502. Payoff of second mortgage loan
203. Existing loan(s) taken subject to	503. Settlement charges to seller (from line 1400, Section L)
204.	504. Existing loan(s) taken subject to
205.	505.
Credits to borrower for items unpaid by seller:	506.
206. City/town taxes to	507.
207. County taxes to	508.
208. Assessments to	509.
209. to	Credits to borrower for items unpaid by seller:
210. to	510. City/town taxes to
211. to	511. County taxes to
212. to	512. Assessments to
220. TOTAL AMOUNTS PAID BY OR IN BEHALF OF BORROWER	513. to
300. CASH AT SETTLEMENT REQUIRED FROM OR PAYABLE TO BORROWER:	514. to
301. Gross amount due from borrower (from line 120)	515. to
302. Less amounts paid by or in behalf of borrower	520. TOTAL REDUCTIONS IN AMOUNT DUE TO SELLER:
	600. CASH TO SELLER FROM SETTLEMENT:
	601. Gross amount due to seller

DISCLOSURE/SETTLEMENT STATEMENT

L. SETTLEMENT CHARGES				PAID FROM BORROWER'S FUNDS	PAID FROM SELLER'S FUNDS
700.	SALES BROKER'S COMMISSION based on price	\$	@ %		
701.	Total commission paid by seller Division of commission as follows:				
702.	\$	to			
703.	\$	to			
704.					
800.	ITEMS PAYABLE IN CONNECTION WITH LOAN.				
801.	Loan Origination fee	%			
802.	Loan Discount	%			
803.	Appraisal Fee to				
804.	Credit Report to				
805.	Lender's inspection fee				
806.	Mortgage Insurance application fee to				
807.	Assumption/refinancing fee				
808.					
809.					
810.					
811.					
900.	ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE.				
901.	Interest from	to	@ \$	/day	
902.	Mortgage insurance premium for	mo. to			
903.	Hazard insurance premium for	yrs. to			
904.		yrs. to			
905.					
1000.	RESERVES DEPOSITED WITH LENDER FOR:				
1001.	Hazard insurance	mo. @ \$		/ mo.	
1002.	Mortgage insurance	mo. @ \$		/ mo.	
1003.	City property taxes	mo. @ \$		/ mo.	
1004.	County property taxes	mo. @ \$		/ mo.	
1005.	Annual assessments	mo. @ \$		/ mo.	
1006.		mo. @ \$		/ mo.	
1007.		mo. @ \$		/ mo.	
1008.		mo. @ \$		/ mo.	
1100.	TITLE CHARGES.				
1101.	Settlement or closing fee to				
1102.	Abstract or title search to				
1103.	Title examination to				
1104.	Title insurance binder to				
1105.	Document preparation to				
1106.	Notary fees to				
1107.	Attorney's Fees to				
	<i>(includes above items No. :</i>)		
1108.	Title insurance to				
	<i>(includes above items No. :</i>)		
1109.	Lender's coverage	\$			
1110.	Owner's coverage	\$			
1111.					
1112.					
1113.					
1200.	GOVERNMENT RECORDING AND TRANSFER CHARGES				
1201.	Recording fees:	Deed \$; Mortgage \$	Releases \$	
1202.	City/county tax/stamps;	Deed \$; Mortgage \$		
1203.	State tax/stamps:	Deed \$; Mortgage \$		
1204.					
1300.	ADDITIONAL SETTLEMENT CHARGES				
1301.	Survey to				
1302.	Pest inspection to				
1303.					
1304.					
1305.					
1400.	TOTAL SETTLEMENT CHARGES <i>(entered on lines 103 and 503, Sections J and K)</i>				

NOTE: Under certain circumstances the borrower and seller may be permitted to waive the 12-day period which must normally occur between advance disclosure and settlement. In the event such a waiver is made, copies of the statements of waiver, executed as provided in the regulations of the Department of Housing and Urban Development, shall be attached to and made a part of this form when the form is used as a settlement statement.

HB

403

HB 403

Tape #

34

Date

4/24

STATE OF ALASKA

DEPARTMENT OF COMMERCE

DIVISION OF BANKING, SECURITIES, SMALL LOANS & CORPORATIONS

JAY S. HAMMOND, Governor

POUCH D - JUNEAU 99801

May 27, 1975

Honorable Senator Jalmar M. Kerttula
Chairman Senate Commerce Committee
and
Honorable Representative Robert Bradley
Chairman House Commerce Committee
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Senator Kerttula and Representative Bradley:

Re: Limited Liability Companies Senate Bill 354 and
House Bill 403

If you are still considering the above bills you might want to add the enclosed letter to your files. It does not change the views I expressed in my earlier letter to you but simply adds to the explanation of the disuse of similar type associations in the State of Michigan.

Sincerely,

Miles S. Schlosberg
Miles S. Schlosberg
Director

MSS/ws

Enclosure

cc/ Robert Hartig Esq.
Senator Mike Colletta

*Should have
joint meeting
on this next
W E A R*

Miles

LAURENT K. VARNUM
CARL J. RIDDERING
OF COUNSEL

LAW OFFICES OF
VARNUM, RIDDERING, WIERENGO & CHRISTENSON
666 OLD KENT BUILDING
GRAND RAPIDS, MICHIGAN 49502

JOHN L. WIERENGO, JR.
CLIFFORD C. CHRISTENSON
F. WILLIAM HUTCHINSON
JAMES N. DEBOER, JR.
OORDON B. BOOZER
EUGENE ALREMA
PETER ARMSTRONG
ROBERT J. ELEVELD
CARL E. VER BEER
JON F. DEWITT
DONALD L. JOHNSON
DANIEL C. HOLMOEK
GARY P. SKINNER
CARL R. FLEETWOOD

DIRK HOFFIUS
J. TERRY MORAN
THOMAS J. HEIDEN
THOMAS J. MULDER
THOMAS J. BARNES
JEFFREY L. SCHAD
STEPHEN R. SAWYER

TELEPHONE 616 459-4186

RECEIVED
MAY 20 1975

May 19, 1975

DEPARTMENT OF COMMERCE
DIVISION OF BANKING
SECURITIES AND LOANS

Mr. Miles S. Schlosberg
Director of Division of Banking
Department of Commerce
State Office Building
Pouch D
Juneau, Alaska 99801

Dear Mr. Schlosberg:

It has come to our attention that you have contacted various Michigan law firms regarding the use of Michigan partnership associations. As we understand your inquiry, you generally desire information as to why there has been a lack of use of this type of entity. In this connection, we would like to offer our views on the subject.

As near as we can determine, the Michigan partnership association entity was utilized to some considerable extent prior to the 1930's. In 1931, Michigan adopted a general corporation act which was reasonably broad for its time and resolved many of the complexities of the prior law. Prior to 1931, Michigan had many different corporate acts for different business activities which were rather complex and restrictive. The partnership association was less involved and less complex. We believe that the phasing out of the use of the partnership association in the 1930's may have been attributable in part to the simplification of the State's corporate laws in 1931.

In addition, it appears from the holdings of various tax cases and from the 1939 Internal Revenue Code and regulations promulgated pursuant thereto that a partnership association was taxed as a corporation prior to the 1954 Code. The regulations under the 1954 Internal Revenue Code were substantially changed; and therefore, it is possible that such an entity could qualify, if properly structured, as a partnership for federal income tax purposes. The Internal Revenue Service has ruled that a limited partnership association formed under Ohio law, as structured, possessed more corporate than non-corporate attributes; and thus, was an association taxable

Mr. Miles S. Schlosberg
May 19, 1975
Page Two

as a corporation for federal income tax purposes. However, there have been no published rulings to our knowledge by the Internal Revenue Service relating to a partnership association that was taxable as a partnership for federal income tax purposes. Hence, the somewhat undefined status of partnership associations for federal tax purposes may have contributed to limited use of the partnership association entity.

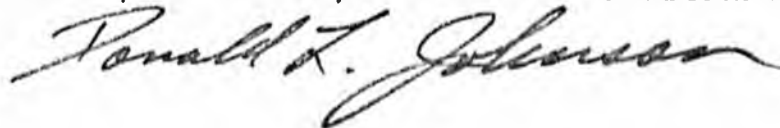
Finally, we think it is worthy to note that the limited partnership has in the past two decades or so become perhaps the most viable entity for use by persons desiring to limit their personal liability and yet receive the benefits of the pass through of tax losses. Moreover, limited partnerships were frequently structured with a shell corporation serving as the sole general partner in an effort to achieve total limited liability for partnership debts. This latter technique has been under recent attack by the Internal Revenue Service. In 1972, the Service issued notice that it would no longer rule on the validity of the limited partnership with a corporation as a sole general partner unless the corporation had a certain specified net worth. In 1974, the Service further declared that general partners had to have at least a 1% interest in all items of partnership income and expense. As a result of the Internal Revenue Service's position, limited partnerships have become somewhat less attractive to some practitioners and investors, because it is difficult to structure a limited partnership which will achieve full limited liability and at the same time assure treatment as a partnership for federal income tax purposes.

In summary, it is our view that the changes in the Michigan corporate laws in the early 1930's, the uncertainty of the tax treatment accorded a Michigan partnership association and the attractiveness of a limited partnership may well be some of the principal reasons that partnership associations have not been utilized to any great extent in recent years.

If you should desire further information concerning our views on this matter, please do not hesitate to contact the undersigned at any time.

Very truly yours,

VARNUM, RIDDERING, WIERENGO & CHRISTENSON



DLJ:ps

Department of the Treasury

135-7

Phone Contact: Philip M. Corn
Phone Number: 202-964-3553

Internal Revenue Service
Washington, DC 20224

Date: MAY 12 1975 | In reply refer to:
T:I:I:2:2



*Where the
request from my
letter*

Mr. Frank M. Burke, Jr.
Peat, Marwick, Mitchell & Co.
Suite 1500
2001 Bryan Tower
Dallas, Texas 75201

Dear Mr. Burke:

This is in response to your letter of May 1, 1975, as amended by your letter of May 2, 1975, written on behalf of the Legislature of the State of Alaska. Your inquiry concerns the manner in which the Internal Revenue Service will classify entities formed pursuant to the Alaska Limited Liability Company Act ("Act") for Federal income tax purposes if the Act is enacted into law. The Act is now pending in the Alaska Legislature as Senate Bill 354 and House Bill 403.

In the event the Act is enacted into law, the Service will consider a request for a ruling, submitted in accordance with applicable procedures, as to the classification of an entity formed pursuant to the Act. In considering any such ruling request, the Service will apply section 7701 of the Internal Revenue Code of 1954, the regulations thereunder, and any other pertinent provisions of the Code and regulations.

Sincerely yours,

Billy M. Hargett

Chief, Individual Income Tax Branch

*Who did I send letter
to? What is a copy of it?
Kun*

COLE, HARTIG, RHODES, NORMAN, MAHONEY, & GOLTZ

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

SUITE 201

717 K STREET

ANCHORAGE, ALASKA 99501

(907) 274-3576

HOYT M. COLE
ROBERT L. HARTIG
JAMES O. RHODES
JOHN K. NORMAN
ROBERT J. MAHONEY
KEITH A. GOLTZ
BERNARD J. DOUGHERTY

May 16, 1975

File

Honorable Bob Bradley, Chairman
House Commerce Committee
Alaska State House of Representatives
Pouch V
State Capital Building
Juneau, AK 99811

Re: Limited Liability Company Act
House Bill 403

Dear Representative Bradley:

Enclosed is a response from the Internal Revenue Service regarding House Bill 403.

As stated in the IRS letter, they will consider a ruling to classify an entity formed under the proposed Limited Liability Company Act under the provisions of Internal Revenue Code Sec. 7701 and the regulations under that section.

The regulations under Sec. 7701 present the four characteristics used to classify an entity as a corporation or a partnership for tax purposes. They are:

1. Limited Liability.
2. Centralization of Management.
- ✓ 3. Continuity of Life.
- ✓ 4. Free Transferability of Interests.

As explained in my testimony before the House Commerce Committee on April 24, 1975, the Limited Liability Company Act as drafted, would insure the lack of corporate characteristics three and four, and if the members choose to retain management in themselves, the Limited Liability Company would also lack the

Bob Bradley, Chairman
Re: House Bill 403
Limited Liability Company Act
May 16, 1975
Letter
Page 2

corporate characteristic of Centralization of Management.
Thus, under the provisions of Treasury Regulations Sec.
301.7701, the Limited Liability Company should be classified
as a partnership for Federal tax purposes.

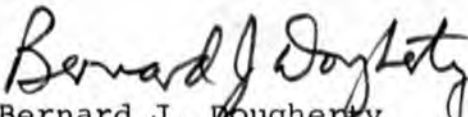
Thank you for your attention to this matter and if I can
be of any further help please contact me.

Kindest regards.

Very truly yours,

COLE, HARTIG, RHODES, NORMAN,
MAHONEY & GOLTZ

By


Bernard J. Dougherty

BJD:mg
Enclosure

PEAT, MARWICK, MITCHELL & Co.

CERTIFIED PUBLIC ACCOUNTANTS

SUITE 1500, 2001 BRYAN TOWER

DALLAS, TEXAS 75201

May 14, 1975

*File with
HB 403*

PRIVATE

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

Dear Representative Bradley:

Enclosed is the original of an information letter from the National Office of the Internal Revenue Service setting forth the procedure which would be followed by the Internal Revenue Service in considering the issuance of rulings with respect to the proposed Limited Liability Company Act (House Bill 403 and Senate Bill 354) presently pending before the Alaska Legislature.

This letter from the Internal Revenue Service is in response to your letter dated April 30, 1975, and your telegram dated May 6, 1975, together with the letter of Senator Jalmar Kerttula dated April 30, 1975, requesting such letter. The undersigned and Mr. Bernard Dougherty met with Mr. Phil Corn of the Internal Revenue Service in Washington, D.C. on May 2, 1975, to formally present the request of the Alaska Legislature for this letter.

I trust the enclosed letter is satisfactory for your purposes. If you have any questions, please call the undersigned or Mr. Dougherty.

Yours very truly,

PEAT, MARWICK, MITCHELL & CO.

F. M. Burke, Jr.
Frank M. Burke, Jr., Partner

FMB: jc

Encl.

cc: The Honorable Richard K. Urion
Mr. Miles S. Schlosberg
Mr. Bob Hartig

Department of the Treasury

Phone Contact: Philip M. Corn
Phone Number: 202-964-3553

Internal Revenue Service
Washington, DC 20224

Date: **MAY 12 1975** | In reply refer to:
T:I:I:2:2



▷ Mr. Frank M. Burke, Jr.
Peat, Marwick, Mitchell & Co.
Suite 1500
2001 Bryan Tower
Dallas, Texas 75201

Dear Mr. Burke:

This is in response to your letter of May 1, 1975, as amended by your letter of May 2, 1975, written on behalf of the Legislature of the State of Alaska. Your inquiry concerns the manner in which the Internal Revenue Service will classify entities formed pursuant to the Alaska Limited Liability Company Act ("Act") for Federal income tax purposes if the Act is enacted into law. The Act is now pending in the Alaska Legislature as Senate Bill 354 and House Bill 403.

In the event the Act is enacted into law, the Service will consider a request for a ruling, submitted in accordance with applicable procedures, as to the classification of an entity formed pursuant to the Act. In considering any such ruling request, the Service will apply section 7701 of the Internal Revenue Code of 1954, the regulations thereunder, and any other pertinent provisions of the Code and regulations.

Sincerely yours,

Handwritten signature of Billy M. Hargett.

Chief, Individual Income Tax Branch

STATE OF ALASKA

DEPARTMENT OF COMMERCE

DIVISION OF BANKING, SECURITIES, SMALL LOANS & CORPORATIONS

JAY S. HAMMOND, Governor

POUCH D—JUNEAU 99801

May 5, 1975

The Honorable Robert Bradley
Chairman of the House Commerce Committee
Pouch V
State Capitol
Juneau, Alaska 99801

Dear Representative Bradley:

Re: House Bill No. 403

During my testimony on April 24, on House Bill No. 403 concerning limited liability companies I stated that it was the position of the Department of Commerce that the bill did not appear bad but that several issues should be considered before the bill was passed:

1. Why had the State of Pennsylvania repealed similar legislation and why were statutes providing for similar organizations largely unused in the three states in which they currently existed, Ohio, Michigan and New Jersey?
2. How would the Internal Revenue Service tax limited liability companies created under the bill.

I have spoken to tax lawyers in Ohio and Pennsylvania concerning Question 1. The reason that their laws are in disuse or repealed is because organizations set up thereunder have been treated as corporations and denied partnership tax treatment by the Internal Revenue Service. The legislation in Michigan and New Jersey is very similar in its salient tax respects and I have no reason to doubt that organizations set up under the Michigan or New Jersey law will be treated similarly. However, House Bill No. 403 differs from the laws of the four latter states in that the other states require centralized management, i.e. the election of Boards of Directors and a General Manager, whereas HB 403 does not require centralized management. Centralized management is one of the four factors the Internal Revenue Service considers in determining whether or not an organization should be taxed as a corporation or partnership. It is likely that organizations set up under HB 403, lacking central management, would not be taxed as corporations.

The answer to question number 2 will hopefully be obtained by you from the Internal Revenue Service. The lawyers I spoke to were not

May 5, 1975

inclined to speculate as to tax treatment under HB 403 except to agree that the absence of centralized management distinguished HB 403 and made it more likely that the IRS would accord HB 403 type organizations partnership tax status.

If HB 403 is passed and limited liability companies are accorded partnership tax status by the IRS then Alaska would have pioneered a new and very useful business organization. I submitted the intradepartmental comment sheet because we found numerous minor and technical difficulties. The bill's proponents, Messrs. Hartig and Dougherty have met with Mr. Ladwig of this division in an attempt to resolve these problems. We will appreciate your giving us the opportunity to comment upon any revised bill that results. Based on the foregoing we respectfully change our position from "not in favor" to "in favor".

Yours truly,



Miles S. Schlosberg
Director

MSS:kb

cc Langhorne A. Motley
Commissioner of Commerce
Robert Hartig
Bernard Dougherty

ADDITIONAL COMMENTS ON HB 403

(Supplement to Ladwig's
comments of April 17, 1975.) *WJS*

Why did Pennsylvania repeal in 1966 and why has New Jersey let it become dormant.

Will it really be taxed as a partnership. Wouldn't it be more efficient to have an IRS opinion first if it is at all possible. However this is a legislator's concern for efficiency, not mine. Has the IRS route been explored?

It would be wasteful to gear up our Division to handle this new creation unless the IRS deaches it as a partnership.

TO: Banking

DATE: April 17, 1975

(~~SENATE~~ - HOUSE) BILL 403

RE: An Act relating to limited liability companies.

Check One:

1. TOP PRIORITY - in favor of. _____
2. FAVOR - in favor of, but not top priority. _____
3. OK - 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.)

This writer is not in favor of the proposed bill as written for the following reasons:

1. Assuming the responsibility for administration is delegated to the Division of Banking, Securities, Small Loans & Corporations, it will have a fiscal impact upon this Division. Fiscal note attached.
2. Page 2, lines 10 and 11. To operate in jurisdictions other than Alaska may require registration in those jurisdictions similar to that required by this State of foreign corporations. Proof of existence may be required. This bill does not provide for a fee for providing certified copies of documents; or the documents themselves.
3. Page 3, line 27. The term person is defined in this bill; however no provision is made that individuals wishing to form such a company must be at least of "legal age".

(continued)

Writer's Signature: [Signature]
Writer's Title: [Title]
(DEADLINE 24 hours)

13. Page 11, line 9. Proof should be required that the company has completed its affairs before a certificate of dissolution is issued, i.e. articles of dissolution.
14. Page 11, line 13. The accounts and affairs should be settled before dissolution and be a condition precedent to issuing any certificate of dissolution other than a certificate issued by reason of involuntary dissolution.
15. Provisions should be made for an annual report to accompany the tax to allow the Commissioner to determine
 - (a) that no capital contributions have been made other than those by filed amendment and the tax thereon has been paid.
 - (b) that the company has continued to maintain the same registered agent as that of record.
16. Provisions should be made for a registered agent to resign and a new one appointed and/or changing the registered office.
17. Consideration should be given to providing limited liability companies of other jurisdictions the means to do business in Alaska.

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

FY 76

FY 77-80

100 - 2 positions @ 340 + 18% benefits

Assumed 5% inflation

300 - rental expense, postage, printing, xerox, etc.

400 - stationery & office supplies

500 - desks, chairs, typewriters, file cabinets

IV. ATTACHMENTS

V. DATE: 4/13/75

PREPARED BY: William W. Ladwin

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

HB 403

BERNARD J. DOUGHERTY
ATTORNEY AT LAW

COLE, HARTIG, RHODES, NORMAN,
MAHONEY & GOLTZ
A PROFESSIONAL CORPORATION

MEMORANDUM

717 K STREET, SUITE 201
ANCHORAGE, ALASKA 99501

TELEPHONE
(907) 274-3576

LIMITED LIABILITY COMPANY

The limited liability company has predecessors in New Jersey, Pennsylvania, Michigan and Ohio. In New Jersey and Ohio it was known as a "limited partnership association" and in Pennsylvania and Michigan as a "partnership association".

The business entity which we will now call the limited liability company had its origins in the third quarter of the 19th century. It was adopted in Pennsylvania in 1874, in Michigan in 1877, in New Jersey in 1880, and in Ohio in 1881. No other states have used this form of business entity.

The reason for its creation seems to be the particularly restrictive corporation statutes common in the late part of the 19th century. At that time in the development of the corporate entity, the restrictions in some states included the limitation of business to one state, the limitation of the corporation's business to a sole purpose stated in the Articles of Incorporation and various similar confining requirements. In the early days of the development of the corporation, the case law also was extremely restrictive on what a corporation could do and how it could do it, because of the roots in the English system that a corporation, being chartered by the Crown, was authorized to do only what the Crown specifically authorized it to do.

In the early 20th century, these restrictions on corporate activity were greatly reduced and have continued to be reduced through the introduction of the Delaware corporate statute and the Model Business Corporation Act, upon which many states have based their corporation statutes. These statutes gave much greater freedom to the shareholders and the board of directors to structure the activities of the corporation to meet their particular needs. This has especially been true in the close or closely held corporation which most often is a family corporation. Indeed, some states have adopted statutes which govern the activity of such close corporations and give them wide latitude in arranging their affairs. As these new corporate statutes were adopted by the various states and the case law governing the activities of corporations began to be less restrictive, the vehicle of the limited partnership association or partnership association fell in to disuse.

In introducing the Limited Liability Company Act in the State of Alaska, it is our desire to provide to investors, and particularly real estate investors, the opportunity to utilize this new form of business entity to conduct their business affairs with less expense and fewer restrictions.

The Ohio statute proves to be not usable for these objectives because of its preclusion of dealing in real estate

from the uses of the Ohio Limited Partnership Association, (Ohio Rev. Stats. §1783.01).

Also, the statutes in the other states are substantially more restrictive than the Alaska legislation being introduced and thus provide a less useful vehicle for conduct of a business. For example, the New Jersey statute (NJ Stats. Ann. §42.3-1) requires that the principal place of business of a New Jersey limited partnership association must be established and maintained within the State of New Jersey. The Ohio and Michigan statutes, though a little less restrictive, still require that that organization shall have its principal office or principal place of business within the state. The Pennsylvania statute was repealed in 1966, except as to professions which are not permitted to incorporate in the state.

The Alaska proposed legislation does away with this requirement as to the principal office or principal place of business. The reason for this is the desire to draw to the state investors interested in organizing under the Alaska Limited Liability Company Act for business or investment in other states as well as the State of Alaska. The legislation requires a registered agent in the state which would always insure a resident on whom process can be served in suit against the limited liability company.

The legislation proposed would provide a good amount of revenue each year to the state as there are provisions in the proposed legislation for the following fees:

1. A filing fee upon formation of the Limited Liability Company, which is based on capital invested upon a sliding scale to a maximum of \$1,000;
2. An annual fee of \$100;
3. A filing fee for amendment to the Certificate of Organization of \$25.00; and
4. A filing fee of \$25.00 upon dissolution.

It is suggested that this form of business entity will draw a substantial number of investors from other states who, up to this time, have used the limited partnership, corporation or joint venture vehicle for their investments.

In the first ten months of 1974, approximately 1,300 limited partnerships were filed in the State of Texas, which requires a filing of the limited partnership within the state. In Texas this is used as a revenue measure and there is a requirement of a filing fee which rapidly reaches the maximum fee of \$2,500 at capital contributed of \$500,000. This figure would not at all be uncommon in the real estate market of today.

It is estimated that in excess of half of these limited partnerships would be drawn to use the Limited Liability Company authorized by the proposed legislation in the

State of Alaska to conduct their business or to direct their investments, thus providing this increased revenue for the State. This figure is only for the State of Texas and it is suggested that this legislation would be attractive to investors of all states and may substantially contributed to the revenue of our state.

In addition, it is hoped that in drawing investors to the state for the purpose of utilizing our Limited Liability Company Act as a vehicle for investment in other states, such investors will also use the device as an investment entity in our state, thus providing increased work for real estate personnel, title companies, and all those persons who assist in transactions concerning real estate. In addition, it will be necessary for each limited liability company to establish and maintain a registered agent in the state and it will be necessary for the state to employ a number of additional persons to file and administer the limited liability companies.

The provisions of the act enable the persons forming a limited liability company to provide for management of the limited liability company either by the members or by a manager or managers elected by the members of the limited liability company. The voting power of the members is to be in proportion to their investment in the capital of the company. As with a corporation, the liability of the limited liability

company is to be limited to assets of the company. A member would have a liability not to exceed his contribution to the company or any amount which he is committed to contribute but has not as yet contributed. Why would this vehicle be used rather than a limited partnership? Because it combines the attractive characteristics of a corporation with the attractive characteristics of a partnership.

It is hoped that in submitting a request for a private ruling from the Internal Revenue Service of the United States Treasury Department, a limited liability company could obtain partnership classification for tax purposes.

There are four characteristics in distinguishing between partnership classification and classification and taxation as an association or corporation for purposes of the Internal Revenue Code. These are: (1) centralization of management; (2) continuity of life; (3) free transferability of interests; and (4) limited liability.

In order to be taxed as an association, an entity must have more corporate characteristics than partnership characteristics. A similar problem with regard to taxation is faced by the limited partnership vehicle which would often request advanced revenue rulings to make the limited partnership attractive to an investor.

As drafted, the limited liability company obviously would always have limited liability.

It is expected that the Internal Revenue Service would rule favorably on the continuity of life characteristic because of provision 10.50.060 which states that a limited liability company shall be dissolved upon the death, retirement, resignation, expulsion, bankruptcy, dissolution of a member or occurrence of any other event which terminates the continued membership of a member in the limited liability company, unless the business of the limited liability company is continued by the consent of all the remaining members thereof. Thus, without consent of all the remaining members, the limited liability company would be dissolved upon one of the stated events.

Free transferability of interests is treated in Section 10.50.057. This section provides that a member may always transfer his interest in the limited liability company, but unless unanimous approval is obtained from the other members, the member transferring an interest, can transfer merely the profit and loss interest and not a right to share in the management of the limited liability company.

As to the characteristic of centralization of management, the provisions of the proposed legislation enable the members of the limited liability company to choose whether the limited liability company will be governed by themselves as members or by a manager or management elected by them. If the

members choose to retain management, the limited liability company would also lack the corporate characteristic of centralization of management.

Thus, it can be seen that at least two and possibly three of the corporate characteristics may be lacking in the classification of the limited liability company as a partnership or as an association for the purposes of the Internal Revenue Code.

In conclusion, a limited liability company offers the investor a business entity which combines the attractive elements of both a partnership and a corporation. It combines the limited liability offered to shareholders of a corporation with the tax treatment of a partnership.

The possibilities of increased revenue to the state have been set forth and it appears that increased revenues in excess of one million dollars may be obtained with very little increased expense incurred.

Robert L. Hartig

March 14, 1975

CORPORATION V. PARTNERSHIP V. LIMITED LIABILITY COMPANY

A. NON-TAX CONSIDERATIONS

	<u>CORPORATION</u>	<u>PARTNERSHIP</u>	<u>LIMITED LIABILITY COMPANY</u>
LIFE	Perpetual in most cases.	Agreed term, or life of any partner.	Agreed. Not to exceed 30 years.
ENTITY	Separate legal person.	Not a separate entity from individual partner.	Separate legal entity.
LIABILITY	No individual liability.	General partner individually liable for all obligations. Limited partner usually liable to the amount of capital contributed.	No individual liability.
TRANSFER OF INTEREST	In absence of restrictions interest may be sold to strangers.	New partnership agreement usually required.	May be transferred; however, if all other members do not approve of the proposed transfer by unanimous written consent, the transferee has no right to participate in the management and affairs of the company or to become a member, but is entitled only to receive his share of the profit or return of contributions.
CAPITAL	Capital may be enlisted by sale of stock.	New capital secured only by loans, increase in membership or new contributions by existing partners.	Capital is contributed in money or property at inception or during the course of operation as set out in the Certificate of Organization.
BUSINESS ACTION	Action authorized by specified percentage of directors and/or stockholders.	Unanimity of partners usually required.	Action authorized by majority in interest of the members.

	<u>CORPORATION</u>	<u>PARTNERSHIP</u>	<u>LIMITED LIABILITY COMPANY</u>
CREDIT CONSIDERATIONS	The corporation possesses credit ability apart from stock membership. Certificates of stock may be used as collateral.	Credit is coincidental with membership and partners assume joint and several responsibility. Interests in partnerships are not ordinarily accepted as basis for loan or credit.	Credit will be extended to the company on the strength of its contributed or to-be-contributed capital.
MANAGEMENT	Shareholders may invest without participation in management.	All general partners involved in management responsibility	Management of the company is in the members unless management by a manager or managers to be elected by the members is provided in the Certificate of Organization.
FLEXIBILITY	A corporation operates within its corporate franchise granted by the state or states in which it is authorized to do business.	A partnership is a contractual relationship which may be altered by unanimous agreement of the partners.	Flexibility is perhaps the Limited Liability Company's strongest point. The Certificate of Organization will contain a minimum of restrictions and the working rules of the corporation may be drafted in the form of an operating agreement.
<u>B. TAX FACTORS</u>			
TAX BURDEN	As a separate legal personality a corporation is subject to taxation, in addition to the taxation of the income received as dividends by its members. <u>Electing "Small Business Corporation"</u> . (1) Each shareholder's proportionate share of the corporation's undistributed taxable income is included in the gross income of the shareholder. The corporation pays no tax thereon. This substantially parallels the taxation of a partner's income from the partnership.	Each partner is taxed on his proportionate share of income whether distributed or not.	Private revenue ruling will be requested of the Internal Revenue Service requesting that the company be classified as a partnership for federal tax purposes. As drafted the Limited Liability Company will lack at least two and perhaps three of the characteristics of a corporation; the third centralization of management, will be lacking if management is reserved to the members.

TAX CONCERN

CORPORATION

In close corporations, gross corporate income is reduced by reasonable salaries paid to officer-stockholders. Accumulation of profits may be made up to at least \$100,000 or to such larger extent as not to constitute avoidance of surtax by the stockholders and an unreasonable accumulation in terms of the requirements of business. Corporation taxes, plus individual taxes on the compensation for services or dividends, represent the tax burden of the corporate investment, as against the individual tax paid by partners.

Electing "Small Business Corporation." Undistributed taxable income of an electing corporation is taxable proportionately to each shareholder. Subsequent distributions out of this income to the shareholders are tax free. This substantially parallels the taxation of a partner's income from the partnership.

PENSION TRUST

Corporate contributions to a pension trust, within the amount allowed by law are deductible by the corporation. Stockholder-employees may be covered to same extent as other

PARTNERSHIP

All earnings and profits are taxable to the individual partner, unaffected by accumulations of earnings. However, once so taxed, there-after any distributions of these earnings are tax exempt to the individual partner.

Members of a partnership are not employees and are not proper beneficiaries under an exempt Pension Trust. However, under the Self-Employed Individuals Tax Retirement Act of 1962,

LIMITED LIABILITY COMPANY

All earnings and taxes are taxable to the members whether distributed or not. It is contemplated that the distribution rules and basis rules now applicable to the partnership interest will also be applicable to a limited liability company.

Unknown but it is suggested that the rules now applicable to a Subchapter S corporation which impose the limits of the Keogh Plan will also be applicable.

CORPORATION

employees, so long as there is no discrimination in favor of such stockholders.

Electing "Small Business Corporation". An electing corporation's contributions to a pension trust, within the amount allowed by law, are deductible by the corporation from its taxable income.

SOCIAL SECURITY TAX

Compensation paid to stockholding officers and employees is subject to Social Security Taxes.

Electing "Small Business Corporation". Compensation paid to stockholding Officers and employees is subject to Social Security Taxes.

ASSIGNABILITY OF INTEREST OR INCOME

An unqualified transfer of stock ordinarily requiring no other person's consent, will entitle transferee to dividends or distributions

Electing "Small Business Corporation". Transferee is entitled to dividends and distributions, but the stock must be transferred to an individual or estate and the transferee must consent to the continuation of the "tax option" status.

PARTNERSHIP

partners who own more than 10% of the capital or profit interest in the partnership may, beginning in 1968, deduct the full amount of their contribution to a pension plan up to \$2500.

Partners do not pay Social Security Taxes upon their salaries from the partnership. However, they are required to pay the tax on self-employment income.

Any assignment of interest requires consent of the other partners and may create a new partnership.

LIMITED LIABILITY COMPANY

Result should be same as partnership with members paying self-employment tax and not subject to Social Security Tax.

A member's interest in Limited Liability Company may not be transferred or assigned without unanimous approval of the continuing members. Assignment of a member's interest will result in the tax falling on the transferee.