

ALPHA INSTITUTE OF TECHNOLOGY  
7/00

1798 SLC - SB 406 - SB 590  
366/

LOCATION CONSULTANT

PHONE (213) 349-9518

FILM  
TAPE  
RESEARCH

Mr. Steve Smirnoff  
9421 Dundee Circle  
Anchorage  
Alaska, 99502

July 25, 1980

Dear Mr. Smirnoff:

I recently returned, again, from the State of Alaska. As always when I return to the lower 48 I am left with a feeling of awe. The magnitude of beauty, space, clean air and sence of a new frontler is so re-generating.

My visits to Alaska are generally in a professional capacity of location scouting for motion pictures, television, and television commercial filming. It is my job to find and secure filming sites. I have done this around the world, but am still most excited about Alaska.

I read in BackStage that you are in the process of establishing a film commission for the State of Alaska.

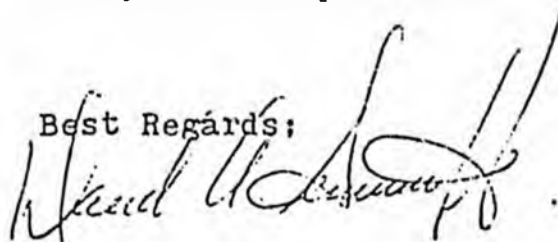
It is long overdue.

I have been so frustrated over the years while filming in Alaska. You have almost everything necessary to film in your State except coordinated business and government assistance. For a state, (largest in the nation), with the greatist back-grounds and settings in the country, it is a crime for you to miss out on the prestige and economical rewards generated by film makers.

I feel so deeply about a Alaska Film Commission that in a letter to Governor Hammond I proposed setting one up. Obviously you have been working of this project for sometime and have progressed to near reality, thus my not receiving a reply from your state.

I look forward to meeting you and your next trip South or my next trip North.

Best Regards;



David A. Smirnoff

July 1, 1980



Mr. Steve R. Smirnoff  
9421 Dundee Circle  
Anchorage, AK 99502

Dear Steve:

Your thoughts on an Alaska State Film Commission are timely. There appears to be a great deal of interest in shooting film and tape in Alaska by New York and Los Angeles producers and advertising agencies. We get calls regularly from groups in both of those film production centers. And this is with no promotion!

As a film producer in Alaska I can see some limitations in advertising the state as a mecca for production. The principle drawback we have is our weather. This, it seems to me, makes Alaska rather undesirable as a location for shooting feature productions. However, by the same token, Alaska's exotic scenery make it a natural for television commercials. I feel that properly promoted, Alaska could become a production location for many national and regional commercials. The amounts of money involved in this type of production are tremendous.

Should this project be successful in luring commercial production to the state, it is likely that other types of production would follow as producers and production crews become familiar with the state and its attractions.

The very attraction of production to Alaska would undoubtedly provide opportunities for production companies such as this one to participate in varying degrees with outside companies. For example, in the past we have provided everything from minor equipment to production management services through full production to advertising agencies and producers from New York, Los Angeles and other lower 48 production centers. I am certain our opportunities in this area would escalate with proper promotion.

Good luck with your project. If there is anything more I can do to help, please call on me.

*Creative Center*

*2104 Sand Lake Road / Anchorage, Alaska 99502*

Telephone (907) 243-4110 / Mail: P.O. Box 4-406, Anchorage, Alaska 99509

Steve Smirneff  
July 1, 1980  
Page Two

Best regards,

A handwritten signature in cursive script, appearing to read 'Ed Isenson', written over a horizontal dotted line.

Ed Isenson



November 28, 1980

Mr. Steve R. Smirnoff  
Transmart Company  
3581 Kachemak Circle  
Anchorage, Alaska 99502

Re: Alaska Film Commission

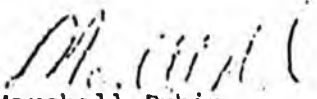
Dear Steve:

It was a pleasure meeting with you the other week. I would like to take this opportunity to tell you how pleased we at On Location are that you are gaining momentum in forming the Alaska Film Commission.

As one of the major sources of information for the motion picture and television industry, On Location would like you to know that you have our full support and access to any and all of our resources to aid you in promoting the state of Alaska.

If, at any time in the future you think we could be of any assistance, please feel free to give me a call.

Sincerely yours,

  
Marshall Rubin  
Associate Publisher

MR:mk



OFFICE OF THE GOVERNOR  
STATE CAPITOL  
AUSTIN, TEXAS 78711

WILLIAM P. CLEMENTS, JR.  
GOVERNOR

June 12, 1980

Mr. Steve Smirnoff  
9421 Dundee Circle  
Anchorage, AK 99502

Dear Mr. Smirnoff:

In answer to your telephone call, we are pleased to provide you with information relating to the work of the Texas Film Commission.

We are a division of the Governor's Office which was organized in 1971 for the purpose of bringing producers to our state to film theatricals, documentaries, commercials, or any other type production, for the economic benefit to be derived from that production.

The latest available figures show a total of \$45,540,000 has been spent in Texas by motion picture and television production companies from January 1972 through December 1978.

To assist you in evaluating the growth of the industry in Texas, let me point out that during the first two years the Texas Film Commission functioned, it was responsible for bringing \$10 million in motion picture production budgets to Texas; the second two years, the figure rose to \$18 million; the third two years, the figure climbed to \$60 million, and last year alone, \$58 million was brought into Texas from outside sources. During the 1979-80 biennium, better than \$76 million in productions have either been filmed already, or have been confirmed to be filmed here later this year. We fully expect that figure to exceed \$90 million before the year is out, based on our knowledge of productions which are considering filming here, but have not as yet confirmed.



WILLIAM P. CLEMENTS, JR.  
GOVERNOR

OFFICE OF THE GOVERNOR  
STATE CAPITOL  
AUSTIN, TEXAS 78711

June 12, 1980

Mr. Steve Smirnoff  
9421 Dundee Circle  
Anchorage, AK 99502

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Mr. Smirnoff

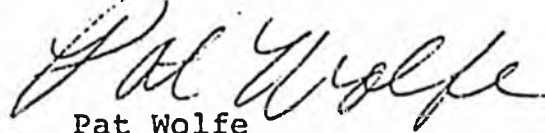
June 12, 1980  
Page two

Under separate cover, we are forwarding you an informational packet, including our Texas Production Manual, a compilation of film-related services and facilities available statewide, a locations brochure reflecting the variety of "looks" available in our state, a directory of the Texas Association of Film/Tape Professionals, some recent issues of our Film-Texas newsletter, and one of our posters promoting Texas as "The Third Coast".

I hope this information is helpful in your considerations relating to the establishment of a film promotion office in Alaska.

Best wishes,

TEXAS FILM COMMISSION



Pat Wolfe  
Executive Director

PW.jo



Office of Motion Picture and Television Development

2525 Riva Road, Annapolis, MD 21401 (301) 269-3500  
Jack K. Smith, Director

July 15, 1980

Mr. Steve R. Smirnoff  
9421 Dundee Circle  
Anchorage, Alaska 99502

Dear Steve,

It was very pleasant speaking with you today and learning of your interest in getting a motion picture office started in Alaska.

Naturally, I would think this is a good idea, it has been for us. For a two year period it was rather discouraging trying to get the right people in the State on our side. However, during this period, we kept right on with our efforts and fortunately landing a few good pictures in the process. Now, we are getting good support and have obtained the respectability of being made into law by the legislature. (A copy of this legislation is enclosed).

I went through the trauma of how to get this office organized. Did I want it through an act of legislation - or was a mandate by the Secretary of Economic and Community Development the right route? If I were to go the legislation way - no doubt there would be some kind of commission involved - and who needed a group of political appointees telling me what to do. I did not have the luxury of being able to be set up as part of the Governor's Office.

So, this is what happened. Since I was already a part of Economic and Community Development, I was finally able to persuade the, then, Secretary of the Department to create this office within the Department - and obtained some sort of official recognition so that I might work.

However, as time went by I began to realize that politics being, by nature of elections, often changing personalities as well as opinions - I thought I better try for legislation. I did, and after two attempts the Office of Motion Picture and Television Development was ratified by legislation - as well as the Motion Picture and Television "Council".

As it turned out - there was an election - people elected a new governor - and he, in turn, appointed a new Secretary of this Department - and early on - I learned the new Secretary has some misgivings about a motion picture office - and I feel a whole lot better about this office being enacted by legislature. It also turned out well as far as the "Council" was concerned. All members were selected by us - and all are motion picture or TV oriented with the exception of the two legislators (see bill) but one of those legislators introduced the bill. So now, everything is set - with the exception of one small item - nobody thought of a budget - however, I did manage to get about fifteen thousand operating expenses for this year.

That's Maryland's motion picture office story - a story in which we intend to add many exciting chapters.

Please let me know how you make out. I think Alaska should have an office - why should a producer go to Canada when you have it all there? As you know, there are 44 states that have some kind of a motion picture office - so why not be number 45? I am sure, that before long all 50 states will be represented; I forgot to add that there are 17 major cities that also have some kind of office - other than the state office.

If there is anything at all I can do to help you get started, please do not hesitate to let me know.

Good luck - and take it easy!

Sincerely,

Jack K. Smith

JKS:ckh



STATE OF FLORIDA DEPARTMENT OF COMMERCE  
Division of Economic Development Collins Building, Tallahassee 32301

September 16, 1980

Mr. Steve Smirnoff  
Alaska Film Office  
9421 Dundee Circle  
Anchorage, Alaska 99502

Dear Steve:

Enclosed is a copy of our Florida Golden Pages.

Good luck on your new office. You certainly have the locations. If they need sun and sand, send them our way.

Sincerely,

Charles Porretto  
Motion Picture and TV Office

CP/mh

Enclosure

PROPOSAL: Creation of two positions within the Dept. of Commerce to promote increased use of Alaska locations by the motion picture and television industry.

Compared to other states, Alaska has remained relatively untouched by the \$17 billion-a-year motion picture and television industry. Even films about Alaska, such as one titled SITKA recently produced in Puget Sound, have been shot elsewhere for reasons that are unclear.

The motion picture and television industry, if encouraged to use Alaska locations for filming, could potentially pump millions of dollars into local economies every year. The Texas Film Commission, which has the responsibility of soliciting the use of Texas locations for motion picture and television productions, reports over 45% of the total budgets for films produced there has been spent within that state for goods and services. 29 other states with film commissions, bureaus, or task forces, report similar benefits. During 1979, motion picture companies left \$25 million in New Mexico. The filming of the movie FIST over a six-week period pumped over \$2 million into the local economy of Dubuque, Iowa.

Though our scenery and cultural diversity offer great potential, Alaska has no mechanism to actively promote the use of Alaska locations or provide any assistance to production companies in overcoming various logistical problems they may encounter here. The State Division of Tourism will answer inquiries from the industry, but Alaska offers none of the services that have proven effective in attracting production companies to other states.

In 1978, the states of Arkansas, Louisiana and Georgia jointly contracted a study to identify characteristics of film attraction programs most sought by motion picture producers. The study identified the key elements of successful programs as follows:

- a) The existence of a film commission with the absolute support of the governor of the state;
- b) A commission which, or who, interjects itself into the community of the film industry's key decision-makers;
- c) A steady flow of up-to-date information about the state, including photographs, lists of important information such as services available, availability of talent, equipment, technical expertise, logistical support, etc.;
- d) Listings in popular industry directories and informative advertisements in leading trade periodicals;
- e) Honesty of the commissioner in accurately selling his state and in responding promptly to requests for information;
- f) Presence of commission representative on site for the duration of location filming;
- g) Cooperation of other state officials, local residents and officials, unions.

Alaska stands to gain in many ways from the eventual creation of a Special Film and Television Task Force that offered the above characteristics. Even if such a Task Force succeeded in attracting only one additional production a year over the current level of activity, it would bring more money to the private sector in the state than would be spent for its operations.

A wide variety of industries would benefit from increased production expenditures in Alaska: transportation, hotel, restaurant and media-related services, to name a few. The tourism industry would receive

additional indirect benefits from increased exposure of Alaska among television and motion picture viewers all over the world.

In order to begin a direct promotional campaign to attract the industry to Alaska, roughly nine months of preparatory work must be completed. Two new positions within the Department of Commerce are necessary for this preparation: a Special Assistant to the Commissioner and an Administrative Assistant. The Special Assistant would have the following responsibilities:

- a) Developing an inventory of production services available within the state;
- b) Compiling a list of pertinent regulations, permit details and specific requirements for use of municipal, state, native and federal land and determining government actions that could aid the industry in securing necessary permits, waivers, etc.;
- c) Compiling an inventory of locations, basic data, talent and craft resources that exist within the state;
- d) Developing a portfolio of photography that represents the state and its prime locations from an historical, cultural and natural perspective;
- e) Surveying the concerns and restrictions of various production unions and determining the impact of productions in Alaska on these unions;
- f) Establishing a fact-finding dialogue with producers, directors, screenwriters, location managers, and production personnel with emphasis on the major feature-producing studios;
- g) Developing a public relations approach for advertising and promotion of the state to the industry;
- h) Proposing organizational options for a Special Film & Television Task Force for promoting the use of Alaska locations including budget projections, promotional plans, job descriptions, timetables and master plan;
- i) Completing a final report with all research, conclusions and recommendations for review by the Twelfth Alaska Legislature during its second session.

Proposed Budget FY 82 for two positions within Commerce Dept.

<u>Description</u>	<u>Amount</u>
Salaries & Benefits	
Special Assistant	
Salary Range 22A, \$3,494/Mo.	\$41,928
Benefits	10,901
Administrative Assistant	
Salary Range 12A, \$1,761/Mo.	21,132
Benefits	5,494
Travel & Per Diem	5,000
Contractual	20,000
Printing, telephone, office space, miscellaneous professional fees	
Commodities	2,000
Office supplies	
Equipment	<u>3,000</u>
 Total FY 82	 \$109,455

If the effort to promote increased use of Alaska locations by the industry is to succeed, it must have support from both the public and private sectors. It is hoped, therefore, that the FY 82 budget would include seed money from both. An ideal 50/50 match would mean \$55,000 from each entity. The potential return over the long run, particularly for the private sector, is great.

MAR 23 1981

# Los Angeles International Film Exposition

March 17, 1981

Senator Bettye Fahrenkamp  
Pouch V  
State Capitol  
Juneau, Alaska

*Appreciated the letter  
re: working on the  
I will not hesitate to contact  
you when the need arises  
Thank you*

6830 Sunset Boulevard  
Hollywood, USA 90028  
Telephone: 213/469-9400  
Cable: ROSEBUD Hollywood

Dear Senator Fahrenkamp:



A Non-Profit Corporation

Gary Essert  
Director  
Barbara Zicha Smith  
Assistant Director

The Board of Trustees

Thomas Pollock, Chairman  
Mike Medavoy, President

Gary Abrahams  
Steven Bach  
Frederick Brisson  
Kathleen Brown  
Philip Chamberlin  
Rob Cohen  
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Gary Essert  
Gary R. Farnham  
Phil Feldman  
David Field  
Peter Geiger  
Wendy Goldberg  
Peter L. Jones  
Jeremy Paul Kayan  
Fay Karim  
Glenn Katz  
Arthur Knight  
Howard Krom  
Gary Kurtz  
Alan Ladd, Jr.  
Sherry Lansing  
Leonard Levy  
W. M. Marcussen  
Frederic D. Murphy  
Heien Neufeld  
Jack Nicholson  
Michael Oltz  
Max Palevsky  
Elisabeth Polon  
Frank Price  
Henry Rogers  
Richard S. Rosenzweig  
Michael Roshkind  
Daniel Setznick  
Robert W. Shapiro  
Sidney J. Sheinberg  
Richard A. Shepherd  
Charles J. Weber  
Jery Weintraub

I am sorry that I didn't have the opportunity to talk with you during my trip to Juneau last week. I hope you have had the opportunity to review my materials on a State Film Commission or Task Force. Most of my materials are with Russ Meekins office in care of John Hale.

I understand that you are planning to introduce a plan to set up Motion Picture Industry promotion via the Department of Economic Development and Commerce. I spoke with Commissioner Weber and Richard Montague of Tourism. It seems that Mr. Montague feels that Tourism is already promoting the State to the Industry and handling all assistance needs. This Department has already had the opportunity to do the job but the track record is poor. I can tell you that Alaska doesn't have a wonderful reputation within the film industry. It appears it is currently difficult to obtain direct cooperation and assistance from the State.

I understand that your plans calls for matching funds from the in-state industries that would most benefit from the film industry using Alaska locations. It would seem to me that it would be difficult to expect such cooperation based on past results. The State needs to take the first step and once the "Industry" starts exploring the State and expenditures start materializing then we can expect underwriting by the private sector.

My suggestion to John Hale was to for this project under the Governor's office. It seems they do not want to undertake this project. (It really does belong there, other State Film Commissions prove this fact.) There is considerable potential in this new industry for Alaska. Please, I stand ready to assist in any way I can via my position here in Hollywood. Do not hesitate to contact me.

Sincerely,  
**K. Ott**  
KENNETH OTT  
General Manager  
FILMEX

Levine, Krom & Unger  
Legal Counsel  
Kenneth Leverthal & Company  
Financial Consultants

March 31, 1981

Kenneth Ott  
General Manager  
FILMEX  
6230 Sunset Boulevard  
Hollywood, California 90028

Dear Ken:

I appreciated receiving your letter giving your thoughts and ideas regarding our plan to set up Motion Picture Industry promotion here in the State.

My staff is presently working on this idea and your suggestions will be kept in mind. I will not hesitate to contact you when the need arises.

Thanks again, Ken.

Sincerely,



Bettye Fahrenkemp  
Alaska State Senator

BF/ab

I. REQUEST

Bill/Resolution No. SB 406

Title An Act establishing a film and television section

Requested by Fahrenkamp, Mulcahy, Ziegler, Stimson and Sturgulew Date 4/9/81

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development

Program Category Affected Development

BRU, Program, or Subprogram(s) Affected Office of the Commissioner

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		79.4				
200 TRAVEL		5.0				
300 CONTRACTUAL		25.6				
400 COMMODITIES		2.0				
500 EQUIPMENT		3.0				
600 LAND & STRUCTURES						
700 GRANTS. CLAIMS. ETC.						
<b>TOTAL</b>	-0-	115.0	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND	-0-	115.0	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME	0	2	0	0	0	0
PART TIME						
TEMPORARY						

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

100 Personal Services:	Salary and Benefits, 2 positions	
	Special Assistant, Range 22A	52.9
	Administrative Asst., Range 12A	26.6
200 Travel:	Necessary in-State travel and per diem to compile and verify location settings and develop photo portfolio, allows two out-of-State trips for industry contact	5.0
300. Contractual:	Communications (2.4), Office Space (5.4), Printing (10.0), other professional fees and services (7.8)	25.6
400 Commodities:	Office Supplies	2.0
500 Equipment:	Office Equipment for two positions	3.0

IV. DATE \_\_\_\_\_ PREPARED BY Terry L. Miller *YLM*  
 AGENCY Dept. of Com. & Econ. Devel., Div. of Tourism

Original: Legislative Finance PHONE 465-2010  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

S

B

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111

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D

JUNEAU, ALASKA 99811

Phone: 465-2500

April 28, 1981

Honorable Bob Mulcahy  
Chairman  
Senate Labor &  
Commerce Committee  
Pouch V  
Juneau, Alaska 99811

Dear Senator Mulcahy:

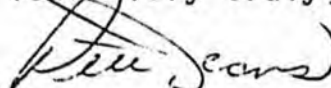
Re: SB 411

SB 411 which will soon be before your committee is a companion bill to CSHB 325 which recently passed the House.

Although the House Labor and Commerce Committee was provided with a Fiscal Note and testimony on this bill, the bill inadvertently passed the House without the attendant Fiscal Note. We are enclosing herewith a copy of that Fiscal Note as we feel it is important that it be considered by your committee. In addition, we are enclosing a copy of our Bill Analysis which requests that the language of SB 411 be conformed to that of CSHB 325. These changes will make clear that the area of concern is solely that of Native corporations.

The Division of Banking and Securities' staff is available for testimony on the bill at such time as you may schedule it for hearing.

Yours very truly,



FOR Charles R. Webber  
Commissioner

CRW/mc2/1

Enclosures

Department of Commerce and Economic Development  
Division of Banking and Securities

Bill Analysis  
SB 411

Senate Bill 411, "An Act relating to orders under the Alaska Securities Act of 1959," provides the Administrator of Securities with proper authority to take action against deceptive and fraudulent practices in proxy solicitations. The bill corrects the lack of administrative remedies in AS 45.55.159, enacted in 1977.

The intention in adding the two new sections, (B) and (C), to AS 45.55.200(a) is to provide proper enforcement for violations of Section 160 by companies described in Section 139 only. The legislation, as introduced, does not limit the Administrator's authority to proxy solicitations by ANSCA corporations. In fact, it would permit the Administrator to take action against the GM's and IBM's even though the Alaska Securities Act does not otherwise provide such authority, as their proxy solicitations are already fully regulated under the Federal Securities Act of 1934.

The Division of Banking and Securities recommends the adoption of the amendments incorporated in CSHB 325 (L & C). With this proposed amendment, the Division would be in favor of this legislation to clarify and provide adequate authority over misleading and fraudulent proxy solicitations by Native corporations.

I. REQUEST

Bill/Resolution No. House Bill 325

Title An Act Relating to Orders Under the Alaska Securities Act of 1959

Requested by Adams

Date 3/21/81

II. FISCAL DETAIL

Agency Affected Commerce and Economic Development

Program Category Affected Consumer Protection

BRU, Program, or Subprogram(s) Affected Banking and Securities

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		22.1	23.4	24.8	26.3	27.9
200 TRAVEL		10.0	10.5	11.0	11.5	12.0
300 CONTRACTUAL		2.7	2.7	2.7	2.7	2.7
400 COMMODITIES		1.0	1.0	0	0	0
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>0</b>	<b>35.8</b>	<b>37.6</b>	<b>38.5</b>	<b>40.5</b>	<b>42.6</b>

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND	0	35.8	37.6	38.5	40.5	42.6
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME		1	1	1	1	1
PART TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

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

See attached.

IV. DATE 3/16/81

PREPARED BY James J. Thompson J. L. Lunde  
 AGENCY Dept. of Commerce & Econ. Dev.  
 PHONE 265 2571

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

When AS 45.55.139 was enacted in 1977, the Division of Banking and Securities had no prior history or other documentation to show the potential impact of administering proxy laws and regulations relative to the Alaska Native Claims Settlement Act. Based on investigative time and costs incurred in this area since 1977 and on the fact that 31 regional and village corporations currently come under the provisions of AS 45.55.139 and this proposed legislation, the projected costs are reasonable.

Travel costs include investigative travel of securities staff for hearings and witness travel costs. Contractual cost is for additional persons as required by the Department of Administration pursuant to the memorandum of February 5, 1981.

1	POSITION TITLE Administrative Support Tech II			RANGE/STEP 8A	BARG. UNIT. G	LOCATION Juneau	GOV.	APPROV.	DIRAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No. 1186	PRIORITY	FORM 12	PAGE/LINE	REQ.	

TYPE OF EXPENDITURE		AMOUNT
1	2	3
PERSONAL SERVICES:		
4	SALARY \$1,393/month	16.7
5	BENEFITS	2.6
6	FICA	1.0
7	HEALTH INS.	1.8
8	TOTAL PERSONAL SERVICES	01
9	TRAVEL	02
10	CONTRACTUAL	03
11	COMMODITIES	04
12	EQUIPMENT	05
13	OTHER space costs	2.7
14	TOTAL COST	25.8

JUSTIFICATION:

See Bill Analysis and Fiscal Note to House Bill 325.

CODE	FUNDING SOURCE	
16	FED RCPTS. 1002	
16	GF MATCH. 1003	
17	GEN. FUND 1004	25.8
18	I-A RCPTS. 1005	
19	PGM RCPTS 1028	
20	OTHER	

21	CONTINUATION		FOR B&M USE ONLY
22	ADDITION	X	

AGENCY Commerce and Economic Development PROGRAM Consumer Protection

BRU Banking and Securities

COMPONENT Financial Institutions

**13** REQUEST FOR NEW POSITION.

Page \_\_\_\_\_ of \_\_\_\_\_

REVISED DATE \_\_\_\_\_

**FY 82**



Official Business

# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### SUMMARY SB 411

Amends AS 45.55.200 relating to orders and injunctions under the Alaska Securities Act. When the Commissioner of Commerce and Economic Development determines that a person has engaged or is about to engage in a practice in violation of the Alaska Sec. Act he may, after giving reasonable notice, issue an order directing the person to cease and desist from continuing the act, or he may bring an action in the superior court. He may issue a temporary order pending the hearing, which shall remain in effect until 10 days after the hearing is held, and which becomes final, if the person to whom the notice is addressed does not request a hearing within 15 days after receipt. Bill expands the scope of the order issued by the administrator, and requires the person to file annual reports, proxies, consents or authorizations, proxy statements, or materials relating to proxy solicitations, with the administrator for examination, 10 working days before a distribution to shareholders. This period of filing may not exceed three years.

If the proxies were solicited by untrue or misleading means (prohibited under AS 45.55.160) the order shall void the proxies including their future exercise or actions resulting from their past exercise.

§ 45.55.140

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§ 45.55.150

TRADE AND COMMERCE

§ 45.55.180

**Sec. 45.55.150. Filing of sales and advertising literature.** The administrator may by rule or order require the filing of a prospectus, pamphlet, circular, form letter, advertisement, or other sales literature, or advertising communication addressed or intended for distribution to prospective investors, including clients or prospective clients of an investment adviser. (§ 303 ch 198 SLA 1959; am § 12 ch 105 SLA 1961; am § 14 ch 86 SLA 1972)

**Sec. 45.55.160. Misleading filings.** It is unlawful for a person, in a document filed with the administrator or in a proceeding under this chapter, to make or cause to be made an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading. (§ 304 ch 198 SLA 1959; am § 15 ch 86 SLA 1972)

**Materiality under common law.** — Under Alaska common law, a misrepresentation is material if there is a substantial likelihood that a reasonable shareholder would consider it important in deciding how to vote. Subjective proof that one or more shareholders actually granted a proxy because of a falsehood is not required; only the objective standard encompassed in the definition of materiality need be met. *Brown v. Ward*, Sup. Ct. Op. No. 1825 (File No. 3579), 593 P.2d 247 (1979).

**Proxy solicitations held materially false.** — Where the misrepresented ability of a regional corporation to distribute

money or land to shareholders on the large scale expressed in the solicitation would be likely to influence shareholders to grant proxies to the solicitor, the proxy solicitations were materially false as a matter of law. *Brown v. Ward*, Sup. Ct. Op. No. 1825 (File No. 3579), 593 P.2d 247 (1979).

**ALR and C.J.S. references.** — Attorney's preparation of legal document incident to sale of securities as rendering him liable under state securities regulations statutes, 61 ALR3d 252.

19 C.J.S. Corporations §§ 931, 1364; 53 C.J.S. Licenses § 78.

**Sec. 45.55.170. Unlawful representations concerning registration or exemption.** (a) Neither the fact that an application for registration under AS 45.55.030—45.55.060 or a registration statement under AS 45.55.070—45.55.120 is filed nor the fact that a person or security is effectively registered constitutes a finding by the administrator that a document filed under this chapter is true, complete, and not misleading. Neither the fact of filing nor the fact that an exemption or exception is available for a security or a transaction means that the administrator has passed in any way upon the merits or qualifications of, or recommended or given approval to, a person, security, or transaction.

(b) It is unlawful to make, or cause to be made, to a prospective purchaser, customer, or client any representation inconsistent with (a) of this section. (§ 305 ch 198 SLA 1959; am § 13 ch 105 SLA 1961)

**Sec. 45.55.180. Administration of chapter.** (a) The Department of Commerce and Economic Development shall administer this chapter.

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§ 45.55.195

TRADE AND COMMERCE

§ 45.55.210

individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying. (§ 307 ch 198 SLA 1959)

**Sec. 45.55.195. Reimbursement of expenses incident to examination.** (a) An issuer, broker-dealer, agent, or investment adviser shall reimburse the administrator for actual travel expenses and per diem incurred in connection with an examination incident to a registration under this chapter.

(b) The administrator may by rule or order adopt a schedule of charges for annual examination fees of issuers, broker-dealers, agents and investment advisers.

(c) If an issuer, broker-dealer, agent or investment adviser fails to pay the fees and expenses provided for in this section, the fees and expenses shall be paid out of the funds of the administrator in the same manner as other disbursements made by the administrator. The amounts paid from the funds of the administrator are a lien upon all of the assets and property in this state of the issuer, broker-dealer, agent or investment adviser and the amount may be recovered by the attorney general on behalf of the state.

(d) Failure of the issuer, broker-dealer, agent or investment adviser to pay fees and expenses under this section is a wilful violation of this chapter and the violation falls within the provisions of AS 45.55.060, 45.55.120, 45.55.200 and 45.55.210. (§ 16 ch 86 SLA 1972)

**Sec. 45.55.200. Orders and injunctions.** Whenever it appears to the administrator that a person has engaged or is about to engage in an act or practice in violation of any provision of this chapter or rule or order under this chapter, he may

(1) if he considers it in the public interest or for the protection of investors, issue an order directing the person to cease and desist from continuing the act or practice, provided that reasonable notice of and an opportunity for a hearing shall first be given, except that the administrator may issue a temporary order pending the hearing which shall remain in effect until 10 days after the hearing is held and which shall become final if the person to whom notice is addressed does not request a hearing within 15 days after the receipt of notice; or

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter or rule or order under this chapter, and upon a proper showing, the appropriate remedy shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets; the court may not require the administrator to post a bond. (§ 308 ch 198 SLA 1959; am § 1 ch 126 SLA 1968)

**Sec. 45.55.210. Criminal penalties.** (a) A person who wilfully violates a provision of this chapter except AS 45.55.160, or who wilfully violates a rule or order under this chapter, or who wilfully violates AS

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill 411

Title An Act Relating to Orders Under the Alaska Securities Act of 1959

Requested by Hohman

Date 4/16/81

II. FISCAL DETAIL

Agency Affected Commerce and Economic Development

Program Category Affected Consumer Protection

BRU, Program, or Subprogram(s) Affected Banking and Securities

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		22.1	23.4	24.8	26.3	27.9
200 TRAVEL		10.0	10.5	11.0	11.5	12.0
300 CONTRACTUAL		2.7	2.7	2.7	2.7	2.7
400 COMMODITIES		1.0	1.0	0	0	0
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	<b>0</b>	<b>35.8</b>	<b>37.6</b>	<b>38.5</b>	<b>40.5</b>	<b>42.6</b>

FUNDING (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND	0	35.8	37.6	38.5	40.5	42.6
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME		1	1	1	1	1
PART TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

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

When AS 45.55.139 was enacted in 1977, the Division of Banking and Securities had no prior history or other documentation to show the potential impact of administering proxy laws and regulations relative to the Alaska Native Claims Settlement Act. Based on investigative time and costs incurred in this area since 1977 and on the fact that 31 regional and village corporations currently come under the provisions of AS 45.55.139 and this proposed legislation, the projected costs are reasonable.

Travel costs include investigative travel of securities staff for hearings and witness travel costs. Contractual cost is for additional persons as required by the Department of Administration pursuant to the memorandum of February 5, 1981.

IV. DATE 4/17/81

PREPARED BY Larry Carroll

AGENCY Commerce and Economic Development

PHONE 465-2521

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

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and (2) the original obligation date is not more than two years from the requested date of disbursement. (§ 1 ch 113 SLA 1962)

Sec. 37.25.020. Unexpended balances of appropriation for capital projects. An appropriation made for a capital project is valid for the life of the project and the unexpended balance shall be carried forward to subsequent fiscal years. Between July 1 and August 31 of each fiscal year, a statement supporting the amount of the unexpended balance required to complete the projects for which the initial appropriation was made and the amount that may be lapsed shall be recorded with the Department of Administration. (§ 2 ch 113 SLA 1962)

### Chapter 30. Local Government Bonding.

#### Article

- 1. Anticipatory Borrowing (Repealed)
- 2. Restrictions on Sale of Bonds and Bond Anticipation Notes (§ 37.30.100)

#### Article 1. Anticipatory Borrowing.

##### Section

10-90. [Repealed]

Secs. 37.30.010 — 37.30.090.  
Repealed by § 1 ch 118 SLA 1972.

Editor's note. — The repealed article derived from § 1, ch. 117, SLA 1964; § 1, ch. 189, SLA 1970.

#### Article 2. Restrictions on Sale of Bonds and Bond Anticipation Notes.

##### Section

100. Prohibited bidding on bonds

Sec. 37.30.100. Prohibited bidding on bonds. (a) No person who provides financial programming or marketing assistance to a political subdivision of the state, whether home rule or otherwise, in connection with the issuance or sale of general obligation bonds, revenue bonds or bond anticipation notes of the political subdivision may bid on the bonds or notes if offered at public sale, or negotiate for their purchase if sold at private sale.

(b) The sale of general obligation, revenue bonds or bond anticipation notes of a political subdivision to a person prohibited from bidding on, or negotiating for the sale of bonds or notes under (a) of this section is against public policy and the sale is void.

(c) In this section "person" means an individual, firm, agent, factor, intermediary, partnership, corporation, association, bond house, stockbroker or bond broker. (§ 2 ch 102 SLA 1974)

Chap

Section  
10. Legislative  
20. Creation  
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Editor's note  
effective June  
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I. REQUEST  
Senate Bill/Resolution No. 509 - An Act making a special appropriation to the Alaska  
Title Power Authority for the Kongiguik Electrification Project.  
Requested by Hohman Date 4/23/81

II. FISCAL DETAIL  
Agency Affected Commerce & Economic Development  
Program Category Affected Energy Development  
BRU, Program, or Subprogram(s) Affected Alaska Power Authority  
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)  
EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRAC. 'IAL			212.0			
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL			212.0			

FUNDING (Thousands of Dollars)

GENERAL FUND			212.0			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)  
The appropriation is to fund installation of an electric power distribution system in the village of Kongiguik, which is not a village recognized under ANCSA. The Power Authority has no estimate of the actual costs of the project or the sources of power generation to supply the village. The Power Authority would contract for design and turn key installation after further investigation of the project.

IV. DATE 4/29/81 PREPARED BY Terry J. McGuire  
AGENCY Alaska Power Authority  
PHONE 277-7641  
Original: Legislative Finance  
cc: Budget and Management  
Prime Sponsor (First Legislator Named)

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# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D  
JUNEAU, ALASKA 99811

Phone: 465-2500

May 12, 1981

Honorable Bob Mulcahy  
Chairman  
Senate Labor & Commerce  
Committee  
Pouch V  
Juneau, Alaska 99811

Dear Senator Mulcahy:

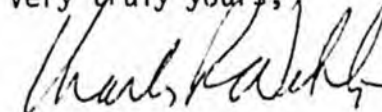
Re: SB 513

The Department of Commerce and Economic Development supports SB 513, which transfers the Athletic Commission from the Office of the Governor to this department.

The Division of Occupational Licensing has provided administrative support for the Athletic Commission since August 1980. Contingency monies have now been transferred from the Governor's Office to this department for maintenance of the Athletic Commission through FY '81.

SB 513 would officially transfer the responsibility of budgeting and providing support for the Athletic Commission in the future to this department and would standardize its function with 20 other professional licensing boards presently under the Division of Occupational Licensing.

Very truly yours,



Charles R. Webber  
Commissioner

CRW/mc2/1

COMMITTEE MINUTES FORM

This form is to be prepared and submitted to the Committee Records Staff within the next legislative day following the public hearing or committee meeting. Please submit this form completed with the following information pursuant to Rule 23 of the Uniform Rules.

Committee Name: Senate Labor and Commerce  
Members Present: Senator Mulcahy, Chairman

Date: 8 February, 1982

Senator Fahrenkamp

Senator Ziegler

Senator Rodey was excused for a call of the Senate;

Public hearing or committee meeting on: SB 513, SB 590, SB 611

COMMITTEE CALENDAR

<u>SB 513</u> bill number	<u>"An act relating to the Athletic Commission; and providing for</u> bill title	<u>an effective date"</u>
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<u>bill number</u>	<u>bill title</u>
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WITNESSES REGISTER

Witness Name: Ms. Susan R Clark

Affiliation: Alaskan Association of University Women

Address: 1109 C St., Juneau, Alaska

Phone:

Summarized Position Statement: Suggested the bill should be amended to include statutorily mandated presence of a woman on the athletic commission;

PREVIOUS ACTION

Reference Number:

Statutory Reference:

Amendments Formally Considered:

Member Moving Adoption: Senator Fahrenkamp

Action: Passed or Failed

Voting Record: 3 do pass

ACTION NARRATIVE

Tape Recording

Number 0000

Chair opens at 357 with members 3 present etc.

The testimony of Ms. Clark begins at tape reading 357 and continues through tape reading 427;

COMMITTEE MINUTES FORM

This form is to be prepared and submitted to the Committee Records Staff within the next legislative day following the public hearing or committee meeting. Please submit this form completed with the following information pursuant to Rule 23 of the Uniform Rules.

Committee Name: Senate Labor and Commerce  
Members Present: Senator Mulcahy, Chairman

Date: 8 February, 1982

Senator Fahrenkamp

Senator Ziegler

Senator Rodey was excused from a call of the Senate;

Public hearing or committee meeting on: SB 513, SB 590, SB 611

COMMITTEE CALENDAR

SB 513 "An act relating to the athletic commission; and providing  
bill number bill title for an effective date"

bill number bill title

WITNESS REGISTER

Witness Name: Mr. Harry Treager, Director  
Affiliation: Division of Occupational Licensing, Dept of Commerce and Econ Dev  
Address: 9th Floor State Office Building  
Phone: 465-2534

Summarized Position Statement: Testified in support of the bill, explaining that administrative and budget support of the commission is currently handled by the PREVIOUS ACTION Dept. of Commerce and Econ Dev.

Reference Number:  
Statutory Reference:  
Amendments Formally Considered:

Member Moving Adoption: Senator Fahrenkamp  
Action: Passed or Failed  
Voting Record: 3 do pass

ACTION NARRATIVE

Tape Recording  
Number 0000 Chair opens at 335 with members 3 present etc.

The testimony of Mr. Harry Treager begins at tape reading 339 and continues through tape reading 354;

COMMITTEE REPORT

SENATE

4/24/81

FURTHER: None

Date: \_\_\_\_\_

Mr. President:

The Committee on LABOR & COMMERCE has had SB 513

athletic commission

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

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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CHAIRMAN

# Alaska Statutes

## Title 5. Amusements and Sports.

### Chapter

- 05. Athletic Commission (§§ 05.05.010—05.05.040)
- 10. Boxing and Wrestling (§§ 05.10.010—05.10.170)
- 15. Bingo, Raffles and Ice Pools (§§ 05.15.010—05.15.210)
- 20. Recreational Devices (§§ 05.20.010—05.20.120)
- 25. Watercraft (§§ 05.25.010—05.25.100)

### Chapter 05. Athletic Commission.

Section	Section
10. Creation and duties of athletic commission	30. Professional and semi-professional athletic programs
20. Commissioner of athletics	40. Meetings and compensation of athletic commission

**Sec. 05.05.010. Creation and duties of athletic commission.** (a) There is created an athletic commission within the Office of the Governor. The commission consists of four members appointed by the governor. One member of the commission shall be appointed from each of the four major senate districts described in § 2, art. XIV of the state constitution. The commissioners shall be appointed for overlapping two year terms. Members of the commission serve at the pleasure of the governor and shall be selected on the basis of their known interest in and knowledge of athletics in the state.

(b) The commission shall act in an advisory capacity to the commissioner of athletics and shall perform other duties assigned to it by the commissioner. (§ 1 ch 147 SLA 1959)

**Sec. 05.05.020. Commissioner of athletics.** (a) The governor shall appoint the commissioner of athletics to serve at his pleasure. The commissioner shall be selected on the basis of his knowledge of and contribution to athletics in the state. The commissioner serves for a period of five years.

(b) The commissioner shall, with the aid and counsel of the commission, promulgate the rules and regulations governing athletics and athletic programs and contests as he considers necessary, expedient and appropriate. The rules and regulations shall have the force and effect of law. (§ 2 ch 147 SLA 1959)

**Sec. 05.05.030. Professional and semi-professional athletic programs.** (a) The commission shall study the semi-professional and professional athletic programs of the state, and report annually to the governor. The report shall include the recommendations of the

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# STATE OF ALASKA

ALASKA PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

JAY S. HAMMOND, Governor

1100 MacKay Building  
338 Denali Street  
Anchorage, Alaska 99501

Phone (907) 276-6222

January 21, 1982

Senator Bob Mulcahy, Chairman  
Senate Labor & Commerce Committee  
Alaska State Legislature  
Pouch V - State Capitol  
Juneau, Alaska 99811

Re: SB 539 (Telephone Cooperatives)  
Attn: Michael Thill, Legislative Aide

Dear Senator Mulcahy:

Pursuant to your request, we are submitting our views on the above legislation.

SB 539 would re-write the definition of "telephone service" contained in the Electric & Telephone Cooperative Act (AS 10.25) by substituting for that definition, the virtually identical definition "telecommunications" that appears in the Alaska Public Utilities Commission Act (AS 42.05). Compare AS 10.25 640(4) with AS 42.05.701(8).

The Commission understands that this proposed legislation was introduced at the request of the Matanuska Telephone Association, Inc. (MTA). At that time, MTA had pending before the Commission applications for a certificate of public convenience and necessity to furnish cable television (CATV) service and for an amendment to its local telephone exchange certificate to furnish improved mobile telephone service (IMTS) and radio paging service in its certificated service area.

Counsel may have believed that, under the more restrictive definition of "telephone service" contained in AS 10.25.640(4) there was some legal infirmity in MTA's proposal to furnish CATV and IMTS/radio paging because these are "non-wire" services, and the AS 10.25.640(4) definition focuses on wire-line-type systems. To the best of the Commission's knowledge, however, no such argument ever was made before the Commission, or in appeals taken in court challenging the Commission's decisions with respect to MTA's applications.

Senator Bob Mulcahy  
January 21, 1982  
Page 2

The legal challenges to the Commission's action granting MTA a certificate of public convenience and necessity to furnish CATV service (U-80-68)(1) and IMTS/radio paging service (U-79-69)(5) were withdrawn. A Stipulation signed by MTA (applicant and appellee) and McCaw Communications, Inc. (aggrieved party and appellant) and approved by the Commission on October 29, 1981 (U-79-69(9) and U-80-68(2)), resolved that legal dispute. A copy of all referenced documents are enclosed.

The precedent has been established by the Commission that a telephone cooperative, upon a finding of public convenience and necessity and fitness and ability of the applicant to furnish that public utility service, will be granted a certificate. Thus, the Commission believes that SB 539 is moot.

Unless there are other circumstances of which the Commission is unaware which prompt this legislation, there is no need to import the definition of "telecommunications" contained in AS 42.05 into AS 10.25.

Very truly yours,



Carolyn S. Guess  
Chairman

Enclosures 3

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tive to file corrected articles of incorporation or amendments to the original articles, or to do and perform all acts and things necessary, may not be questioned. (§ 37 ch 93 SLA 1959)

Article 5. General Provisions.

Section	Section
610. Purpose	630. Construction of chapter
620. Chapter extended to existing cooperatives	640. Definitions
	650. Short title

Sec. 10.25.610. Purpose. Cooperative, nonprofit, membership corporations may be organized under this chapter for the purpose of supplying electric energy or telephone service and promoting and extending the use of these services. (§ 2 ch 93 SLA 1959)

Sec. 10.25.620. Chapter extended to existing cooperatives. This chapter applies to all nonprofit cooperatives organized under any other law of the state for the purpose of supplying electric energy and power, or telephone service, to its members, or for the purpose of promoting and extending the use of electric energy and power, or telephone service. These cooperatives are subject to this chapter as if originally organized under it. (§ 36 ch 93 SLA 1959)

Sec. 10.25.630. Construction of chapter. This chapter is complete in itself and is controlling. The provisions of any other law of the state relating to the organization of a corporation, except as provided in this chapter, do not apply to a cooperative organized under this chapter. The enumeration of an object, purpose, power, manner, method or thing does not exclude like or similar objects, purposes, powers, manners, methods or things. (§ 35 ch 93 SLA 1959)

Sec. 10.25.640. Definitions. As used in this chapter

- (1) "commissioner" means the commissioner of commerce;
- (2) "cooperative" means a corporation organized under this chapter or which becomes subject to this chapter in the manner provided in this chapter;
- (3) "person" means a natural person, firm, association, corporation, business trust, partnership, federal agency, state or political subdivision, or an agency of the state or political subdivision, or a body politic;
- (4) "telephone service" means communication service whereby voice communication through the use of electricity is the principal intended use, and includes all telephone lines, facilities or systems used in the rendition of this service. (§ 3 ch 93 SLA 1959; am § 10 ch 64 SLA 1959; am § 2 ch 1 SLA 1961)

Sec. 10.25.650. Short title. This chapter may be cited as the Electric and Telephone Cooperative Act. (§ 1 ch 93 SLA 1959)

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Official Business

# Alaska State Legislature

*Senate*

*Committee on Finance*

Pouch V  
State Capitol  
Juneau, Alaska 99811

CSSB 548. (Finance)

This short sectional analysis describes the one change made in the Senate Finance Committee Substitute to the Senate Labor & Commerce Committee Substitute.

Section 3 of the bill is tightened to allow coverage to other hazards only when such other hazards are customarily included in medical malpractice insurance, and further restricts such coverage for other hazards to instances where the coverage is not competitively available from private insurance companies.

Distributed 18 March 1982  
Senator Arliss Sturgulewski



# Alaska State Legislature

## Senate

Official Business

### Labor & Commerce Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### CS SB 548; Sectional Analysis:

"An act relating to the Medical Indemnity Corporation of Alaska"

Section 1): Amends AS 21.88.030(a)(3) to read: (3) Two professionals from the insurance industry who are authorized to do business in the State. The current statute reads "insurance companies authorized" and the proposed change would allow for persons who are agents or brokers (insurance industry professionals) to have board membership.

Section 2): Amends AS 21.88.050(a)(1) provides for a substantive change to permit "tail coverage" (retroactive insurance) to cover malpractice claims. New Language states: at the option of the corporation, if approved by the director, and for an additional premium the contract may cover claims against the physician or hospital that arise out of professional services performed by the physician for any period before the contract is issued except that coverage will not be provided for a claim already filed or of which the physician or hospital had or reasonably should have had notice at the time the retroactive insurance was purchased.

Section 3): Amends AS 21.88.050 (b) (3): Provides coverage to insureds for other hazards when approved by the director; Encompasses insurance coverage for premises liability for circumstances in which an injury occurs on the premises as a result of "an omission of health care" by a physician or medical staff. Example: Inadvertantly, the rail on a hospital bed is left down, and a patient sleeping under medication falls from the bed, injuring himself on the premises. The injury resulted from an "omission in health care" by the attending nurse, and should be covered as such.

Section 4): Repeals and reenacts AS21.88.050(b)(12) to extend coverage to a person, entity, or facility that renders health care services in the state under the supervision of a physician. Expanded coverage for health care providers such as "bush medicine teams" who don't ordinarily fall within the conventional definition.

Section 5): Repeals and reenacts AS21.88.080 (17): Major change allows for a sliding

scale" assessment levied upon insureds in the event that the earned premiums for any given year are less than the incurred claims, claim expenses, underwriting expenses, and reserves. Presently, by statute, the director of the Division of Insurance must assess 150% on the premiums for all insureds if the earned premiums fall beneath incurred claims and expenses. Although this condition has never occurred, if it were to happen in the future, and if the director determines there is sound actuarial basis for the extinguishment of the assessment, the director would be able to extinguish all or a portion of the assessment.

Section 6: Amends AS 21.88.900 (17) (a) Deletes the phrase (DURING THE SAME PERIOD OF CONTINUOUS COVERAGE) to provide consistency throughout the MICA statutes for the ability to offer "tail coverage" (retroactive insurance) to insureds to cover claims which occurred prior to MICA coverage.

Section 7: Relates to the purpose of the bill which would allow MICA to remain more competitive within the marketplace and better fulfill its obligations to the medical community.

Section 8: Amends section 21(b), CH 177, SLA 1978; Technical change to permit "tail coverage" through the deletion of the following language: (WHICH OCCUR AFTER THE EFFECTIVE DATE OF THIS ACT).

Additional Information: The Division of Insurance estimates there are 400 licensed physicians in the State, including part time and retired physicians. There are presently 137 MICA insured physicians, with 33 new enrollees this quarter, demonstrating more faith among the medical community in the program.

MEDICAL INDEMNITY CORPORATION OF ALASKA

(AS 21.88.030) 9 members; 4 physicians licensed in the state with no more than 2 of the physicians living in a municipality having a population of more than 100,000, and administrator or chief executive officer employed by a hospital, 2 professional insurance representatives, and 2 persons who are not health care providers or representatives of the insurance industry. 3-year terms, serve at the pleasure of the governor.

CONTACT 276-0005

MEMBERS	REPLACING	APPT.	TERM
Mr. William Brock 1700 Angus Way Juneau, Alaska 99801 (Public)	ORV ARVIDSON	Reappointed	79/07/09 82/07/01
Charles H. Rigden 6715 Blackberry Street Anchorage, Alaska 99502 (Chairman - Public)	CHMN	Reappointed	80/06/26 83/07/01
Mr. David Frazier Bluefit Brokers 2636 Shepherdia Drive Anchorage, Alaska 99504 (Insurance)		Reappointed	79/06/09 82/07/01
David Gaumn, M.D. 1919 Lathrop Fairbanks, Alaska 99701 (Physician)	Bruce J. Wolf M.D.		79/07/09 82/07/01
Lee Olson 4060 B Street, Suite 104 Anchorage, Alaska 99503 (Insurance)	Gregory A. Brown		80/06/28 83/07/01
James Baldauf, M.D. 3300 Pr ence Anchorage, Alaska 99504 (Physician)			77/12/08 81/07/01
Mr. James Burns Box 97 Auke Bay, Alaska 99821 (Administrator)	Charles Rigden (effective 79/09/10)		79/09/21 81/07/01
Estol R. Belflower, M.D. Box 3-3000 Juneau, Alaska 99801 (Physician)			78/07/20 81/07/01
Robert D. Whaley, M.D. 1546 Coffey Lane Anchorage, Alaska 99501 (Physician)		Reappointed	80/06/26 83/07/01

CONTACT AGENCY:

Division of Insurance, Department of Commerce and Economic Development  
Pouch D, Juneau, AK 99811  
(465-2515)  
ID #1 (F-6)

COMMITTEE REPORT  
SENATE

5/5/81

FURTHER: Finance

Date: 25 JANUARY 1982

Mr. President:

The Committee on LABOR & COMMERCE has had SB 548  
Medical Indemnity Corp. of Alaska

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

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
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MEMBERS SIGNING  
DO PASS

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MEMBERS HAVING  
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[Signature]  
CHAIRMAN

not be breached without the consent of the Medical Indemnity Corporation of Alaska and the director of the division of insurance.

"(b) All policies issued by the Medical Indemnity Corporation of Alaska and in force on the effective date of this Act are terminated as of the first annual renewal

of the in-force policy after the effective date of this Act. A person purchasing a policy for any term beginning after the effective date of this Act shall be issued a policy to cover only 'covered claims' as defined in AS 21.88.900(17), added in sec. 19 of this Act, which occur after the effective date of this Act."

**Sec. 21.88.040. Corporation plan of operation.** (a) Within 30 days after May 29, 1976, the board of governors shall prepare and submit to the director for approval a plan of operation which provides for the fair and reasonable administration of the affairs of the corporation and the discharge of the purposes for which it is created. The plan and any amendments to it become effective upon the director's approval. If the board of governors fails to submit a plan of operation, or if at a subsequent time the board of governors fails to submit suitable amendments to the plan, the director shall, after notice and hearing, adopt and promulgate a plan of operation or amendments which are necessary or advisable to carry out the provisions of this chapter. Adoption of the plan is not subject to the Administrative Procedure Act (AS 44.62).

(b) The plan of operation shall

- (1) establish the procedures by which all the powers and duties of the corporation specified in AS 21.88.050 shall be performed;
- (2) establish procedures for handling assets and discharging liabilities of the corporation;
- (3) establish regular times and places for meetings of the board of governors;
- (4) establish procedures for records to be kept of all financial transactions of the corporation, its agents, and the board of governors;
- (5) establish the procedures for awarding contracts to carry out the provisions of this chapter;
- (6) establish the procedures for issuing contracts of insurance as provided in AS 21.88.050 and for the determination of rates;
- (7) contain additional provisions necessary for the execution of the powers and duties of the corporation. (§ 41 ch 102 SLA 1976)

**Sec. 21.88.050. Powers and duties of the corporation.** (a) The corporation shall

- (1) in the form approved by the director, issue to all physicians and hospitals who are found to be acceptable risks under standards developed under (8) of this subsection, and who pay the premiums for it, a contract or contracts indemnifying physicians and hospitals and their employees who are health care providers against loss by reason of liability for covered claims for an act or omission in the delivery of professional health care in this state, and agreeing to tender on behalf of the physicians and hospitals and their employees who are health care providers a defense to a covered claim in a proceeding brought

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under AS 09.55.530 — 09.55.560; the limits of liability for policies issued by the corporation shall be approved by the director; the contract shall cover the defense against but need not indemnify liability for punitive damages arising from a covered claim; at the option of the physician or hospital and for an additional premium the contract may cover claims against the physician or hospital that arise out of professional services performed by the physician or hospital for any period after December 31, 1974, if the coverage is issued before January 1, 1977, except that coverage will not be provided for a claim already filed or of which the physician or hospital had or reasonably should have had notice at the time the retroactive insurance was purchased;

(2) Repealed by § 40 ch 177 SLA 1978.

(3) Repealed by § 40 ch 177 SLA 1978.

(4) charge a premium for the protection provided by the contracts issued by the corporation which shall be determined by the board of governors in accordance with AS 21.88.080 and subject to the approval of the director;

(5) comply with or be subject to AS 21.06.090; 21.06.120; 21.06.140; 21.06.160; 21.06.250; 21.09.180; 21.09.190; 21.09.200; 21.09.250; 21.09.280; 21.12.020(b), (c), (d), and (e); and 21.18, 21.21, 21.24, and 21.36; and shall be exempt from participation as a member insurer in the Alaska Insurance Guaranty Corporation;

(6) carry out the obligations of the contracts issued by the corporation by defending all covered claims made against insured health care providers and by paying all liabilities which are finally adjudicated against the insured health care provider or which may in the opinion of the corporation reasonably be expected to be finally adjudicated against the health care provider to the extent of the contract obligation;

(7) Repealed by § 40 ch 177 SLA 1978.

(8) establish standards for the acceptability of risks; in establishing these standards the corporation may exclude an applicant for insurance based on individual risk selection factors, but may not exclude an applicant based only on the classification of the applicant.

(b) The corporation may

(1) employ or retain persons, individual or corporate, to discharge its obligations and pay reasonable compensation for these services; employees of the corporation are not considered state employees;

(2) negotiate for and procure reinsurance from private casualty insurers or reinsurers for any and all liability incurred by contracts issued by it;

(3) provide coverage to physicians and hospitals for other hazards when there is a finding by the director that this coverage is otherwise unavailable by reason of the operation of the corporation;

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INSURANCE

§ 21.88.080

defined in AS 21.88.900(17), added in sec. 19 of this Act, which occur after the effective date of this Act."

**Sec. 21.88.070. Statistics.** The corporation shall collect, maintain and report information concerning claims against health care providers which it insures. The information shall be on forms prescribed by the director, and shall be sufficient to enable a proper determination of losses for rate making and to identify causes and sources of loss for loss control. At least annually the corporation shall report to the director the number and amount of claims filed, reserved, paid, settled and adjudicated during the year, the premiums paid to and the expenses incurred by the corporation during the year. This report shall be available to the public. The director may require that supplemental reports include the names of insured health care providers and the claimants; however, no reports which become available to the public may include the names of health care providers or claimants or information that will permit by inference the identity of specific health care providers or claimants. All statistics including the supplemental reports shall be made available to the State Medical Board. (§ 41 ch 102 SLA 1976; am § 14 ch 177 SLA 1978)

**Effect of amendment.** — The 1978 amendment added "which it insures" to the end of the first sentence, and in the sixth sentence, inserted "including the supplemental reports" and substituted "State Medical Board" for "appropriate licensing board or agency."

**Editor's note.** — As to the purpose of the 1978 amendatory act, see § 1, ch. 177, SLA 1978 in the 1978 Temporary and Special Acts and Resolves.

Section 21, ch. 177, SLA 1978 provides: "(a) The coverage obligations and duties of the insured under policies issued by the Medical Indemnity Corporation of Alaska before the effective date of this Act may

not be breached without the consent of the Medical Indemnity Corporation of Alaska and the director of the division of insurance.

"(b) All policies issued by the Medical Indemnity Corporation of Alaska and in force on the effective date of this Act are terminated as of the first annual renewal of the in-force policy after the effective date of this Act. A person purchasing a policy for any term beginning after the effective date of this Act shall be issued a policy to cover only 'covered claims' as defined in AS 21.88.900(17), added in sec. 19 of this Act, which occur after the effective date of this Act."

**Sec. 21.88.080. Rates.** The rates and rating plans used by the corporation for the policies issued shall be determined by license category of health care providers in accordance with all of the following:

- (1) Repealed by § 40 ch 177 SLA 1978.
- (2) Repealed by § 40 ch 177 SLA 1978.
- (3) a minimum rate may be set for each category of health care provider or discipline or classification within the license category;
- (4) rates may not be excessive; rates are excessive if, after a period of time and with respect to an amount of gross premium which is actuarially credible, the premiums exceed losses incurred by the corporation, including losses paid, reserves for covered claims reported

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and unpaid, reserves for covered claims incurred during the policy period and not reported, and reasonable expenses for the operation of the corporation;

(5) rates shall not be inadequate; rates are inadequate if, based on available actuarial data, the premiums to be paid by the health care providers are or may reasonably be expected to be insufficient to pay for losses incurred by the corporation, including covered claims paid, reserves for covered claims reported and unpaid, reserves for covered claims incurred during the policy period and not reported, and reasonable expenses for the operation of the corporation;

(6) rates may not be unfairly discriminatory;

(7) rates shall be adjusted annually;

(8) rates for any policy year shall be calculated to include the adjustment for actual experience of the corporation as developed for the preceding four policy years;

(9) in considering losses to be incurred, changes in the law, national, regional or local trends in medical negligence awards, and other relevant factors may be considered;

(10) income from the investment of reserves shall be considered;

(11) individual risk underwriting factors shall be considered;

(12) disciplines and classifications within the license categories of health care providers shall be considered;

(13) amounts sufficient for repayment of loan obligations shall be considered;

(14) Repealed by § 40 ch 177 SLA 1978.

(15) if the earned premiums of the corporation for any given year are less than the incurred claims, claim expense, underwriting expense, reserves for that year and provision for repayment of any loans, the corporation may, subject to the prior approval of the director, levy an assessment upon the insureds who held policies during that year; the assessment, which may be made in periodic installments, shall be made within three years and may not exceed 150 per cent of the insured's premium for that year; the termination of any policy does not relieve the insured of contingent liability for his proportionate share of the obligations to the corporation which accrued while the policy was in force;

(16) if the earned premiums of the corporation for any given year exceed its incurred claim expense, underwriting expense, reserves for that year and provision for repayment of any loan, the corporation may, subject to the prior approval of the director, apportion and pay or credit its insureds who held policies during that year; a payment or credit shall be proportionate to the insured's earned premium for that year;

(17) if the corporation develops a surplus of assets over all liabilities, including the repayment of any loan provision, which is at least equal to the minimum capital stock required of a new domestic stock insurer

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other obligations of the corporation except that they shall be subordinated to obligations of policyholders and claimants for indemnity of loss; these loans shall be repaid within five years at an annual interest rate of six per cent.

(c) If a loan is made to the corporation from the fund, the corporation shall issue a note to the fund as evidence of the loan.

(d) The director may sell at par value to the Department of Revenue the notes, security instruments and pledge agreements held by the Department of Commerce and Economic Development as security for loans made under this section. The Department of Revenue shall purchase all the notes offered until the current principal amount of the notes purchased and held by the Department of Revenue equals \$6,000,000. (§ 41 ch 102 SLA 1976; am §§ 17, 18 ch 177 SLA 1978; am § 6 ch 103 SLA 1980)

**Effect of amendments.** — Section 17, ch. 177, SLA 1978 substituted "seven per cent a year" for "four percentage points above the annual rate charged member banks for advances by the 12th federal reserve district" at the end of the first paragraph of subsection (b). Section 18 of ch. 177 substituted the language beginning "director determines" and ending "incurred by contracts issued by it" for "corporation adopts the approach of § 50(a)(3)(A) of this chapter" near the beginning of paragraph (2) of subsection (b).

The 1980 amendment substituted "earned" for "collected" near the middle of paragraph (1) of subsection (b).

**Editor's note.** — As to the purpose of the 1978 amendatory act, see § 1, ch. 177, SLA 1978 in the 1978 Temporary and Special Acts and Resolves.

Section 21, ch. 177, SLA 1978 provides: "(a) The coverage obligations and duties of the insured under policies issued by the Medical Indemnity Corporation of Alaska before the effective date of this Act may not be breached without the consent of the Medical Indemnity Corporation of Alaska and the director of the division of insurance.

"(b) All policies issued by the Medical Indemnity Corporation of Alaska and in force on the effective date of this Act are terminated as of the first annual renewal of the in-force policy after the effective date of this Act. A person purchasing a policy for any term beginning after the effective date of this Act shall be issued a policy to cover only 'covered claims' as defined in AS 21.88.900(17), added in sec. 19 of this Act, which occur after the effective date of this Act."

**Article 5. General Provisions.**

**Section**

**900. Definitions**

**Sec. 21.88.900. Definitions.** In this chapter

(1) Repealed by § 40 ch 177 SLA 1978.

(2) "corporation" means the Medical Indemnity Corporation of Alaska;

(3) "governor" means a member of the board of governors of the Medical Indemnity Corporation of Alaska;

(4) "health care provider" means a chiropractor licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a dispensing optician licensed under AS 08.71; an optometrist licensed under AS 08.72; a

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pharmacist licensed under AS 08.80; a physical therapist licensed under AS 08.84; a physician licensed under AS 08.64; a podiatrist; a psychologist and a psychological associate licensed under AS 08.86; and a hospital as defined in AS 18.20.130, including a governmentally owned or operated hospital; a corporate entity covered under AS 21.88.050(b)(12); and an employee of a health care provider acting within the course and scope of his employment;

- (5) "physician" means a person licensed under AS 08.64;
- (6) "hospital" means an institution licensed under AS 18.20;
- (7) "chiropractor" means a person licensed under AS 08.20;
- (8) "dental hygienist" means a person licensed under AS 08.32;
- (9) "dentist" means a person licensed under AS 08.36;
- (10) "nurse" means a person licensed under AS 08.68;
- (11) "dispensing optician" means a person licensed under AS 08.71;
- (12) "optometrist" means a person licensed under AS 08.72;
- (13) "pharmacist" means a person licensed under AS 08.80;
- (14) "physical therapist" means a person registered under AS 08.84;
- (15) "psychologist" and "psychological associate" means a person licensed under AS 08.86.

(16) "continuous coverage" means one or more successive policy periods which is uninterrupted by cancellation or failure to renew for any reason;

(17) "covered claim" means

(A) a claim by an injured patient reported to the corporation during the period of continuous coverage by the corporation of the insured health care provider for an act or omission in the delivery of health care services during the same period of continuous coverage; and

(B) additional claims as defined in the policy, with the prior approval of the director, and which are reported within specified periods after the expiration of the policy. (§ 41 ch 102 SLA 1976; am §§ 19, 20, 40 ch 177 SLA 1978)

**Effect of amendment.** — Section 19, ch. 177, SLA 1978 rewrote paragraph (4). Section 20 of ch. 177 added paragraphs (16) and (17). Section 40 of ch. 177, SLA 1978 repealed paragraph (1), which defined "association."

**Editor's note.** — As to the purpose of the 1978 amendatory act, see § 1, ch. 177, SLA 1978 in the 1978 Temporary and Special Acts and Resolves.

Section 21, ch. 177, SLA 1978 provides: "(a) The coverage obligations and duties of the insured under policies issued by the Medical Indemnity Corporation of Alaska before the effective date of this Act may not be breached without the consent of the

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his own name against the officer and his sureties to recover the amount to which he may be entitled. (§ 16.01 ch 101 SLA 1962)

Am. Jur. reference.—50 Am. Jur., Suretyship, §§ 27, 28.

Sec. 09.55.480. Subsequent actions on same undertaking. A judgment in favor of a party for one delinquency does not preclude the same or another party from maintaining another action on the same undertaking or other security for another delinquency. (§ 16.02 ch 101 SLA 1962)

Sec. 09.55.490. Amount of judgment. In an action upon an official undertaking or other security, if judgment has already been recovered against the surety therein other than by confession equal in the aggregate to the penalty or a part of the penalty of the undertaking or other security and if the recovery be established on the trial, judgment shall not be given against the surety for an amount exceeding the penalty or such portion of the penalty as is not already recovered against him. (§ 16.03 ch 101 SLA 1962)

Sec. 09.55.500. Actions for fines or forfeitures. Fines and forfeitures may be recovered by an action in the name of the state or the officer or person to whom they were given by law, or in the name of the state, officer, or person who is authorized to prosecute for them. (§ 16.04 ch 101 SLA 1962)

Sec. 09.55.510. Amount which may be claimed and recovered. When an action is commenced for a penalty which by law is not to exceed a certain amount, the action may be commenced for that amount, and, if the judgment is given for the plaintiff, it may be for that amount or less, in the discretion of the court, in proportion to the offense. (§ 16.05 ch 101 SLA 1962)

Sec. 09.55.520. Collusive judgment not a bar to another action. Recovery of a judgment for a penalty or forfeiture obtained by collusion between the plaintiff and defendant with intent to save the defendant wholly or partially from the consequence contemplated by law in cases where penalty or forfeiture is given wholly or partly to the person who prosecutes, does not bar the recovery of a penalty or forfeiture by another person in a separate action. (§ 16.06 ch 101 SLA 1962)

Article 6. Malpractice Actions.

- Section
- 530. Declaration of purpose
- 540. Burden of proof
- 550. Jury instructions

Sec. 09.55.530. Declaration of purpose. The legislature considers that there is a need in Alaska to codify the law with regard

to medical liability in order to establish that the law in Alaska in this regard is the same as elsewhere. (§ 1 ch 49 SLA 1967)

Legislative committee report.—For report on ch. 49, SLA 1967 (CSSB 142), see 1967 House Journal, p. 492.

Sec. 09.55.540. Burden of proof. (a) In a malpractice action based on the negligence of a physician licensed under AS 08.64, or a dentist licensed under AS 08.36, the plaintiff shall have the burden of proving

(1) the degree of knowledge or skill possessed or the degree of care ordinarily exercised by physicians or dentists practicing the same specialty in similar communities to that in which the defendant practices;

(2) that the defendant either lacked this degree of knowledge or skill or failed to exercise this degree of care; and

(3) that as a proximate result of this lack of knowledge or skill or the failure to exercise this degree of care the plaintiff suffered injuries that would not otherwise have been incurred.

(b) In malpractice actions there shall be no presumption of negligence on the part of the defendant. (§ 1 ch 49 SLA 1967)

Legislative committee report.—For report on ch. 49, SLA 1967 (CSSB 142), see 1967 House Journal, p. 492.

Requirements of surgeon's report.—It is incumbent upon a surgeon to describe accurately and fully in his report of an operation everything of consequence that he did and which his trained eye observed during an operation. Patrick v. Sedwick, Sup. Ct. Op. No. 206 (File No. 314), 391 P.2d 453 (1964).

To have maximum probative force, the report should be dictated immediately after the operation. Patrick v. Sedwick, Sup. Ct. Op. No. 206 (File No. 314), 391 P.2d 453 (1964).

Informing patient of hazards of operation.—There is good law in support of the argument that a doctor need not inform the patient of all the hazards involved in an operation; that doctors frequently tailor the extent of their cooperative warnings to the particular patient to avoid the

unnecessary anxiety and apprehension which such appraisal might arouse in the mind of the patient. Patrick v. Sedwick, Sup. Ct. Op. No. 206 (File No. 314), 391 P.2d 453 (1964).

Absence of surgeon's personal recollection or of recorded facts no defense.—Under the circumstances of the instant case, the court would not permit the absence of a surgeon's personal recollection or of recorded facts to serve as a defense in an action for malpractice. Patrick v. Sedwick, Sup. Ct. Op. No. 206 (File No. 314), 391 P.2d 453 (1964).

Prima facie case of negligence.—See Patrick v. Sedwick, Sup. Ct. Op. No. 206 (File No. 314), 391 P.2d 453 (1964)

Failure of trial court to make finding of lack of informed consent was not clearly erroneous. Patrick v. Sedwick, Sup. Ct. Op. No. 206 (File No. 314), 391 P.2d 453 (1964).

Sec. 09.55.550. Jury instructions. In medical malpractice actions the jury shall be instructed that the plaintiff has the burden of proving, by a preponderance of the evidence, the negligence of the physician or dentist. The jury shall be further instructed that in-

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jury alone does not raise a presumption of the physician's or dentist's negligence. (§ 1 ch 49 SLA 1967)

Legislative committee report.—For report on ch. 49, SLA 1967 (CSSB 142), see 1967 House Journal, p. 492.

Article 7. Actions by or Against Deceased Persons.

Section

570. All causes of action survive

580. Action for wrongful death

Sec. 09.55.570. All causes of action survive. All causes of action by one person against another, whether arising on contract or otherwise, except those involving defamation of character, survive to the personal representatives of the former and against the personal representatives of the latter, but this shall not be construed so as to abate an action for a wrong where any party has died after the verdict or to defeat or prejudice the right of action given by AS 09.15.010. The personal representatives may maintain an action thereon against the party against whom the cause of action accrued, or, after his death, against his personal representatives. (§ 4 ch 78 SLA 1972; am § 34 ch 56 SLA 1973)

Revisor's note (1972).—This section was taken from former AS 13.20.330 which, in turn, was taken from § 61-7-1, ACLA 1949, as amended.

Effect of amendment.—The 1973 amendment substituted "personal representatives" for "executors or administrators" in the second sentence.

Legislative committee report.—For report on ch. 56, SLA 1973 (HCS SB 140), see 1973 Senate Journal Supplement No. 9; 1973 House Journal, p. 819.

Legislative intent.—The intent of

the legislature inferred from the 1949 amendment to this section, is that actions no longer abate when the wrongdoer dies, but do abate when the injured party succumbs from noncausally connected matters. O'Dey v. Matson, 17 Alaska 763 (1958).

Section 43-3-10, ACLA 1949, did not repeal by implication this section and AS 13.20.340. Andersen v. Pacific S.S. Co., 8 Alaska 291 (1931).

Am. Jur. reference.—1 Am. Jur., Abatement and Revival, § 68 et seq.

Sec. 09.55.580. Action for wrongful death. (a) When the death of a person is caused by the wrongful act or omission of another, the personal representatives of the former may maintain an action therefor against the latter, if the former might have maintained an action, had he lived, against the latter for an injury done by the same act or omission. The action shall be commenced within two years after the death, and the damages therein shall be such damages as the court or jury may consider fair and just, and the amount recovered, if any, shall be exclusively for the benefit of the decedent's husband or wife and children when he or she leaves a husband, wife or children, him or her surviving, or other dependents. When the decedent leaves no husband, wife or children surviving him or her or other dependents, the amount recovered

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 548

Title An act relating to the medical indemnity corporation of Alaska -

Requested by Colletta Date 5/5/81

(as.21.88)

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development

Program Category Affected Public Protection

BRU, Program, or Subprogram(s) Affected Division of Insurance

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS, CLAIMS, ETC.	0					
<b>TOTAL</b>	<b>0</b>					

FUNDING (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER (Specify Fund Source)	0					

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

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

IV. DATE May 12, 1981

PREPARED BY Kenneth C. Moore Director of Insurance

AGENCY Commerce & Economic Development

PHONE 465-2515

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Name)

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SENATE

5/6/81

FURTHER: Finance

Date: \_\_\_\_\_

Mr. President:

The Committee on LABOR & COMMERCE has had SB 552  
employment practices and working conditions

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

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

*Ziegler*  
*Laurenzano*  
*Bob Mulcahy*

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MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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*Bob Mulcahy*  
 \_\_\_\_\_  
 CHAIRMAN



Official Business

# Alaska State Legislature

## Senate

### Committee on Labor & Commerce

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### COMMITTEE MINUTES:

11 May, 1981

The Senate Committee on Labor and Commerce was called to order by Senator Mulcahy; Senator Fahrenkamp had been excused from a call on the Senate. Senator Mulcahy announced that HB 214 am would be the first order of business.

Representative Brown, sponsor of the bill, provided an overview of the bill and its amendment, urging passage. Don Koch, Division of Insurance, gave testimony in support of the bill and offered to entertain questions of the committee.

Next on the agenda was CS HB 124, addressed by Judy Knight, Department of Labor, expressing the Department's support of the bill, and explaining the provision granting authority to the commissioner for waiving the bonding requirements for those "mom and pop" operations which neither purchase fish nor use employees. The bill further provides penalties for those cash buyers who are un-bonded (class A misdemeanor) and that both the Departments of Labor and Fish and Game support this concept. For the record, Senator Mulcahy explained that he and Dale Cheek (Dept. of Labor) had discussed this bill at length. The next testimony given was from Dan Moore, a cash buyer, who felt that the bonding requirements were restrictive to small businessmen, and he proposed some amendments for those operations which complied with the "spirit" of the intent. Along with his proposed exemption amendments, he questioned the various effective dates provided for in the bill, hoping to amend the effective date in Section 2. Senator Mulcahy explained the rationale for having the December 31st effective date. Roger Painter, UFA, spoke next, expressing support for the bill, urging passage.

CSHB 325 was addressed by Willis Kirkpatrick, Division of Banking Securities, explained that the bill would allow for remedial actions

for fraudulent proxy solicitations in Native Corporations. Various Native Corporations have expressed the need to address the problem of proxy solicitations and this bill would allow the Department to expedite measures thru examination of proxies rather than injunctive operations. The bill inadvertently passed the House without the attendant fiscal note, and Mr. Kirkpatrick clarified the fiscal note distributed to the L&C committee explaining the requirement of additional staff for assisting with proxies at Native stock holders meetings. He urged passage of the bill.

SB 552 was addressed by Senator Mulcahy who expounded on the specific problem in the Kodiak community and around the State, where "live-in" parents in certain institutions are impacted by the wage and hour act, while working an on call (24 hr.) shift. Bob Smathers, Department of Labor, explained that while the Department supports the bill, there may be problems with the Federal Government. The bill only addresses couples (married), and Mr. Smathers offered some proposed changes. Judy Knight, DOL, expressed concern with the language, and Senator Mulcahy suggested we hold the bill until the appropriate amendments have been drafted.

HB 214am, CSHB 124, and CSHB 325 were moved from committee with individual recommendations. Senator Mulcahy adjourned the meeting at 3:25pm.



# Alaska State Legislature

## Senate

Official Business

### Labor & Commerce Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811

Committee Meeting Minutes:

27 May, 1981

The Senate Labor and Commerce Committee meeting was called to order by Senator Mulcahy at 3:04pm, and the first item of business was HB 314am. Representative Haugen, sponsor of the bill, provided testimony on the bill, and Senator Fahrenkamp made a motion to move the bill with individual recommendations.

Senator Mulcahy brought up HB 274, and a motion was made by Senator Fahrenkamp that the bill be moved from committee with individual recommendations.

Chairman Mulcahy brought up CS SB 318, and a motion was made by Senator Fahrenkamp that the bill be moved with individual recommendations.

The final piece of legislation addressed at the meeting was CS SB 552 and after a brief discussion by committee members, a motion was made by Senator Fahrenkamp that CS SB 552 move from committee with individual recommendations. The committee meeting was adjourned at 3:14pm.

OB 552

United States Code

Amended

(17) any driver employed by an employer engaged in the business of operating taxicabs; or

(18) Repealed. Pub.L. 93-259, § 15(c), Apr. 8, 1974, 88 Stat. 65.

(19) Repealed. Pub.L. 93-259, § 16(b), Apr. 8, 1974, 88 Stat. 65.

(20) any employee of a public agency who in any workweek is employed in fire protection activities or any employee of a public agency who in any workweek is employed in law enforcement activities (including security personnel in correctional institutions), if the public agency employs during the workweek less than 5 employees in fire protection or law enforcement activities as the case may be; or

(21) any employee who is employed in domestic service in a household and who resides in such household; or

(22) Repealed. Pub.L. 95-151, § 5, Nov. 1, 1977, 91 Stat. 1249.

(23) Repealed. Pub.L. 93-259, § 10(b)(3), Apr. 8, 1974, 88 Stat. 64.

(24) any employee who is employed with his spouse by a non-profit educational institution to serve as the parents of children—

(A) who are orphans, or one of whose natural parents is deceased, or

(B) who are enrolled in such institution and reside in residential facilities of the institution.

while such children are in residence at such institution, if such employee and his spouse reside in such facilities, receive, without cost, board and lodging from such institution, and are together compensated, on a cash basis, at an annual rate of not less than \$10,000; or

(25) Repealed. Pub.L. 95-151, § 6(a) Nov. 1, 1977, 91 Stat. 1249.

(26). Repealed. Pub.L. 95-151, § 7(a), Nov. 1, 1977, 91 Stat. 1250.

(27) any employee employed by an establishment which is a motion picture theater; or

(28) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed eight; or

(29) any employee of an amusement or recreational establishment located in a national park or national forest or on land in the National Wildlife Refuge System if such employee (A) is an employee of a private entity engaged in providing services or facilities in a national park or national forest, or on land in the National Wildlife Refuge System, under a contract with the Secretary of the Interior or the Secretary of Agriculture, and (B) receives compensation for employment in excess of fifty-six hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed.

(c)(1) Except as provided in paragraph (2) or (4), the provisions of section 212 of this title relating to child labor shall not apply to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, if such employee—

(A) is less than twelve years of age and (i) is employed by his parent, or by a person standing in the place of his parent, on a farm owned or operated by such parent or person, or (ii) is employed,

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iciency and general well-being of workers against the unfair competition of wage and hour standards which do not provide adequate standards of living. (§ 1 ch 171 SLA 1959)

Am. Jur., ALR and C.J.S. refer- ing hours of labor in private indus-  
ences.—31 Am. Jur., Labor, §§ 774 try, 90 ALR 814.  
to 807, 813 to 816. Waiver or loss of statutory right  
What employees are within "hours as to maximum hours of labor, 102  
of labor" statutes, 16 ALR 537. ALR 842; 129 ALR 1145.  
Constitutionality of statute limit- 56 C.J.S. Master and Servant § 17.

Sec. 23.10.055. Exemptions. Sections 50--150 of this chapter do not apply to

(1) an individual employed in agriculture which includes farming in all its branches and, among other things, includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including forestry and lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with the farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market;

(2) an individual employed in the catching, trapping, cultivating or farming, netting or taking of any kind of fish, shellfish, or other aquatic forms of animal and vegetable life;

(3) an individual employed in the hand picking of shrimp;

(4) an individual employed in domestic service (including a baby-sitter) in or about a private home;

(5) an individual employed by the United States or by the state or political subdivision of the state;

(6) an individual engaged in the activities of a nonprofit religious, charitable, cemetery or educational organization where the employer-employee relationship does not, in fact, exist, and where services rendered to the organization are on a voluntary basis;

(7) an employee engaged in the delivery of newspapers to the consumer;

(8) an individual employed solely as a watchman or caretaker of a plant or property that is not in productive use for a period of four months or more;

(9) an individual employed in a bona fide executive, administrative or professional capacity or in the capacity of an outside salesman or a salesman who is employed on a straight commission basis;

(10) an individual employed in the search for placer or hard rock minerals; or

(11) an individual under 18 years of age employed on a part-time basis not more than 30 hours in a week. (§ 2(1) ch 171 SLA 1959; am § 1 ch 2 SLA 1962; am § 1 ch 50 SLA 1972)

Effect of amendment. — The 1972 amendment, effective July 1, 1972, inserted "placer or hard rock" in paragraph (10) and deleted "of economic value" preceding "or" in that paragraph.

**Sec. 23.10.060. Payment for overtime.** No employer who employs employees engaged in commerce, or other business, or in the production of goods or materials in Alaska may employ an employee not acting in a supervisory capacity, either male or female, for a workweek longer than 40 hours or for more than eight hours a day, except that if the employer finds it necessary to employ an employee in excess of 40 hours a week or eight hours a day, compensation for the overtime at the rate of one and one-half times the regular rate of pay shall be paid, and this provision is considered included in all contracts of employment. This section does not apply with respect to

(1) an employee employed by an employer employing less than four employees in the regular course of business, as regular course of business is defined by regulations of the commissioner;

(2) an employee employed in a bona fide executive, administrative, or professional capacity or in the capacity of outside salesman, as the terms are defined by regulations of the commissioner;

(3) Repealed by § 1 ch 243 SLA 1970, effective October 31, 1970.

(4) an employee employed in handling, packing, storing, pasteurizing, drying, preparing in their raw or natural state, or canning agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products;

(5) an employee of an employer engaged in small mining operations where not more than 12 employees are employed, if the employee is employed not in excess of 12 hours a day or 56 hours a week during a period or periods of not more than 14 workweeks in the aggregate in a calendar year during the mining season, as the season is defined by the commissioner;

(6) Repealed by § 1 ch 45 SLA 1972.

(7) an employee engaged in agriculture;

(8) an employee employed in connection with the publication of a weekly, semiweekly, or daily newspaper with a circulation of less than 1,000;

(9) a switchboard operator employed in a public telephone exchange which has fewer than 750 stations;

(10) an employee of an employer engaged in the business of operating taxicabs;

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# STATE OF ALASKA

**DEPT. OF COMMUNITY & REGIONAL AFFAIRS**

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, Governor

POUCH B  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-4700

December 14, 1981

The Honorable Bob Mulcahy  
Chairman, Senate Labor  
and Commerce Committee  
Pouch V  
Juneau, Alaska 99811

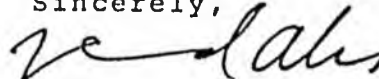
Attention: Michael Thill

Dear Senator Mulcahy:

Please find enclosed the fiscal note and position paper  
on SB 579 requested by your Committee November 9, 1981.

If I can provide additional information or offer any further  
assistance to you or your staff, please do not hesitate to  
contact me at 465-4705.

Sincerely,



Richard Aks  
Deputy Commissioner

cc: The Honorable Pat Rodey  
The Honorable Terry Stimson  
The Honorable Don Bennett  
The Honorable Bettye Fehrenkamp  
The Honorable Jalmar Kerttula  
The Honorable Brad Bradley

Keith Specking, Legislative Assistant  
Office of the Governor

Ron Lehr, Director, Budget and Management  
Office of the Governor

# STATE OF ALASKA

JAY S. HAMMOND, Governor

**DEPT. OF COMMUNITY & REGIONAL AFFAIRS**

OFFICE OF THE COMMISSIONER

POUCH B  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-4700

## Position Paper on Senate Bill 579

SB 579 will expand the lending activities of the Housing Assistance Division to include housing loans for homes located on homesite and open to entry lands where clear title has not yet been acquired by the borrower.

In general the Department supports the intent of the legislation. The need for lending on these lands was clearly established during public hearings held by the Housing Assistance Division during the first quarter of 1981.

The Department would point out that the goal of this legislation could be accomplished by amending restrictions contained in AS 44.47.420 to allow use of funds appropriated to the nonconforming housing loan fund for home loans on homesite or open to entry lands. Specifically, AS 44.47.420(b) could be amended by adding a new subsection (3) stating:

(3) by providing a letter of intent signed by an authorized representative of the Department of Natural Resources which shows that title to the homesite will be transferred from the State to the borrower if the borrower fulfills the requirements of AS 38.08.060.

Losses which occur pursuant to this amendment could be covered by the Restricted Title Loss Reserve Account created in AS 44.47.430. A further minor amendment would be required for this purpose. Both of these changes would be enacted under Section 3 of SB 579.

The Department raises the question of access roads, electrical distribution lines and water/sewer systems related to homes constructed on homesite and open to entry lands. Many times these homes will be located on land which is unconnected to existing road or utility systems. The Department suggests that the Legislature may want to consider a supplemental loan for these purposes.

In order for the program to be successful, the Department of Natural Resources must assure that surveys of homesite or open to entry lands be conducted in a timely manner.

The Department would like to point out that any additional general fund appropriations required by enactment of SB 579 must be considered in the context of the Governor's program to control government spending and enact a Constitutional spending limit.

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. SB 579 of May 27, 1981  
 Title An Act Relating to Homesite Habitable Dwelling Loan Guarantees  
 Requested by Senate Labor and Commerce Committee Date 12/14/81

II. FISCAL DETAIL  
 Agency Affected Community and Regional Affairs  
 Program Category Affected Economic Development  
 BRU, Program, or Subprogram(s) Affected Housing Assistance Programs

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES			63.8			
200 TRAVEL			18.0			
300 CONTRACTUAL			20.4			
400 COMMODITIES			2.4			
500 EQUIPMENT			3.6			
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars)

GENERAL FUND			108.2			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME			2			
PART TIME						
TEMPORARY						

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

This analysis is based on a guaranteed mortgage fund administered by the Department of Revenue with the actual mortgage purchase funds available from monies allocated directly to the Housing Assistance Division for either direct loans originated by the division or loans purchased from private lenders.

It is estimated that 90% of the loan requests will be for original loans for initial new construction and 10% will be for completion of housing units where construction had started but was stopped due to lack of money to complete the houses. Based on the response received while holding public

IV. DATE 12/14/81 PREPARED BY Jack Smodey  
 AGENCY Community and Regional Affairs  
 Original: Legislative Finance PHONE (907) 272-4585  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

hearings on the Housing Assistance regulations, January through March 1981, it is anticipated that requests for approximately 150 to 180 new construction loans and 30 to 50 rehabilitation or completion loans could be anticipated. These loans would range between \$30,000 and \$149,000.

This demand will increase the funding level need by the Division by approximately \$12 million.

The request for two full time positions is based on establishing a field office in Southeast consisting of one Loan Officer II and one Clerk Typist III. The need for this office is based on numerous requests from this area and the anticipated high number of loan requests for homesite and open to entry lands.

This program will have both a social and economic impact by providing additional housing units and private additional construction work throughout the State.

The anticipated costs for a Southeast office are as follows:

Personnel Services

Clerk Typist III	Range 8	\$16,716	
Loan Examiner III	Range 17	\$29,460	
Related fringe benefits and salary increases		<u>\$17,635</u>	\$63,811

Travel

To 18 Southeast communities 3 times annually	\$15,300	
5 trips to Anchorage headquarters	<u>\$ 2,700</u>	\$18,000

Contractual Services

Communication	\$ 3,700	
Printing & Advertising	3,000	
Equipment Maintenance	900	
Equipment Rental		
WANG	2,400	
Other	2,000	
Rent	5,400	
Other fees and services	<u>3,000</u>	\$20,400

Commodities

\$ 2,400

Equipment

2 desks	\$ 800	
2 chairs	250	
2 bookcases	215	
2 file cabinets	400	
3 conference chairs	350	
2 calculators	500	
Other misc. equipment	<u>1,000</u>	\$ 3,565

Total \$108,176



# Alaska State Legislature

## Senate

Official Business

### Labor & Commerce Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### Summary SB 579:

Establishes a 'homesite habitable dwelling loan guarantee account' in the general fund to guarantee loans made by private financial institutions to construct "habitable dwellings" on homesite entry land. Before the state guarantees a loan the bank must determine, to the satisfaction of the commissioner of revenue, that the borrower is able to repay the loan, and the borrower must sign a letter of intent signed by a representative of DNR which shows that title to the homesite will be transferred from the state to the borrower upon fulfilling the requirements of the homesite program. A loan must be for the construction and purchase of a habitable, permanent, single-family dwelling which meets the state requirements, and may not exceed the greater of 90% of the appraised value of the dwelling or an amount equal to the maximum principal amount of mortgage loans for single family dwellings which may be purchased by AHFC or the division of housing assistance in C&RA. Loans may be secured by acceptable collateral, including the homesite entry permit, and may not be for a term longer than 30 years.

During construction, the guarantee extends only to the principal balance of the loan, but after it covers both the principal and the accrued interest. The construction phase is limited to two years. The state may not guarantee a loan if the balance of the loan guarantee account is less than 10% of the total unpaid balance of outstanding loans guaranteed. Guarantee extends to a successor of a bank which makes the loan. Guarantee terminates when when the loan is repaid or when he receives his patent to the homesite; whichever occurs first.

Allows the director of housing assistance in the Dept of C&RA to use money in the nonconforming housing loan fund to purchase or participate in the purchasing of loans guaranteed under the provisions of this bill.

**Sec. 44.47.380. Nonconforming housing loan fund.** There is created in the Department of Community and Regional Affairs the nonconforming housing loan fund consisting of money appropriated to it by the legislature. The director shall administer the nonconforming housing loan fund in accordance with AS 44.47.360 — 44.47.560 and shall use the money in the nonconforming housing loan fund to purchase or participate in the purchase of

- (1) nonconforming housing mortgage loans;
- (2) loans made for building materials for nonconforming housing;
- (3) loans made for renovations or improvements to nonconforming housing. (§ 73 ch 106 SLA 1980)

**Sec. 44.47.390. Limitations on use of nonconforming housing loan fund.** The director may not use the money in the nonconforming housing loan fund to

(1) purchase or participate in the purchase of a nonconforming housing mortgage loan which exceeds the limitations on mortgage loans purchased by the Federal National Mortgage Association as to principal amount;

(2) purchase or participate in the purchase of a loan made for building materials for nonconforming housing

(A) which exceeds

(i) 80 percent of the appraised value of the work completed on the nonconforming housing for which the loan is made if the nonconforming housing is pledged as collateral for the loan; or

(ii) 80 percent of the value of other property which is pledged as security for the loan and which is satisfactory to the director as collateral;

(B) unless the terms of the loan agreement require inspections and certifications, as required by regulations of the director, at the expense of the borrower; and

(C) unless the period of time allowed for repayment of the loan is equal to or less than the lesser of

- (i) three years; or
- (ii) the maximum period of time established by regulation by the director based on the prevailing practice among private financial institutions in the general area in which the loan is made for loans for the purchase of building materials;

(3) purchase or participate in the purchase of a nonconforming housing mortgage loan which is secured by real property the marketable title to which is shown in accordance with AS 44.47.420(b)(2) if the total amount of outstanding nonconforming housing mortgage loans held by the division exceeds 10 times the amount of money in the restricted title loss reserve account (AS 44.47.430).

**Sec. 44.47.400. Security for loans.** (a) The director shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) establishing acceptable security for loans purchased in whole or in part under AS 44.47.380.

(b) A person may pledge as security for the repayment of a loan purchased in whole or in part under AS 44.47.380 a preference right he holds to receive title to land he occupies as a primary place of residence, primary place of business, subsistence campsite, or as headquarters for reindeer husbandry. The preference right must be conveyed to the person by the Native corporation to which the land was granted under section 14 of the Alaska Native Claims Settlement Act (85 Stat. 688, 43 U.S.C. §§ 1601 — 1626, as amended by P.L. 94-204) before it may be pledged as security under this subsection. The commissioner of community and regional affairs shall prescribe procedures and standard forms for establishing, pledging, and appraising the value of a preference right held by a person to secure the repayment of a loan purchased in whole or in part under AS 44.47.380. (§ 73 ch 106 SLA 1980)

**Sec. 44.47.410. Interest on loans.** The interest rate on a mortgage loan purchased in whole or in part under AS 44.47.380 may not exceed

(1) nine percent for a mortgage loan made to a person who is an eligible veteran under AS 18.56.101;

(2) ten percent for a mortgage loan made to a person other than a person described in (1) of this subsection. (§ 73 ch 106 SLA 1980)

**Sec. 44.47.420. Title.** (a) Before the director purchases a nonconforming housing mortgage loan in whole or in part, the director may require a borrower to show marketable title to real property offered as security for the loan to be purchased.

(b) A borrower may show marketable title to real property for the purposes of (a) of this section

(1) by purchasing title insurance from a title insurance company authorized to do business in the state; or

(2) by delivering to the director a copy of a letter of intent signed by an authorized representative of the United States Department of the Interior which shows the transfer of title to the property from the United States government to the borrower if

(A) the borrower is an Alaska Native; and

(B) title to the property was originally transferred from the United States government, directly or indirectly, to the borrower under federal law.

(c) For the purposes of this section, a deed which federal law prohibits or limits the power to transfer or encumber and which would otherwise constitute marketable title to real property is considered

the federal law from foreclosure or other alienation of the real property. (§ 73 ch 106 SLA 1980)

Editor's note. — Section 76, ch. 106, SLA 1980 provides: "By January 21, 1981, the director of the division of housing assistance (AS 44.47.360) shall prepare and submit to the legislature to report on

the effect of the marketable title requirements of AS 44.47.420 enacted by sec. 73 of this Act and shall include in the report any recommendations he considers appropriate."

**Sec. 44.47.430. Restricted title loss reserve account.** (a) There is established in the division the restricted title loss reserve account. The restricted title loss reserve account consists of money appropriated to it by the legislature and shall be administered by the director.

(b) The director may withdraw money from the restricted title loss reserve account in an amount equal to the loss to the division on a nonconforming housing mortgage loan purchased in whole or in part by the division if marketable title to the real property used to secure the loan was shown in accordance with AS 44.47.420(b)(2). Money withdrawn from the restricted title loss reserve account under this section shall be deposited in the nonconforming housing loan fund. (§ 73 ch 106 SLA 1980)

**Sec. 44.47.440. Fire insurance.** Before purchasing or participating in the purchase of a nonconforming housing mortgage loan, the director may require the borrower to agree to purchase and maintain fire insurance for the real property for which the loan is made in an amount not less than the outstanding principal balance of the loan. (§ 73 ch 106 SLA 1980)

**Sec. 44.47.460. Loan servicing.** Before purchasing or participating in the purchase of a loan, the director shall enter into a loan servicing agreement with the private financial institution from which the loan is to be purchased. Under the servicing agreement, the private financial institution shall administer the loan and may charge the division a negotiated fee on the division's share of the loan. The private financial institution may also charge the borrower a reasonable originator fee not to exceed one percent. (§ 73 ch 106 SLA 1980)

**Sec. 44.47.470. Appraisals.** Before purchasing or participating in the purchase of a nonconforming housing mortgage loan, the director may have or may require the borrower to have an appraisal made of the fair market value of the real property, including structures on the real property, for which the loan is made. In conducting an appraisal under this section, the appraiser shall give full value to insulation and other features of construction in structures on the real property which add to the energy efficiency of the structures. (§ 73 ch 106 SLA 1980)

Sec. 44.47.475. Energy audit program. In addition to the

**Sec. 44.47.480. Toll-free telephone number.** The director shall arrange for and maintain a toll-free telephone number for the division so that private financial institutions and their borrowers may contact the division from any location in the state by telephone without a toll charge. (§ 73 ch 106 SLA 1980)

**Sec. 44.47.490. Assistance by division personnel.** (a) The director shall hire at least one lending officer and shall contract for the services of

(1) real property appraisers who are familiar with rural construction; and

(2) engineers who are familiar with engineering problems in arctic and subarctic regions.

(b) The personnel described in (a) of this section shall make regular visits to each of the regions established under AS 44.47.510(a) to provide preconstruction and post-construction inspections of real property for which loans are purchased by the division in whole or in part under AS 44.47.380 and to provide assistance to private financial institutions and their borrowers in the regions. (§ 73 ch 106 SLA 1980)

**Sec. 44.47.500. Demonstration projects and information.** The director may enter into agreements with public and private agencies to provide demonstration projects and information concerning housing construction in each of the regions established under AS 44.47.510(a). (§ 73 ch 106 SLA 1980)

**Sec. 44.47.510. Regional allocation.** (a) The commissioner of community and regional affairs, by regulations adopted in accordance with the Administrative Procedure Act (AS 44.52), shall establish and may amend the boundaries of reasonably compact and contiguous regions in the state.

(b) Unless otherwise required by an appropriation, the director shall allocate the money in the nonconforming housing loan fund among the regions established under (a) of this section for the purpose of purchasing each type of loan described in AS 44.47.380. In making an allocation under this subsection, the director shall consider the past and potential lending activity of private financial institutions in the region as well as the need for loans in the region. The director may reallocate the money among the regions as he considers necessary. (§ 73 ch 106 SLA 1980)

**Sec. 44.47.560. Definitions.** In AS 44.47.360 — 44.47.560,

(1) "director" means the director of the division of housing assistance;

(2) "division" means the division of housing assistance;

(4) "nonconforming housing" means housing which does not conform to minimum building standards under any state or federal program that provides loans for housing purchases. (§ 73 ch 106 SLA 1980)

Article 10. Local Boundary Commission.

Section	Section
565. Local boundary commission	575. Quorum
567. Powers and duties	577. Boundary change
569. Meetings and hearings	579. Expenses
571. Minutes and records	581. Hearings on boundary changes
573. Notice of public hearings	583. When boundary change takes effect

Sec. 44.47.565. Local boundary commission. There is in the Department of Community and Regional Affairs a local boundary commission. The local boundary commission consists of five members appointed by the governor for overlapping five-year terms. One member shall be appointed from each of the four major senatorial election districts and one from the state at large. The member appointed from the state at large is the chairman of the commission. (§ 7 ch 54 SLA 1959; am § 5 ch 200 SLA 1972)

Cross references. — For further provisions relating to the Local Boundary Commission and to annexation by local action, see AS 29.68.010. As to appointment, qualifications, and terms of office of members of departmental boards, councils, or commissions, see AS 39.05.060.

Editor's note. — This section derives from AS 44.19.250 and was renumbered by the revisor under 01.05.031.

When constitutional provision

effective. — The method for making boundary changes, contemplated by art. X, § 12, of the Alaska Constitution, was operative upon the enactment of AS 44.19.250 and 44.19.260. Fairview Pub. Util. Dist. No. 1 v. Anchorage, Sup. Ct. Op. No. 61 (File Nos. 69, 71), 368 P.2d 540 (1962), cert. denied, 371 U.S. 5, 83 S. Ct. 39, 9 L. Ed. 2d 49 (1962).

Cited in Mobil Oil Corp. v. Local Boundary Comm'n, Sup. Ct. Op. No. 989 (File No. 1947), 618 P.2d 92 (1974).

Sec. 44.47.567. Powers and duties. (a) The local boundary commission shall

- (1) make studies of local government boundary problems;
- (2) develop proposed standards and procedures for changing local boundary lines;
- (3) consider a local government boundary change requested of it by the legislature, the commissioner of community and regional affairs, or a political subdivision of the state; and
- (4) develop standards and procedures for the extension of services and ordinances of incorporated cities into contiguous areas for limited purposes upon majority approval of the voters of the contiguous area to be annexed and prepare transition schedules and prorated tax mill

(b) The local boundary commission may (1) conduct meetings and hearings to consider local government boundary changes and other matters related to local government boundary changes, including extensions of services by incorporated cities into contiguous areas and matters related to extension of services; and

(2) present to the legislature during the first 10 days of a regular session proposed local government boundary changes, including gradual extension of services of incorporated cities into contiguous areas upon a majority approval of the voters of the contiguous area to be annexed and transition schedules providing for total assimilation of the contiguous area and its full participation in the affairs of the incorporated city within a period not to exceed five years. (§ 7 ch 64 SLA 1959; § 2 ch 45 SLA 1960; am §§ 1, 2 ch 55 SLA 1964; am §§ 1, 2 ch 161 SLA 1966; am § 6 ch 200 SLA 1972)

Cross reference. — For further statement of powers of local boundary commission, see Alaska Constitution, art. X, § 12.

Editor's note. — This section derives from AS 44.19.260 and was renumbered by the revisor under 01.05.031.

Section 9, ch. 200, SLA 1972, provides: "Where the titles 'Local Affairs Agency' or 'Rural Development Agency' appear in the law of this state, they shall be read as the 'Department of Community and Regional Affairs.'"

Section 11, ch. 200, SLA 1972, provides: "All litigation, hearings, investigations and other proceedings pending under a law amended or repealed or functions which may be transferred by this Act, continue in effect and may be continued and completed notwithstanding a transfer or amendment or repeal provided for in this Act. Certificates, orders, rules or regulations issued or filed under authority of a law amended or repealed by this Act or functions which may be transferred by this Act, remain in effect for the term issued, until revoked, vacated, or otherwise modified under the provisions of this Act. All contracts or other obligations created by a law amended or repealed by this Act or by virtue of functions which may be transferred by this Act, and in effect on July 1, 1972, remain in effect until revoked, or modified under the provisions of this Act. Appropriations, records, equipment and other property of agencies of the

other money available and to become available to agencies the functions, powers and duties of which have been transferred to the Department of Community and Regional Affairs established under this Act shall be available for the objects and purposes for which appropriated or otherwise made available, subject to the terms, restrictions, limitations or other requirements imposed under this section or federal law."

Legislative history report. — For legislative history report on ch. 161, SLA 1966, see House Journal (1966), p. 575.

Powers and duties of local boundary commission. — When grouped together, the powers and duties of the local boundary commission are as follows: (1) To consider any local government boundary change (§ 12, art. X, Alaska Constitution); (2) to present proposed changes to the legislature (§ 12, art. X, Alaska Constitution; § 7, ch. 64, SLA 1959); (3) (subject to law) to establish procedures whereby boundaries may be adjusted by local action (§ 12, art. X, Alaska Constitution); (4) to make studies of local government boundary problems (§ 7, ch. 64, SLA 1959); (5) to develop proposed standards and procedures for changing local boundary lines (§ 7, ch. 64, SLA 1959); (6) to hold hearings on proposed boundary changes (§ 7, ch. 64, SLA 1959). 1959 Op. Att'y Gen., No. 30.

The local boundary commission has the power and authority to recommend through boundaries to the legislature.

**Sec. 38.08.060. Issuance of patent.** (a) A person who enters upon homesite entry land under a permit issued by the director shall be issued a patent to the land conveying an unencumbered title if that person

(1) occupies the land for a cumulative total of 21 months within the three-year period following issuance of the homesite entry permit, or five months with 20 years Alaskan cumulative residence;

(2) erects a habitable, permanent, single-family dwelling on the homesite, which meets all applicable state and local regulations, within three years of the date of issuance of the homesite entry permit; for the purposes of this paragraph, mobile homes are not considered to be permanent dwellings unless they are placed on a permanent foundation;

(3) reimburses the state for the survey and platting undertaken in accordance with this chapter; the director shall provide by regulation for installment payments of this reimbursement.

(b) Nothing in this chapter shall be construed to prohibit a person issued a homesite entry permit from residing in a temporary habitable dwelling on the homesite until revocation of the homesite entry permit.

(c) No person may be issued more than one patent during his lifetime, nor may any person who is a member of a patent holder's household be issued a patent while a member of the patent holder's household.

(d) If a dwelling is found to have been substantially completed under § 100 of this chapter, patent shall be issued upon completion of the dwelling, notwithstanding (a) (2) of this section. (§ 2 ch 142 SLA 1977)

**Sec. 38.08.070. Land located within municipalities.** No state land which is located within the boundaries of an organized borough or city may be classified for homesite entry under this chapter until the proposed use of the land has been studied and approved jointly by the director and the local planning authority. Nothing in this section or AS 29.18.190 prevents the director from selecting and classifying for homesite entry land which would otherwise be available for borough or city selection under AS 29.18.190. If classified for homesite entry, the land shall not be available for city or borough selection. (§ 2 ch 142 SLA 1977)

**Sec. 38.08.080. Required zoning.** No state land which is located within the boundaries of a municipality which exercises planning and zoning authority under AS 29 may be offered by the director for homesite entry under this chapter until the land has been zoned by the governing body of the municipality for residential use only. No state land which is located within a municipality which does not exercise planning and zoning authority, or which is located in the unorganized borough, may be offered by the director for homesite entry under this chapter unless the division of lands has adopted zoning regulations to

**Sec. 38.08.090. Disclaimer of intent to provide services.** Nothing in this chapter obligates the state to provide services to land which is the subject of homesite entry and patent. (§ 2 ch 142 SLA 1977)

**Sec. 38.08.100. Substantial completion of dwelling.** An entry permit may not be revoked for failure to erect a dwelling in the time required under § 60(a)(2) of this chapter if the director finds that erection of the dwelling has been substantially completed and progress toward completion is being made at the expiration of the time required. (§ 2 ch 142 SLA 1977)

**Sec. 38.08.110. Regulations.** The commissioner shall adopt regulations in accordance with AS 44.62.180 — 44.62.290 to carry out the purposes of this chapter. (§ 2 ch 142 SLA 1977)

**Sec. 38.08.120. Definitions.** In this chapter

(1) "commissioner" means the commissioner of natural resources;

(2) "habitable dwelling" means a dwelling of a permanent nature, together with fixtures and facilities, including sanitary facilities, required or customary in the vicinity of the land made available for homesite entry;

(3) "resident" means a person who is not claiming residence in another state and shows by all attending circumstances that his intent is to make this state his permanent residence. (§ 2 ch 142 SLA 1977)

## Chapter 10. Transfer of Tide and Submerged Lands.

### Section

- 10. Application for transfer
- 20. Surveys
- 30. Costs and expenses of surveys

### Section

- 40. Conveyances
- 50. Rules, regulations and procedures

**Sec. 38.10.010. Application for transfer.** Upon application by a municipal corporation with a population of less than 5,000 persons according to the latest United States census entitled to a conveyance of tide and submerged lands under AS 38.05.320(b), the director of the division of lands of the Department of Natural Resources may make or provide for the making of surveys that may be required for the transfer of tide and submerged lands to the municipal corporation, and as may be required for subsequent conveyance of the tide and submerged lands by the municipal corporations to occupants of those lands who hold preference rights. When the application by the municipal corporation is accepted, the governing body of the municipal corporation shall execute a contract on a form approved by the attorney general providing for the survey under the sole management and supervision of the director and for repayment according to the provisions of this chapter. (§ 1 ch 69 SLA 1961)

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# Alaska State Legislature

## Senate

Official Business

### Labor & Commerce Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811

SB 590

With the passage of the Mortgage Subsidy Bond Tax Act (Ullman Bill), the US congress has severely restricted the issuance of tax exempt bonds thereby limiting the mortgage purchases of AHFC.

The Ullman bill allows each state to sell tax exempt bonds to a maximum of \$200 million or 9% of the average annual mortgages for the past 3 years. The legislation further provides that only 50% of this amount may be utilized by the State Housing Finance Agency, therefore the creation of the Alaska Housing <sup>REVOLVING</sup> Loan Fund in AHFC is a possible means of addressing the shortage of mortgage money.



Official Business

# Alaska State Legislature

Senate

Labor & Commerce Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811

Summary SB 590:

Establishes the Alaska Housing Revolving Loan Fund in AHFC, consisting of the following:

- 1) Appropriations made by the legislature
- 2) Repayments of principle and interest on loans made from the fund

Purpose of the fund: Allows AHFC to use the money in the fund to make or purchase any loans which the corporation is permitted to make by statute.





remains the same and the original notice was written so as to assure that members of the public are reasonably notified of the proposed subject of the board's action in order for them to determine whether their interests could be affected by the board's action on that subject.

(e) A regulation or order of repeal on a subject specified in (c) of this section may be adopted as an emergency regulation or order of repeal if the board makes a finding in its order of adoption or repeal, including a statement of the facts which constitute the emergency, that the adoption of the regulation or order of repeal is necessary for the immediate preservation of the orderly operation of the corporation's loan and bonding programs. The requirements of (d) of this section do not apply to the initial adoption of an emergency regulation covering a subject specified in (c) (1) — (4) of this section; however, upon adoption of an emergency regulation, the board shall, within 10 days after adoption, give notice of the adoption in accordance with (d) of this section. No emergency regulation adopted under this subsection remains in effect more than 120 days unless the board complies with (d) of this section during the 120-day period.

(f) A regulation adopted under (b) — (e) of this section becomes effective immediately upon its adoption by the board, unless otherwise specifically provided by the order of adoption.

(g) The provisions of (b) — (e) of this section do not apply to regulations governing interest rates on the corporation's mortgage loan programs.

(h) The board shall adopt regulations in accordance with (a)—(f) of this section which establish a procedure by which a seller of mortgage loans may appeal a decision of the corporation not to purchase mortgage loans offered by the seller. (§ 5 ch 167 SLA 1978; am § 19 ch 106 SLA 1980)

**Effect of amendments.** — The 1980 amendment added subsection (h).

**NOTES TO DECISIONS**

**Applied in** *Horowitz v. Alaska Bar Ass'n*, Sup. Ct. Op. No. 2059 (File Nos. 4310, 4311), 609 P.2d 39 (1980).

**Sec. 18.56.089. Executive Budget Act.** The operating budget of the corporation is subject to the Executive Budget Act (AS 37.07.010 — 37.07.130) for fiscal years beginning after June 30, 1981. (§ 20 ch 106 SLA 1980)

**Sec. 18.56.090. General powers.** In addition to other powers granted in AS 18.56.010 — 18.56.210, the corporation may, for the purpose of providing housing for persons of lower and moderate income or persons located in remote, underdeveloped or blighted areas of the state and for its other corporate purposes,

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(1) Repealed by § 51 ch 115 SLA 1981.

(2) make or participate in the making of mortgage loans to sponsors, developers, builders and purchasers of residential housing, if the corporation determines that mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(3) purchase or participate in the purchase of mortgage loans made to sponsors, developers, builders, owners and purchasers of residential housing, if the corporation

(A) has given approval before the initial making of the loan and has determined that mortgage loans were, at the time the approval was given, not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions, or

(B) has determined that the purchase or participation will result in additional residential housing, taking into account without limitation such factors as reinvestment of the proceeds of the sale in additional mortgage loans, increased availability of mortgage loans insured by the federal government, its agencies or departments, the reduction, if any, of interest payments to be made with respect to mortgage loans, or such other factors as will tend to increase or improve the supply of residential housing within the state;

(4) make partial rental payments and mortgage interest payments under a contract with any housing owner if the payments will be applied to decrease rental or mortgage interest charges of persons of lower and moderate income or owners or purchasers of residential housing in remote, underdeveloped or blighted areas of the state;

(5) make loans from the housing development fund;

(6) collect and pay reasonable fees and charges in connection with making, purchasing and servicing its mortgages, loans, notes, bonds, certificates, commitments and other evidences of indebtedness;

(7) acquire real property, or any interest in real property, in its own name, by purchase, transfer or foreclosure, when the acquisition is necessary or appropriate to protect any loan in which the corporation has an interest; sell, transfer and convey any such property to a buyer; and, if the sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, rent or lease the property to a tenant pending the sale, transfer or conveyance;

(8) sell, at public or private sale, to any purchaser, including the Federal National Mortgage Association, all or any part of a mortgage or other instrument or document securing a construction, land development, mortgage or temporary loan of any type permitted by AS 18.56.010 — 18.56.210;

(9) purchase, in order to meet the requirements of the sale of its mortgages to the Federal National Mortgage Association, stock of the Federal National Mortgage Association;