ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

1808 SLC HB 252 - HB 524

intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating; or

(2) if continued occupancy is lawful, vacate the part of the dwelling unit rendered unusable by the fire or casualty, in which case the tenant's liability for rent is reduced in proportion to the diminution in the fair rental value of the dwelling unit.

(b) If the rental agreement is terminated, the landlord shall return all prepaid rent and security deposits recoverable under § 70 of this chapter. Accounting for rent in the event of termination or apportionment shall occur as of the date of the casualty. (§ 1 ch 10 SLA 1974)

Sec. 34.03.210. Tenant's remedies for landlord's unlawful ouster, exclusion, or diminution of service. If the landlord unlawfully removes or excludes the tenant from the premises or wilfully diminishes services to the tenant by interrupting or causing the interruption of electric, gas, water, sanitary or other essential service to the tenant, the tenant may recover possession or terminate the rental agreement and, in either case, recover an amount not to exceed one and one-half times the actual damages. If the rental agreement is terminated, the landlord shall return all prepaid rent and security deposits recoverable by the tenant under § 70 of this chapter. (§ 1 ch 10 SLA 1974)

Article 6. Landlord Remedies.

Sec. 34.03.220. Noncompliance with rental agreement: Failure to pay rent. (a) Except as provided in this chapter, if there is a material noncompliance by the tenant with the rental agreement or noncompliance with § 120 of this chapter materially affecting health and safety, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and specifying that the rental agreement will terminate upon a date not less than 20 days after receipt of the notice. If the breach is not remedied in 10 days, the rental agreement terminates as provided in the notice subject to the provisions of this section. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach before the date specified in the notice, the rental agreement will not terminate. In the absence of due care by the tenant, if substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six months, the landlord may terminate the rental agreement

upon at least 10 days written notice specifying the breach and the date of termination of the rental agreement.

(b) If rent is unpaid when due and the tenant fails to pay rent within 10 days after written notice by the landlord of nonpayment and his intention to terminate the rental agreement if the rent is not paid within that period of time, the tenancy terminates unless the landlord agrees to allow the tenant to remain in occupancy, and the landlord may terminate the rental agreement and immediately recover possession of the rental unit; only one written notice of default need be given the tenant by the landlord as to any one default.

(c) Except as provided in this chapter, the landlord may recover his actual damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement of § 120 of this chapter. (§ 1 ch 10 SLA 1974)

Sec. 34.03.230. Remedies for absence, nonuse and abandonment. (a) When the rental agreement requires the tenant to give notice to the landlord of an anticipated extended absence in excess of seven days as required in § 150 of this chapter and the tenant wilfully fails to do so, the landlord may recover an amount not to exceed one and one-half times the actual damages.

(b) During an absence of the tenant in excess of seven days, the landlord may enter the dwelling unit at times reasonably necessary as provided in § 140 of this chapter.

(c) If the tenant abandons the dwelling unit, the landlord shall make reasonable efforts to rent it at a fair rental value. If the landlord rents the dwelling unit for a term beginning before the expiration of the rental agreement, the agreement is considered terminated on the date the new tenancy begins. The rental agreement is considered terminated by the landlord on the date the landlord has notice of the abandonment if the landlord fails to use reasonable efforts to rent the dwelling unit at a fair rental value or if the landlord accepts the abandonment as a surrender. If the tenancy is from month to month, or week to week, the term of the rental agreement for purposes of this section shall be considered a month or a week, as the case may be. (§ 1 ch 10 SLA 1974)

Sec. 34.03.240. Waiver of landlord's right to terminate. Acceptance of rent with knowledge of a default by the tenant or acceptance of performance by the tenant that varies from the terms of the rental agreement or rules or regulations subsequently adopted by the landlord constitutes a waiver of the right of the landlord to terminate the rental agreement for that breach, unless otherwise agreed after the breach has occurred. (§ 1 ch 10 SLA 1974)

Sec. 34.03.250. Landlord liens; distraint for rent abolished. (a) A lien or security interest on behalf of the landlord in the tenant's household goods is not enforceable unless perfected before March 19, 1974.

(b) Distraint for rent is abolished. (§ 1 ch 10 SLA 1974)

Sec. 34.03.260. Disposition of abandoned property. (a) Except as otherwise agreed, if, upon termination of a tenancy including but not limited to, a termination after expiration of a lease or by surrender or abandonment of the premises, a tenant has left personal property upon the premises, and the landlord reasonably believes that the tenant has abandoned this personal property, the landlord may

(1) notify the tenant of his demand that the property be removed within the dates set out in the notice (but not less than 15 days after delivery or mailing of the notice), and that if the property is not removed within the time specified, the property may be sold; if the property is not removed within the time specified in the notice, the landlord may sell the property at a public sale; the landlord may dispose of perishable commodities in any manner he considers fit;

(2) if the tenant has left personal property which is reasonably determined by the landlord to be valueless or of such little value that the cost of storing and conducting a public sale would probably exceed the amount that would be realized from the sale, the landlord may notify the tenant that the property be removed within the date specified in the notice (but not less than 15 days after delivery or mailing of the notice), and that if the property is not removed within the time specified, the landlord intends to destroy or otherwise dispose of the property; if the property is not removed within the time specified in the notice, the landlord may destroy or otherwise dispose of the property; in his notice, the landlord shall indicate his election to sell certain items of the tenant's personal property at public sale and to destroy or otherwise dispose of the remainder.

(b) After notice as provided in (a) of this section, the landlord shall store all personal property of the tenant in a place of safekeeping and shall exercise reasonable care of the property, but is not responsible to the tenant for loss not caused by the landlord's deliberate or negligent act. The landlord may elect to store the property on the premises previously demised, in which event the storage cost may not exceed the fair rental value of the premises. If the tenant's property is removed to a commercial storage company, the storage cost shall include the actual charge for the storage and removal from the premises to the place of storage.

(c) After landlord's notice under (a) of this section, or otherwise, if the tenant makes timely response in writing of his intention to remove the personal property from the premises and does not do so within the time specified in the landlord's notice or within 15 days of the delivery or mailing of the tenant's written response (whichever is later), it shall be conclusively presumed that he has abandoned the property. If the tenant removes the property after notice, the landlord is entitled to the cost of storage for the period the property has remained in his safekeeping.

(d) The landlord may not be held to respond in damages in an action by a tenant claiming loss by reason of the landlord's election,

destruction, or disposition of property, or sale. If, however, the landlord deliberately or negligently violates the provisions of this section, he is liable for actual damages and penal damages of an amount not to exceed actual damages.

(e) A public sale authorized under the provisions of this section shall be conducted under the provisions of AS 09.35.140. The landlord may dispose of any property upon which no bid is made at the public sale. (§ 1 ch 10 SLA 1974)

Sec. 34.03.270. Remedy after termination. If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement. (§ 1 ch 10 SLA 1974)

Sec. 34.03.280. Recovery of possession limited. A landlord may not recover or take possession of the dwelling unit by action or otherwise, including wilful diminution of services to the tenant by interrupting or causing the interruption of electricity, gas, water, sanitary or other essential services to the tenant, except in case of abandonment, surrender, circumstances beyond his control due to energy conditions, or as permitted in this chapter. (§ 1 ch 10 SLA 1974)

Article 7. Periodic Tenancy, Holdover, and Abuse of Access.

Section
290. Periodic tenancy and holdover
300. Landlord and tenant remedies for abuse of access

Sec. 34.03.290. Periodic tenancy and holdover. (a) While rent is current, the landlord or the tenant may terminate a week to week tenancy by a written notice given to the other at least 14 days before the termination date specified in the notice.

(b) The landlord or the tenant may terminate a month to month tenancy by a written notice given to the other at least 30 days before the rental due date specified in the notice.

(c) If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or after its termination, the landlord may bring an action for possession and if the tenant's holdover is wilful and not in good faith the landlord, in addition, may recover an amount not to exceed one and one-half times the actual damages. If the landlord consents to the tenant's continued occupancy, § 20 of this chapter applies. (§ 1 ch 10 SLA 1974)

Sec. 34.03.300. Landlord and tenant remedies for abuse of access. (a) If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access, or terminate the rental agreement. In either case, the landlord may recover an amount not to exceed the actual damages or one month's periodic rent, whichever is greater. If the landlord terminates the rental agreement, he shall give

written notice to the tenant at least 10 days before the date specified in the notice.

(b) If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry otherwise lawful but which have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the recurrence of the conduct, or terminate the rental agreement. In either case, the tenant may recover an amount not to exceed the actual damages or one month's periodic rent, whichever is greater, court costs and reasonable attorney fees. If the tenant terminates the rental agreement, he shall give written notice to the landlord at least 10 days before the date specified in the notice. (§ 1 ch 10 SLA 1974)

Article 8. Retaliatory Action.

Section
310. Retaliatory conduct prohibited

Sec. 34.03.310. Retaliatory conduct prohibited. (a) Except as provided in (c) and (d) of this section, a landlord may not retaliate by increasing rent or decreasing services or by bringing or threatening to bring an action for possession after the tenant has

(1) complained to the landlord of a violation of § 100 of this chapter;

(2) endeavored to avail himself of rights and remedies granted him under the provisions of this chapter;

(3) organized or become a member of a tenant's union or similar organization; or

(4) complained to a governmental agency responsible for enforcement of governmental housing, wage, price or rent controls.

(b) If the landlord acts in violation of (a) of this section, the tenant is entitled to the remedies provided in § 210 of this chapter and has a defense in an action against him for possession.

(c) Notwithstanding (a) and (b) of this section, a landlord may bring an action for possession if

(1) the tenant is in default in rent;

(2) compliance with the applicable building or housing code requires alteration, remodeling, or demolition which would effectively deprive the tenant of use of the dwelling unit;

(3) the tenant is committing waste, or a nuisance, or is using the dwelling unit for an illegal purpose or for other than living or dwelling purposes in violation of his rental agreement;

(4) he seeks in good faith to recover possession of the dwelling unit for personal purposes;

(5) he seeks in good faith to recover possession of the dwelling unit for the purpose of substantially altering, remodeling, or demolishing the premises;

(6) he seeks in good faith to recover possession of the dwelling unit for the purpose of immediately terminating for at least six months use of the dwelling unit as a dwelling unit; or

(7) he has in good faith contracted to sell the property, and the contract of sale contains a representation by the purchaser corresponding to (4), (5) or (6) of this subsection.

(d) Notwithstanding (a) of this section, the landlord may increase the rent if he

(1) has become liable for a substantial increase in property taxes, or a substantial increase in other maintenance or operating costs not associated with his complying with the complaint or request, not less than four months before the demand for an increase in rent; and the increase in rent bears a reasonable relationship to the net increase in taxes or costs;

(2) has completed a capital improvement of the dwelling unit or the property of which it is a part and the increase in rent does not exceed the amount which may be claimed for federal income tax purposes as a straight-line depreciation of the improvement, prorated among the dwelling units benefited by the improvement;

(3) can establish, by competent evidence, that the rent now demanded of the tenant does not exceed the rent charged other tenants of similar dwelling units in his building or, in the case of a single-family residence or if there is no similar dwelling unit in the building, does not exceed the fair rental value of the dwelling unit.

(e) Maintenance of the action under (c) of this section does not release the landlord from liability under § 160(b) of this chapter. (§ 1 ch 10 SLA 1974)

Article 9. General Provisions.

Sec. 34.03.320. Obligation of good faith. Every duty under this chapter and every act which must be performed as a condition precedent to the exercise of a right or remedy under this chapter imposes an obligation of good faith in its performance or enforcement. The aggrieved party has a duty to mitigate damages. (§ 1 ch 10 SLA 1974)

Sec. 34.03.330. Application and exclusions. (a) This chapter applies to and determines rights, obligations and remedies under a rental agreement, wherever made, for a dwelling unit in this state.

(b) Unless created to avoid the application of this chapter, the following arrangements are not governed by this chapter:

(1) residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar services;

(2) occupancy under a contract of sale of a dwelling unit or the

property of which it is a part, if the occupant is the purchaser or a person who succeeds to his interest;

(3) occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;

(4) transient occupancy in a hotel, or motel, lodgings or other transient facility;

(5) occupancy by an employee of a landlord whose right to occupancy is conditioned upon employment substantially for services, maintenance, or repair to the premises;

(6) occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative;

(7) occupancy under a rental agreement covering premises used by the occupant primarily for agricultural purposes. (§ 1 ch 10 SLA 1974)

Sec. 34.03.340. Service of process. If a landlord is not a resident of this state or is a corporation not authorized to do business in this state and engages in any conduct in this state governed by this chapter, or engages in a transaction subject to this chapter, he may designate an agent upon whom service of process may be made in this state. The agent shall be a resident of this state or a corporation authorized to do business in this state. The agent shall be the same person designated under § 80 of this chapter. The designation shall be in writing and filed with the commissioner of commerce. If no designation is made and filed or if process cannot be served in this state upon the designated agent, process may be served upon the commissioner of commerce, but the service upon him is not effective unless the plaintiff or petitioner immediately mails a copy of the process and pleadings by certified or registered mail to the defendant or respondent at his last ascertainable address. An affidavit of compliance with this section shall be filed with the clerk of the court having jurisdiction on or before the return day for the process, if any, or within any further time allowed by the court. (§ 1 ch 10 SLA 1974)

Sec. 34.03.350. Attorney fees. Attorney fees shall be allowed to the prevailing party in any proceeding arising out of this chapter or a rental agreement. (§ 1 ch 10 SLA 1974)

Sec. 34.03.360. Definitions. In this chapter

(1) "abandonment" means that the tenant has left the dwelling unit and his personal belongings in it and has been absent for a continuous period of seven days or longer without giving notice under § 150 of this chapter and has defaulted in the payment of rent;

(2) "building and housing codes" include any law, ordinance, or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use, or appearance of a premise or dwelling unit;

(3) "dwelling unit" means a structure or a part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a

common household, and includes mobile homes, and if located in a mobile home park, the lot or space upon which a mobile home is placed;

(4) "fair rental value" means the average rental rate in the community for available dwelling units of similar size and features;

(5) "good faith" means honesty in fact in the conduct of the transaction concerned;

(6) "landlord" means the owner, lessor, or sublessor of the dwelling unit or the building of which it is a part, and it also means a manager of the premises who fails to disclose as required by § 80 of this chapter;

(7) "organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal entity;

(8) "owner" means one or more persons, jointly or severally, in whom is vested all or part of the legal title to property or all or part of the beneficial ownership of property and a right to present use of the premises; and the term includes a mortgagee in possession;

(9) "person" includes an individual or organization;

(10) "premises" means a dwelling unit and the structure of which it is a part and facilities and appurtenances in it and grounds, areas and facilities held out for the use of tenants generally or whose use is promised to the tenant;

(11) "prepaid rent" means that amount of money demanded by the landlord at the initiation of the tenancy for the purpose of ensuring that rent will be paid, but does not include the first month's rent or money received as security for damage;

(12) "rent" means the uniform periodic payment due the landlord, however denominated;

(13) "rental agreement" means all agreements, written or oral, and valid rules and regulations adopted under § 130 of this chapter embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises;

(14) "sanitary facility" means a flush toilet and proper drainage for all toilets, sinks, basins, bathtubs and showers;

(15) "single family residence" means a structure maintained and used as a single dwelling unit;

(16) "tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others;

(17) "undeveloped rural area" means an area where public sewer or water services are not available;

(18) "wear resulting from ordinary use" means deterioration of the premises which is the result of the tenant's normal nonabusive living and includes but is not limited to deterioration caused by the landlord's failure to prepare for expected conditions or by the landlord's failure to comply with his obligations. (§ 1 ch 10 SLA 1974)

Sec. 34.03.370. Applicability. After March 19, 1974, this chapter applies to any rental agreement, lease, or tenancy entered into,

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

Sectional Analysis CS HB 252 (Judiciary)am: "An act relating to the obligaitons of landlords"

Through the committee process, HB 252 was replaced by a House Judiciary C and when it came before the House, amendment #1 by Phillips was adopted. The bill passed the House 28-11-1, was transmitted to the Senate, and the Senate Judiciary committee moved the bill with a recommended amendment.

Section 1): Repeals and reenacts AS 34.03.070(b): Upon termination of the tenancy, a security deposit (property or money) may be applied to the payment of accrued rent and/or damages which the landlord has suffered. The accrued rent and damages must be itemized by the landlord in a written notice, and (delivered) MAILED to the tenants last known address within the time limits prescribed in section 2.

Section 2): If the tenant gives written notice which complies with AS 34.03.290, the landlord shall mail the written notice and refund within 14 days. If the tenant fails to give notice which complies with AS 34.03.290, the landlord shall mail the written notice and refund within 30 days. If the landlord does not know the mailing address of the tenant, but knows or has reason to know how to contact the tenant, the landlord shall make every reasonable effort to deliver the notice and refund.

"Damages" do not include wear resulting from ordinary use of the premisses.

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SB 224 and CSHB 252 (Judiciary) am: "An act relating to the obligations of landlords"

Upon introduction, SB 224 (Sturgulewski by request) and HB 252 (Anderson by request) were identical, however HB 252 was replaced with a House Judiciary CS which rewrites a section of the Uniform Landlord Tenants Act. When the bill came before the House, amendment #1 by Rep Phillips was adopted, and the bill passed the House with a vote of 28-11-1. In the Senate the bill was referred to the Judiciary committee which recommended an amendment, and subsequently was also referred to the Labor and Commerce committee.

SUMMARY OF SB 224:

After a tenant terminates his rental, property or money (held as security) may be applied by the landlord for payment of accrued rent or damages (AS 34.03.120).

Accrued rent and damages must be itemized by the landlord in a written notice and delivered with the amount due to the tenant no later than 30 days after the following:

1. Termination of the tenancy
2. Delivery of possession of the tenant
3. Notice to the landlord of an address notices to the tenant may be sent.

"Damages do not include wear resulting from ordinary use of the premises.

SUMMARY OF CSHB 252 (Judiciary) am:

Section 1: Essentially the same, except for the provision that the landlord mail (originally deliver) the itemized written notice of accrued rent and/or damages to the tenant's last known address. The original bill required the tenant to provide the landlord with an address to which notices may be sent, as a condition of the security deposit refund within the prescribed time limit. The CS details those requirements in section 2.

Section 2: Requires the tenant to give notice which complies with AS 34.03.290, and

that the landlord shall mail the written notice and refund within 14 days (original bill-30 days), after the termination of tenancy and delivery of possession by the tenant. A substantive difference between the original bill and the CS occurs with the provision that when a tenant fails to give notice in accordance with AS 34.03.290 the landlord shall mail the written notice and refund within 30 days after the following have occurred:

1) the tenancy is terminated,
2) possession is delivered by the tenant, or
3) the landlord becomes aware that the dwelling or unit is abandoned.

The original bill required the tenant to provide the landlord with a mailing address, however, if the landlord does not have a mailing address for the tenant, but knows or has reason to know how to contact the tenant, the landlord shall make every reasonable effort to contact the tenant.

COMMITTEE REPORT

SENATE

6/15/81

FURTHER: None

Date: 23 JANUARY 1982

Mr. President:

The Committee on LABOR & COMMERCE has had CSHB 252(Fin) am relating to the obligations of landlords

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

[X] do pass [ ] do not pass

[X] do pass with attached amendments(s) SENATE J.d AMENDMENT [ ] same title

[ ] replace with CS for _____ [ ] 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:

CHAIRMAN

S 60 (Rev. 12/78)

(d) Within 14 days after the written offer has been delivered to the landlord, the landlord may refuse consent to a sublease or assignment by a written rejection signed and delivered by him to the tenant, containing one or more of the following reasonable grounds for rejecting the prospective occupant:

(1) insufficient credit standing or financial responsibility;

(2) number of persons in the household;

(3) number of persons under 18 years of age in the household;

(4) unwillingness of the prospective occupant to assume the same terms as are included in the existing rental agreement;

(5) proposed maintenance of pets;

(6) proposed commercial activity; or

(7) written information signed by a previous landlord, which shall accompany the rejection, setting out abuses of other premises occupied by the prospective occupant.

(e) In the event the written rejection fails to contain one or more grounds permitted by (d) of this section for rejecting the prospective occupant, the tenant may consider the landlord's consent given, or at his option may terminate the rental agreement by a written notice given without unnecessary delay to the landlord at least 30 days before the termination date specified in the notice.

(f) If the landlord does not deliver a written rejection signed by him to the tenant within 14 days after a written offer has been delivered to him by the tenant, the landlord's consent to the sublease or assignment shall be conclusively presumed. (§ 1 ch 10 SLA 1974)

Article 3. Landlord Obligations.

Sec. 34.03.070. Security deposits; prepaid rent. (a) A landlord may not demand or receive prepaid rent or a security deposit, however denominated, in an amount or value in excess of two months' periodic rent.

(b) Upon termination of the tenancy, property or money held by the landlord as prepaid rent or as a security deposit may be applied to the payment of accrued rent and the amount of damages which the landlord has suffered by reason of the tenant's noncompliance with 120 of this chapter. The accrued rent and damages must be itemized by the landlord in a written notice delivered to the tenant together with the amount due no later than 14 days after termination of the tenancy and delivery of possession by the tenant. "Damages" do not include wear resulting from ordinary use of the premises.

(c) All money paid to the landlord by the tenant as prepaid rent or as a security deposit in a lease or rental agreement shall be promptly deposited by the landlord, wherever practicable, in a trust account in a

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bank, savings and loan association, or licensed escrow agent, and the landlord shall provide to the tenant the terms and conditions under which the prepaid rent or security deposit or portions of them may be withheld by the landlord; nothing in this chapter prohibits the landlord from commingling prepaid rents and security deposits in a single financial account.

(d) If the landlord wilfully fails to comply with (b) of this section, the tenant may recover an amount not to exceed twice the actual amount withheld.

(e) This section does not preclude a landlord or tenant from recovering other damages to which he may be entitled under this chapter.

(f) The holder of the landlord's interest in the premises at the time of the termination of the tenancy is bound by this section. (§ 1 ch 10 SLA 1974)

Sec. 34.03.080. Disclosure. (a) The landlord or person authorized to enter into a rental agreement on his behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of

(1) the person authorized to manage the premises; and

(2) an owner of the premises or a person authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving and receipting for notices and demands.

(b) The information required to be furnished by this section shall be kept current and this section extends to and is enforceable against any successor landlord, owner or manager.

(c) A person who fails to comply with (a) of this section becomes an agent of each person who is a landlord for the purpose of

(1) service of process and receiving and receipting for notices and demands; and

(2) performing the obligations of the landlord under this chapter and under the rental agreement and expending or making available for the purpose all rent collected from the premises. (§ 1 ch 10 SLA 1974)

Sec. 34.03.090. Landlord to supply possession of the dwelling unit. At the commencement of the term the landlord shall deliver possession of the premises to the tenant in compliance with the rental agreement and § 100 of this chapter. The landlord may bring an action for possession against any person wrongfully in possession and may recover the damages provided in § 290 of this chapter. (§ 1 ch 10 SLA 1974)

Sec. 34.03.100. Landlord to maintain fit premises. (a) The landlord shall

(1) make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

(2) keep all common areas of the premises in a clean and safe condition;

tenant for the property and money to which the tenant is entitled under § 70 of this chapter, unless the property and money are specifically assigned to and accepted by the purchaser.

(b) Unless otherwise agreed, a manager of premises that include a dwelling unit is relieved of liability under the rental agreement and this chapter as to events occurring after written notice to the tenant of the termination of his management. (§ 1 ch 10 SLA 1974)

Article 4. Tenant Obligations.

Sec. 34.03.120. Tenant to maintain dwelling unit. The tenant shall

(1) keep that part of the premises that he occupies and uses as clean and safe as the condition of the premises permit;

(2) dispose from his dwelling unit all ashes, rubbish, garbage, and other waste in a clean and safe manner;

(3) keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;

(4) use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, kitchen and other facilities and appliances including elevators in the premises;

(5) not deliberately or negligently destroy, deface, damage, impair or remove a part of the premises or knowingly permit any person to do so; and

(6) conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not unreasonably disturb his neighbor's peaceful enjoyment of the premises. (§ 1 ch 10 SLA 1974)

Sec. 34.03.130. Rules and regulations. (a) A landlord may adopt rules and regulations, which shall be posted prominently on the premises, concerning the tenant's use and occupancy of the premises. A rule or regulation is enforceable against the tenant only if

(1) its purpose is to promote the convenience, safety, health, or welfare of the tenants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;

(2) it is reasonably related to the purpose for which it is adopted;

(3) it applies to all tenants in the premises in a fair manner;

(4) it is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform him of what he must or must not do to comply;

(5) it is not for the purpose of evading the obligations of the landlord; and

destruction, or disposition of property, or sale. If, however, the landlord deliberately or negligently violates the provisions of this section, he is liable for actual damages and penal damages of an amount not to exceed actual damages.

(e) A public sale authorized under the provisions of this section shall be conducted under the provisions of AS 09.35.140. The landlord may dispose of any property upon which no bid is made at the public sale. (§ 1 ch 10 SLA 1974)

Sec. 34.03.270. Remedy after termination. If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement. (§ 1 ch 10 SLA 1974)

Sec. 34.03.280. Recovery of possession limited. A landlord may not recover or take possession of the dwelling unit by action or otherwise, including wilful diminution of services to the tenant by interrupting or causing the interruption of electricity, gas, water, sanitary or other essential services to the tenant, except in case of abandonment, surrender, circumstances beyond his control due to energy conditions, or as permitted in this chapter. (§ 1 ch 10 SLA 1974)

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300. Landlord and tenant remedies for abuse of access

Sec. 34.03.290. Periodic tenancy and holdover. (a) While rent is current, the landlord or the tenant may terminate a week to week tenancy by a written notice given to the other at least 14 days before the termination date specified in the notice.

(b) The landlord or the tenant may terminate a month to month tenancy by a written notice given to the other at least 30 days before the rental due date specified in the notice.

(c) If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or after its termination, the landlord may bring an action for possession and if the tenant's holdover is wilful and not in good faith the landlord, in addition, may recover an amount not to exceed one and one-half times the actual damages. If the landlord consents to the tenant's continued occupancy, § 20 of this chapter applies. (§ 1 ch 10 SLA 1974)

Sec. 34.03.300. Landlord and tenant remedies for abuse of access. (a) If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access, or terminate the rental agreement. In either case, the landlord may recover an amount not to exceed the actual damages or one month's periodic rent, whichever is greater. If the landlord terminates the rental agreement, he shall give

HB
274

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY HB 274:

Amends section relating to minimum electrical standards. The 1981 (presently 1978) edition of the National Electrical Code and the latest published edition of the National Electrical Safety Code constitue the minimum electrical standards of the State. Amends Borough abd city electrical codes by stating that the Department may by regulation adopt amendments to the 1981 (presently 1975) National Electrical Code as approved and issued by the American Standards Association.

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Labor & Commerce Committee

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.

SENATE

FURTHER: None

4/2/81 Date: _____

Mr. President:

The Committee on LABOR & COMMERCE has had CSHB 274(L&C)

electrical codes

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

Phillip Isaacson

Bob Mulcahy

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bob Mulcahy
CHAIRMAN

chapter may appeal in the manner prescribed by § 370 of this chapter. (§ 6 ch 106 SLA 1957)

Sec. 18.60.450. Violations and penalties. A person who violates a provision of §§ 400—460 of this chapter is guilty of a misdemeanor and is punishable by a fine of not less than $50 nor more than $500. (§ 7 ch 106 SLA 1957)

Sec. 18.60.460. Enforcement of article. Federal, state and municipal law enforcement officers may enforce §§ 400—460 of this chapter. (§ 8 ch 106 SLA 1957)

Article 5. Radiation Protection Act.

Section
470—570. [Repealed]

Secs. 18.60.470—18.60.570.

Repealed by § 4 ch 120 SLA 1971, effective July 1, 1971.

Editor's note. — The repealed article derived from §§ 1—11, ch. 66, SLA 1957; §§ 1—4, ch. 51, SLA 1969; § 6, ch. 104, SLA 1971.

Section 5, ch. 120, SLA 1971, provides: "All litigation, hearings, investigations and other proceedings pending under any law amended or functions which may be transferred by this Act, continue in effect and may be continued and completed notwithstanding any such transfer or amendment provided for in this Act. Certificates, orders, rules or regulations issued or filed under authority of a law amended by this Act or functions which may be transferred by this Act, remain in effect for the term issued, unless or until revoked, vacated, or otherwise modified under the provisions of this Act. All contracts or other obligations created by any law amended by this Act or by virtue of functions which may be transferred by this Act, and in effect on July 1, 1971, remain in effect unless or until revoked, or modified under the provisions of this Act."

Legislative committee report. — For report on ch. 120, SLA 1971 (SB 75 am H), see 1971 House Journal, p. 1016.

Article 6. Electrical Safety.

Section
580. Minimum electrical standards
590. Borough and city electrical safety codes
600. Powers and duties of the department
610. Delegation of authority
620. Inspection fees.
630. Enforcement of compliance
640. Scope of work covered
650. Penalty for violations
660. Definitions.

Sec. 18.60.580. Minimum electrical standards. The Department of Labor shall adopt the 1971 published edition of the National Electrical Code approved by the American Standards Association, and the latest published edition as of August 5, 1969 of the National Electrical Safety Code issued by the U.S. Department of Commerce, Bureau of Standards, as the minimum electrical safety standards of the state. (§ 1 ch 89 SLA 1969; am § 1 ch 37 SLA 1972)

Effect of amendment. — The 1972 amendment substituted "1971" for "1968" near the beginning of this section.

Sec. 18.60.590. Borough and city electrical safety codes. (a) The department may by regulation adopt amendments the 1971 National Electrical Code as approved and issued by the American Standards Association.

(b) This chapter does not affect the authority of any municipality or rural electrification association to prescribe by ordinance, rule, or order standards for their respective areas of jurisdiction not less stringent than the standards prescribed by the department or those established under § 580 of this chapter. (§ 1 ch 89 SLA 1969; am § 42 ch 69 SLA 1970; am § 29 ch 53 SLA 1973)

Effect of amendments. — The 1970 amendment substituted "adopt" for "incorporate into §§ 580—660 of this chapter" in subsection (a).

The 1973 amendment substituted "1971" for "1968" in subsection (a).

Legislative committee reports. — For report on ch. 69, SLA 1970 (HB 564), see 1970 House Journal Supplement No. 2, p. 7. For report on ch. 53, SLA 1973 (CSHB 382), see 1973 House Journal, pp. 793, 885.

Sec. 18.60.600. Powers and duties of the department. (a) The department may

(1) promulgate regulations to carry out the purposes of §§ 580 —660 of this chapter;

(2) inspect the electrical wiring of any place of employment or public structure in this state.

(b) The department shall

(1) keep a record of all inspection fees collected;

(2) keep a record of all electrical inspections conducted. (§ 1 ch 89 SLA 1969)

Sec. 18.60.610. Delegation of authority. Upon application to the department, a person, corporation, electric utility firm, public utility district, rural electrification association, or municipal utility district furnishing electrical current may be authorized by the commissioner to inspect the electrical wiring for a public or commercial structure as defined in § 660 of this chapter to which it is to furnish electrical current before energizing the electrical system on, in, or about the premises. Authorization by the commissioner under this section constitutes a grant of full authority to act within the provisions of §§ 580—660 of this chapter with the same immunities and privileges accorded to the state in the performance of these duties. A person or entity whose electrical wiring installation is found, by the authorized inspector, not to meet the standards prescribed has the right to appeal to the commissioner for a new inspection. The commissioner shall, within 15 days, furnish a new inspection by a designee not associated with the person, firm or utility who did the original inspection. (§ 1 ch 89 SLA 1969)

Sec. 18.60.620. Inspection fees. A person, corporation, electric utility firm, public utility district, rural electrification association or municipal utility district authorized under § 610 of this chapter to

HB
314

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY HB 314am:

Changes the hours which a child (minor under 16) may be employed. If employed a child may work only between 5 (6)am and 9 (7)pm, not to exceed 23 hours outside school in one week, nor a combined total of nine hours school attendance and employment.

Bill No. House Bill 314 am

Date April 3, 1981

Title "An Act relating to employment of children; and providing for an effective date."

Contact: Judy Knight 465-2700
Dale Cheek 465-4870

This bill changes the time frames in which minors are permitted to work by allowing the workday to begin at 5:00 a.m., one hour earlier than now permitted; and to end at 9:00 p.m., two hours later than is now permitted. The bill does not change the total number of hours a minor is permitted to work in any day or week.

If this bill is passed there would be a conflict with federal regulations in that 29 CFR permits a minor under 16 to work only between the hours of 7:00 a.m. and 7:00 p.m. when school is in session. However, Alaska law is already in conflict with the federal regulation because currently AS 23.10.340(a) permits a minor to begin to work at 6:00 a.m. The department considers these conflicts to be minor in nature and would not adversely affect the welfare of the children involved.

The Department of Labor supports the passage of this bill.

POSITION PAPER/Department of Labor

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Labor & Commerce Committee

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.

SENATE

FURTHER: None

3/31/81

Date: _____

Mr. President:

The Committee on LABOR & COMMERCE has had HB 314 am employement of children

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

Tom Hirsenberg

Bob Mulcahy

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bob Mulcahy
CHAIRMAN

Sec. 23.10.335. Employment of children under 14. No minor under 14 years of age may be employed or allowed to work in an occupation outside school hours except in domestic employment, baby-sitting and handiwork in and about private homes; newspaper delivery or sales; or canneries in warehouse work casing cans under competent supervision. (§ 1 ch 73 SLA 1949)

Sec. 23.10.340. Children under 16. (a) A minor under 16 years of age may not be employed for more than a combined total of nine hours school attendance and employment in one day. If employed, his work may be performed only between 6 a.m. and 7 p.m. His employment outside school hours may not exceed 23 hours in one week, domestic work and baby-sitting excepted.

(b) No minor under 16 years of age may be employed or allowed to work in a restaurant. (§ 1 ch 73 SLA 1949: § 3 ch 73 SLA 1949; am § 2 ch 28 SLA 1951)

ALR reference. — Constitutionality of statute limiting hours of labor of children and women in private industry, 90 ALR 815.

Sec. 23.10.345. Exemptions for minors over 16 or who have graduated from high school. (a) While on school vacation, a minor over 16 years of age may be employed in work not otherwise prohibited by §§ 350—355 of this chapter, or by regulations promulgated under § 360 of this chapter, if the employment meets the conditions of wages and hours prevailing for the majority of employees in the industry at the time of employment.

(b) The commissioner of labor may grant an exemption, in writing, for a minor over 16 years of age while on school vacation, or a minor under 18 years of age who has graduated from high school to work in an occupation prohibited by § 350 (1), (2), and (4) of this chapter, or by regulations promulgated under § 360 of this chapter, if the commissioner determines that the actual duties to be performed by the minor would not unduly endanger the life, limb, health, or morals of the minor.

(c) The commissioner, in order to determine whether or not an exemption may be granted to a minor under (b) of this section, may require the minor or his prospective employer to provide information concerning the nature of the employment. (§ 2 ch 73 SLA 1949; am § 1 ch 28 SLA 1951; am § 1 ch 26 SLA 1964)

Effect of amendment.—The 1964 amendment rewrote the former section, designating it subsection (a), and added subsections (b) and (c).

Sec. 23.10.350. Employment of children under 18. No minor under 18 years of age may be employed or allowed to work

(1) in a gainful occupation for more than eight hours in a day, 40 hours in a week, or for more than six days in a week;

(2) in excavations, or in surface mining, or underground in

HB

325

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY CSHB 325:

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.

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

08-H21.H

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.

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. / DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No. 1186	PRIORITY		FORM 12 PAGE/LINE	LEG.	

	TYPE OF EXPENDITURE	1	2	AMOUNT 3
4	PERSONAL SERVICES: SALARY $1,393/month		16.7	
5	BENEFITS		2.6	
6	[redacted]A		1.0	
7	HEALTH INS.		1.8	
8	TOTAL PERSONAL SERVICES	01		
9	TRAVEL	02		22.1
10	CONTRACTUAL	03		0
11	COMMODITIES	04		1.0
12	EQUIPMENT	05		0
13	OTHER space costs			2.7
14	TOTAL COST			25.8

	CODE	FUNDING SOURCE	
15		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		
22	ADDITION	X	

FOR B&M USE ONLY

AA KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

See Bill Analysis and Fiscal Note to House Bill 325.

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

01-1126(R/NO)

Bristol Bay Native Corporation
445 E. 5TH AVENUE / P. O. BOX 220 / ANCHORAGE / ALASKA 99510 / PH. (907) 278-3602

April 1, 1981

STATEMENT BY DONALD F. NIELSEN
IN SUPPORT OF HOUSE BILL NO. 325

My name is Donald F. Nielsen. I am the Vice President of Bristol Bay Native Corporation. Today, I am speaking on behalf of Bristol Bay Native Corporation and the Alaska Federation of Natives. Both organizations support House Bill No. 325 entitled "An Act relating to orders under the Alaska Securities Act of 1959." This bill would expand the remedies the State has in dealing with false and misleading statements made in proxy solicitations of Native corporation shareholders.

By way of background, let me state that Alaska Native Claims Settlement Act corporations are exempt from federal securities laws. Instead, their proxy solicitations are governed solely by the State of Alaska. Recently, the State took a major step to insure fairness in proxy solicitations of Native shareholders. The mechanism to insure fairness was regulations under Alaska Statute 45.55.139 and 160. These new regulations require that proxy solicitations give Natives shareholders the type of information that is necessary for them to make an informed judgment before voting on matters presented for their consideration, such as election of directors or approval

of proposals. These regulations are comprehensive and reasonable. However, without adequate enforcement, they are meaningless.

At present, the State is sure of only two enforcement alternatives: (1) a criminal proceeding under Alaska Statute 45.55.210 with a fine, jail term or both, or (2) a civil proceeding with injunctive relief. One is, in many cases, too harsh a remedy, and the other is time consuming.

A prompt enforcement alternative is needed with a range of lesser penalties. Such a solution is embodied in House Bill No. 325. First, it applies to administrative hearings which are less expensive and time consuming for all. Second, its penalties are not harsh fines or jail sentences, but pre-distribution review of solicitation materials and/or voiding of proxies where there is a finding of false or misleading statements.

Bristol Bay Native Corporation believes that the new proxy regulations need to be enforced promptly for the protection of Native shareholders. We believe that House Bill No. 325 creates the opportunity for such prompt enforcement. Therefore, we support the passage of House Bill No. 325.

report to its stockholders containing substantially all the information contained in annual reports of corporations subject to the 1934 Act. Such reports by Native corporations would not be filed with or reviewed by the SEC, but the Committee believes that the Native leadership will comply fully with the intent of this provision and will submit annual reports to their stockholders which are as effective in disclosing corporate activities as those prepared by companies regulated under the 1934 Act by the SEC. Finally, the Committee understands that the general provisions of Alaska law provide protection for Native stockholders from any corporate mismanagement and misrepresentations or omissions to represent in connection with sales of securities, and that Alaska courts would look to precedents under federal securities laws for appropriate standards of conduct by management and other persons connected with securities transactions. Native corporations have assured the Committee that they do not intend to seek an exemption from state securities laws on the basis of this exemption from federal laws and intend to pursue the passage of State legislation to the extent necessary to provide any appropriate additional protection. Therefore, it is not necessary at this time to impose additional federal requirements.

It should be noted that these corporations are being exempted from the federal securities laws on the understanding that federal regulation of Settlement Act corporations is not necessary to protect Native stockholders or the public during the twenty-year period when Native-owned stock cannot be sold. However, if this assumption proves invalid in light of experience, the Committee is prepared to re-impose such provisions of the federal laws as may be necessary. In short, the twenty-year exemption should be viewed by the Natives as an experiment which will be stopped if it is abused.

SECTION 4

Subsection (a) merely makes clear the congressional intent that payments and grants under the Settlement Act are not to be deemed a substitute for any governmental program or benefit which is otherwise available to Alaska Natives as citizens of the United States and Alaska.

Subsection (b) makes clear that benefits under the Settlement Act shall not be considered as income or other resources for purposes of the Food Stamp program. The background to subsection (b) is provided in an August 6, 1974, memorandum prepared by the Congressional Research Service of the Library of Congress:

THE LIBRARY OF CONGRESS, WASHINGTON, D.C. 20540

THE COUNTING OF INCOME FROM PAYMENTS UNDER THE ALASKA NATIVE CLAIMS SETTLEMENT ACT IN DETERMINING ELIGIBILITY FOR AND THE AMOUNT OF FOOD STAMP AND CASH WELFARE BENEFITS

Food Stamps

In March 1974, the State of Alaska notified the Federal offices of the Food Stamp Program (in the USDA's Food and Nutrition Service) that it was Alaska's interpretation that

[illegible] S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
NOME

March 19, 1981
Myrtle Johnson
Special Assistant
P.O. Box 25
Nome, Alaska 99762

State Banking & Securities Office
ATTN: James Thomson
Pouch D
Juneau, Alaska 99811

Dear James,

Enclosed you will find a complete proxy packet that was mailed to all Stockholders enrolled to Sitnasuak. And this was all we received. Note postmark March 2nd/meeting was March 14th.

Here are the concerns of the Shareholders:

1. The motion that was made to postpone the meeting, reason not enough time had been allowed for the proxy's and the way of filing of the conflict of interest plus the proxy statement forms had not been made available. Also the proxy enclosed in the packet had no blank line for write-ins.

This motion was ruled out of order by the Legal Council for the Sitnasuak Corp.

The motion or second never were cancelled out. They were left hanging fire.

2. At the end of the Election the Shareholders in attendance would not accept the results of the Election.

3. A shareholders meeting was called and they decided to challenge the meeting. Immediately after the Annual meeting was adjourned.

4. A Shareholders info meeting was calledthe next Tuesday after the meeting. 145 shareholders in attendance and voiced their concerns of the Election and Meeting. Since Juneau had already been called Monday of this week and they requested more info concerning the proxy's we would send all info gathered this evening to Juneau. It was noted the highest voter getter, went around telling every one she was for disbursement and when the time came to show of hands who was for disbursement she held her hand up against disbursement. After she had all the proxy votes in hand. One shareholder told how he illegally voted his sons ballot, by signing his name to the ballot, he knew it had no time to get to the North slope and back in time for the meeting. (Attached is the concerns from that evening's meeting.)

5. An Organizational meeting of the new Board was held 3-18-81 at the Sitnasuak Office. As the meeting began one shareholder voiced the Shareholders were challenging the Election results and this meeting was illegal. The Board members said we don't care and went on with the meeting, electing officers and etc.

of proposals. These regulations are comprehensive and reasonable. However, without adequate enforcement, they are meaningless.

At present, the State is sure of only two enforcement alternatives: (1) a criminal proceeding under Alaska Statute 45.55.210 with a fine, jail term or both, or (2) a civil proceeding with injunctive relief. One is, in many cases, too harsh a remedy, and the other is time consuming.

A prompt enforcement alternative is needed with a range of lesser penalties. Such a solution is embodied in House Bill No. 325. First, it applies to administrative hearings which are less expensive, and time consuming for all. Second, its penalties are not harsh fines or jail sentences, but pre-distribution review of solicitation materials and/or voiding of proxies where there is a finding of false or misleading statements.

Bristol Bay Native Corporation believes that the new proxy regulations need to be enforced promptly for the protection of Native shareholders. We believe that House Bill No. 325 creates the opportunity for such prompt enforcement. Therefore, we support the passage of House Bill No. 325.

OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department	Sponsor (Principal)	Bill Number
Commerce and Economic Development	Adams	HB 325

Department Position:
Approve with amendments as noted.

Division Director	Date	Commissioner	Date
William F Kurlpatrick	3/18/81		

GOVERNOR'S OFFICE USE

Comments:

☐ Position Noted | By | Date

SUMMARY

1. a) Related Bills (Similar or Conflicting)
None

1. b) Other Agencies Affected by Bill
None

2. a) Organizational Support for Bill
Alaska Federation of Natives
Various regional corporations

2. b) Organizational Opposition to Bill
None known

3. Program Effects of Bill
Provides Administrator of Securities with proper authority to enforce deceptive and fraudulent practices in proxy solicitations. This bill corrects the lack of administrative remedies in AS 45.55.139, enacted in 1977.

4. Fiscal Impact: ☐ None ☒ Fiscal Note Attached

5. Amendments Proposed:
Addition of the words "in filings under Section 139" immediately after Section 45.55.200(a)(1)(B) and immediately after Section 45.55.200(a)(1)(C).

6. Comments:
See attached.

Bill Analysis

HB 525

The intention of 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 ANCSA 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.

With the proposed language added, the Division of Banking and Securities would be in support of this legislation to clarify and provide adequate authority over misleading and fraudulent proxy solicitations by Native corporations.

COMMITTEE REPORT

SENATE

FURTHER: Judiciary

4/16/81

Date: 11 May 1981

Mr. President:

The Committee on LABOR & COMMERCE has had CSHB 325 (L&C)

Alaska Securities Act of 1959

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

[signature]

[signature]

[signature]

MEMBERS HAVING OTHER RECOMMENDATIONS:

THIS Bill does have Fiscal Impact

[signature]

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 over view 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 misdemeaner) 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, Divsio. 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 inadvertantly 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.

a suit a law pursuant to the federal Act. To the extent of an inconsistency between a provision of this Act and a provision of AS 10.05 or 10.20, this Act prevails with regard to a corporation organized under Alaska law pursuant to the federal Act."

Sec. 45.55.139. Reports of corporations. A copy of all annual reports, proxies, consents or authorizations, proxy statements and other materials relating to proxy solicitations distributed, published or made available by any person to at least 30 Alaska resident shareholders of a corporation which has total assets exceeding $1,000,000 and a class of equity security held of record by 500 or more persons and which is exempted from the registration requirements of AS 45.55.070 by AS 45.55.138, shall be filed with the administrator concurrently with its distribution to shareholders. (§ 1 ch 58 SLA 1977)

For case construing common law prohibition of materially false and misleading statements in proxy solicitations, see Brown v. Ward, Sup. Ct. Op. No. 1826 (File No. 3579), 593 P.2d 247 (1979).

Sec. 45.55.140. Exemptions. (a) The following securities are exempted from AS 45.55.070:

(1) a security, including a revenue obligation, issued or guaranteed by the United States, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more of the foregoing; or a certificate of deposit for any of the foregoing;

(2) a security issued or guaranteed by Canada, a Canadian province, a political subdivision of a Canadian province, an agency or corporate or other instrumentality of one or more of the foregoing, or a foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;

(3) a security issued by and representing an interest in or a debt of, or guaranteed by, a bank organized under the laws of the United States, or a bank, savings institution, savings and loan association, building and loan association, or trust company organized and supervised under the laws of a state or of the United States;

(4) a commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of the paper which is likewise limited, or a guarantee of the paper or of the renewal, if the commercial paper is of the type eligible for discount by a federal reserve bank;

(5) an investment contract issued in connection with an employee's

...this chapter, the burden of proving ... ...on a defendant is upon the per...

...by order deny or revoke an exemptio... ...this section or in (b) of this section wit... ...or transaction. The order may not be ... ...prior notice to all interested parties ... ...findings of fact and conclusions ... ...ation may by order summarily deny or ... ...emptions pending final determination of ... ...ection. Upon the entry of a summary ... ...promptly notify all interested parties ... ...the reasons for it and that within 15 ... ...request the matter will be set down for ... ...quested and none is ordered by the ... ...in effect until it is modified or vacated ... ...hearing as requested or ordered, the ... ...and opportunity for hearing to all ... ...or vacate the order or extend it until ...

...section may operate retroactively. No ... ...have violated AS 45.55.070 or 45.55.130 ... ...before the entry of an order under ... ...burden of proof that he did not know, ...due care could not have known of the ...

...regulation prescribe a schedule of fees ... ...of claimed exemption. (§ 302 ch 198 ... ...SLA 1961; am § 1 ch 8 SLA 1966; am ... ...13 ch 86 SLA 1972; am § 15 ch 218 ... ...SLA 1977; am § 1 ch 56 SLA 1978; am ...

...06 ...disadvantage," substituted "sold" for ... ...by "offered" near the middle of the ... ...subparagraph, and substituted "any sales ... ...are" for "the offer of" near the end of the ... ...subparagraph.

...Legislative history reports. For ... ...report on ch. 8, SLA 1966, see House ... ...Journal (1966), p. 169. For report on ch. ... ...132, SLA 1977 (SB 18), see 1977 Senate ... ...Journal, p. 120.

...ALR references. What securities are ... ...exempt from registration under § 402(a) ... ...of the Uniform Securities Act, 84 ALR3d ...

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 86 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, 62 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 1...

per diem incurred in connection with an examination incident to 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. 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.						
	TOTAL	0	35.8	37.6	38.5	40.5	42.6

FUNDING (Thousands of Dollars)

GENERAL FUND	0	35.8	37.6	38.5	40.5	42.6
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

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 I. Thompson Lil Lunsford
AGENCY Dept. of Commerce & Econ. Dev.
PHONE 465 2521

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

33 001 (Rev. 12/80

HB

386

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

November 19, 1981

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

Dear Senator Mulcahy:

Thank you for your request for a position statement and fiscal note on each of HB 386, CSHB 524 (L&C) and SB 606.

Fiscal notes are enclosed.

Our position on HB 386, an act relating to business corporations, is that there will be no fiscal effect on the Department of Commerce and Economic Development or the Division of Banking and Securities. The Department neither endorses nor objects to the substantive intent of the bill. The Department objects procedurally because a draft revision of AS 10.05 has been completed under the direction of the Code Revision Committee. Parties interested in HB 386 should contact John W. Abbott, Attorney at Law and Chairman, Code Revision Commission, 601 W. 5th, Suite 820, Anchorage, Alaska 99501 (907/276-3222), or Catherine Walsh, Secretary, Code Revision Committee, Juneau, Alaska 99811 (907/465-4878).

Our position on CSHB 524 (L&C), an act relating to small loans, is that there will be no fiscal effect on the Department of Commerce and Economic Development or the Division of Banking and Securities. The Department neither endorses nor objects to the bill.

Essentially, CSHB 524 (L&C) allows for interest adjustments on small loans, on an annual basis, if the Anchorage consumer price index exceeds 10% in any calendar year. This automatic rate adjustment should make it unnecessary to constantly initiate rate adjustments by legislative action.

On SB 606, an act relating to ownership of financial institutions by out-of-state bank holding companies, this Department and the Division of Banking and Securities, although not necessarily advocating interstate banking, do support the full legislative process in determining the needs of the state, its citizens, and a sound financial community. We opposed the special interest activity noted on this subject last session.

08-H2LH

SB 606 is acceptable inasmuch as it is not limited or restrictive to any size, condition, location, etc., of the bank holding company or subsidiary bank. We feel if interstate banking is going to be a benefit to the state it should go through the bank holding company structure. This will tend to preserve the dual banking system and also maintain some Alaska (community) management control and local interest of the subsidiary bank.

As to the regulatory scheme toward the proposed legislation, we see no problem as specifics in public protection are covered under the Alaska Banking Code and can be implemented by regulations. If, however, restricted activity or limiting provisions are amended into the bill, there may be serious problems in regulations and enforcement ability by the Department.

Sincerely,

Lois J. Cook

Lois J. Cook
Acting Deputy Commissioner

LJC/wfs 5/5

Enclosures

ALASKA INTERSTATE COMPANY
510 L STREET-SUITE 411
ANCHORAGE, ALASKA 99501
(907) 276-8600

RICHARD F. BARNES
VICE PRESIDENT

October 29, 1981

Hon. Bob Mulcahy, Chairman
Senate Labor and Commerce Committee
Box 246
Kodiak, Alaska 99615

Dear Senator Mulcahy:

Enclosed is a copy of a bill that was introduced at our request last March in the House Labor and Commerce Committee. If the House acts on the matter this next season we will need your help on the Senate side to pass the legislation.

The measure extends the statutory period for delivering shareholder notices and soliciting proxies from fifty to sixty days. The sixty-day period is now standard in most states.

Like other Alaska corporations, we face a hectic period soliciting a sufficient number of proxies to represent a quorum at shareholder meetings. This timing problem is compounded by shares held in "street name" at brokerage houses, which must forward the information to the respective owners.

If the bill does come before your committee, we would appreciate favorable consideration of its merit. If you desire additional information or need testimony on the issue, we would be pleased to work with you. I have discussed this legislation with Terry Martin, Chairman of the House Labor and Commerce committee. He indicated that the bill (HB 386) may be acted on early in the session and sent to the Senate.

Our primary Alaskan operation provides natural gas service to homes and businesses in the Kenai Peninsula Borough and the Municipality of Anchorage. I have included a copy of last year's annual report describing the gas company and our other operations, for your information.

Very truly yours,

R F Barnes

Encs.
cc: Hon. Terry Martin

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

HB 386 (by the House Labor and Commerce Committee)

Amends two sections of AS 10.05, the Alaska Business Corporation Act. Chapter relates to corporations which provide small business investments through participation in the Federal Small Business Investment Act of 1958. Bill amends Sec.141, "Notice of Share holder's Meetings," to require notice to be delivered not less than 10 or more than 60 (currently 50) days before the date of the meetings. Also amends Sec 144, "Closing of Transfer Books and Fixing Record date," to allow the board of directors of a corporation to provide that the stock transfer books be closed for a stated period not exceeding 60 days (currently 50 days). Instead of closing the stock transfer books, the bylaws or the Board may fix in advance a date as the record date for the determination of shareholders. Bill amends section to state that record date must not be more than 60 days (currently 50 days) and, in case of a meeting of shareholders, not less than 10 days before the date on which the particular action requiring the determination of the shareholders is to be taken.. No effective date.

tenth of all the shares entitled to vote at the meeting, or the other officers or persons provided in the articles of incorporation or the bylaws. (§ 26 ch 126 SLA 1957)

ALR references. — Power of directors to change time for stockholders' meetings, 2 ALR 58; 8 ALR 678.

Sec. 10.05.141. Notice of shareholders' meetings. Written or printed notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose for which the meeting is called, shall be delivered not less than 10 nor more than 50 days before the date of the meeting, either personally or by mail, by or at the direction of the president, the secretary, or the officer or persons calling the meeting, to each shareholder of record entitled to vote at the meeting. If mailed, the notice is considered delivered when deposited in the United States mail addressed to the shareholder at his address as it appears on the stock transfer books of the corporation, with postage prepaid. (§ 27 ch 126 SLA 1957)

ALR and C.J.S. references. — Validity of action taken at stockholders' meeting as affected by lack of notice, 51 ALR 941.

Informality of notice as affecting action taken at meeting, 51 ALR 941.
18 C.J.S. Corporations § 544.

Sec. 10.05.144. Closing of transfer books and fixing record date. (a) To determine the shareholders entitled to notice of or to vote at a meeting of shareholders or an adjournment of a meeting, or entitled to receive payment of a dividend, or in order to make a determination of shareholders for any other proper purpose, the board of directors of a corporation may provide that the stock transfer books shall be closed for a stated period not exceeding 50 days. If the stock transfer books are closed to determine shareholders entitled to notice of or to vote at a meeting of shareholders, they shall be closed for at least 10 days immediately preceding the meeting.

(b) Instead of closing the stock transfer books, the bylaws, or in the absence of an applicable bylaw the board of directors, may fix in advance a date as the record date for the determination of shareholders. This record date shall be not more than 50 days and, in case of a meeting of shareholders, not less than 10 days before the date on which the particular action requiring the determination of shareholders is to be taken. If the stock transfer books are not closed and no record date is fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive payment of a dividend, the date on which notice of the meeting is mailed or the date on which the resolution of the board of directors declaring the dividend is adopted is, as the case may be, the record date for the determination of shareholders. When a determination of shareholders entitled to vote at a meeting of shareholders is made, the

determination applies to an adjournment of the meeting except where the determination has been made through the closing of the stock transfer books and the stated period of closing has expired. (§ 28 ch 126 SLA 1957)

Sec. 10.05.147. Voting list. (a) At least 10 days before each meeting of shareholders, the officer or agent having charge of the stock transfer books for shares of a corporation shall make a list of the shareholders entitled to vote at the meeting or an adjournment of the meeting, arranged in alphabetical order, with the address of and the number of shares held by each. The list shall be kept on file at the registered office of the corporation and is subject to inspection by a shareholder at any time during usual business hours for a period of 10 days prior to the meeting. The list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of a shareholder during the meeting. The original stock transfer books are prima facie evidence as to who are the shareholders entitled to examine the list or transfer books or to vote at a meeting of shareholders.

(b) Failure to comply with the requirements of this section does not affect the validity of the action taken at the meeting. (§ 29 ch 126 SLA 1957)

Sec. 10.05.150. Liability for violation of § 147 of this chapter. An officer or agent having charge of the stock transfer books who fails to prepare the list of shareholders, or keep it on file for a period of 10 days, or produce and keep it open for inspection at the meeting, as provided in § 147 of this chapter, is liable to a shareholder suffering damage because of the failure, to the extent of the damage. (§ 29 ch 126 SLA 1957)

Sec. 10.05.153. Quorum of shareholders. Unless otherwise provided in the articles of incorporation, a majority of the shares entitled to vote, represented in person or by proxy, constitutes a quorum at a meeting of shareholders. However, in no event may a quorum consist of less than one-third of the shares entitled to vote at the meeting. If a quorum is present, the affirmative vote of the majority of the shares represented at the meeting and entitled to vote on the subject matter is the act of the shareholders, unless the vote of a greater number or voting by classes is required by this chapter or the articles of incorporation or the bylaws. (§ 30 ch 126 SLA 1957)

Sec. 10.05.156. Voting of shares. (a) Each outstanding share, regardless of class, is entitled to one vote on each matter submitted to a vote at a meeting of shareholders, except to the extent that the voting rights of the shares of a class are limited or

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 386

Title An Act Relating to Business Corporations

Requested by Senate Labor and Commerce Committee Date November 9, 1981

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development

Program Category Affected Consumer Protection

BRU, Program, or Subprogram(s) Affected Corporations

(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	0	0	0	0
200 TRAVEL		0	0	0	0	0
300 CONTRACTUAL		0	0	0	0	0
400 COMMODITIES		0	0	0	0	0
500 EQUIPMENT		0	0	0	0	0
600 LAND & STRUCTURES		0	0	0	0	0
700 GRANTS, CLAIMS, ETC.		0	0	0	0	0
TOTAL		0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME		0	0	0	0	0
PART TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

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

IV. DATE November 12, 1981 PREPARED BY Willis F. Kirkpatrick

AGENCY Department of Commerce & Economic Development

PHONE 465-2521

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80

HB
504

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

HB 504:

Section 1:

(a) In a collective bargaining agreement between an employer and a labor organization, a successor clause is binding on a successor employer unless more than three years have lapsed after the effective date contained in the clause.

(b) This section does not apply to a receiver or trustee in bankruptcy of an employer who has gone into bankruptcy or receivership; or an employer who acquires a business from a receiver or trustee in bankruptcy, or an employer who is subject to:

(1) National Labor Relations Act

(2) Agricultural Labor Relations Act of 1975

(3) Railway Labor Act

(4) Public Employment Relations Act (AS 23.40.070-.260)

(c) "successor clause" means a clause in a collective bargaining agreement which states that the agreement remains in effect in the event of a transfer of the business to a successor employer.

"successor employer" means a purchaser, assignee, or transferree of a business which is operated subject to collective bargaining between a labor organization and a prior employer, if the purchaser conducts substantially the same business, or offers the same service, and uses the same facilities as the employer who entered into the original collective bargaining agreement.

Article 2. Public Employment Relations Act.

Editor's note.—Section 4, ch. 113, SLA 1972, provides: "This Act is applicable to organized boroughs and political subdivisions of the state, home rule or otherwise, unless the legislative body of the political subdivision, by ordinance or resolution, rejects having its provisions apply."

Sec. 23.40.070. Declaration of policy. The legislature finds that joint decision-making is the modern way of administering government. If public employees have been granted the right to share in the decision-making process affecting wages and working conditions, they have become more responsive and better able to exchange ideas and information on operations with their administrators. Accordingly, government is made more effective. The legislature further finds that the enactment of positive legislation establishing guidelines for public employment relations is the best way to harness and direct the energies of public employees eager to have a voice in determining their conditions of work, to provide a rational method for dealing with disputes and work stoppages, to strengthen the merit principle where civil service is in effect and to maintain a favorable political and social environment. The legislature declares that it is the public policy of the state to promote harmonious and cooperative relations between government and its employees and to protect the public by assuring effective and orderly operations of government. These policies are to be effectuated by

(1) recognizing the right of public employees to organize for the purpose of collective bargaining;

(2) requiring public employers to negotiate with and enter into written agreements with employee organizations on matters of wages, hours, and other terms and conditions of employment;

(3) maintaining merit-system principles among public employees. (§ 2 ch 113 SLA 1972)

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Sec. 23.40.080. Rights of public employees. Public employees may self-organize and form, join or assist an organization to bargain collectively through representatives of their own choosing, and engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection. (§ 2 ch 113 SLA 1972)

Sec. 23.40.090. Collective bargaining unit. The labor relations agency shall decide in each case, in order to assure to employees the fullest freedom in exercising the rights guaranteed by §§ 70—260 of this chapter, the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees. Bargaining units shall be as large as is reasonable, and unnecessary fragmenting shall be avoided. (§ 2 ch 113 SLA 1972)

Sec. 23.40.100. Representatives and elections. (a) The labor relations agency shall investigate a petition if it is submitted in a manner prescribed by the labor relations agency and is

(1) by an employee or group of employees or an organization acting in their behalf alleging that 30 per cent of the employees of a proposed bargaining unit

(A) want to be represented for collective bargaining by a labor or employee organization as exclusive representative, or

(B) assert that the organization which has been certified or is currently being recognized by the public employer as bargaining representative is no longer the representative of the majority of employees in the bargaining unit; or

(2) by the public employer alleging that one or more organizations have presented to it a claim to be recognized as a representative of a majority of employees in an appropriate unit.

(b) If the labor relations agency has reasonable cause to believe that a question of representation exists, it shall provide for an appropriate hearing upon due notice If the labor relations agency finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which organization the employees desire to be represented and shall certify the results of the election. Nothing in this section prohibits the waiving of hearings by stipulation for the purpose of a consent election in conformity with the regulations of the labor relations agency or an election in a bargaining unit agreed upon by the parties. The labor relations agency shall determine who is eligible to vote in an election and shall establish rules governing the election. In an election in which none of the choices on the ballot receives a majority of the votes cast, a runoff election shall be conducted, the ballot providing for selection between the two choices receiving the largest and the second largest number of valid votes cast in the

election. If an organization receives the majority of the votes cast in the election it shall be certified by the labor relations agency as exclusive representative of all the employees in the bargaining unit.

(c) An election may not be held in a bargaining unit or in a subdivision of a bargaining unit if a valid election has been held within the preceding 12 months.

(d) Nothing in this chapter prohibits recognition of an organization as the exclusive representative by a public agency by mutual consent.

(e) No election may be directed by the labor relations agency in a bargaining unit in which there is in force a valid collective bargaining agreement, except during a 90-day period preceding the expiration date. However, no collective bargaining agreement may bar an election upon petition of persons in the bargaining unit but not parties to the agreement if more than three years have elapsed since the execution of the agreement or the last timely renewal, whichever was later. (§ 2 ch 113 SLA 1972)

Sec. 23.40.110. Unfair labor practices. (a) A public employer or his agent may not

(1) interfere, restrain or coerce an employee in the exercise of his rights guaranteed in § 80 of this chapter;

(2) dominate or interfere with the formation, existence or administration of an organization;

(3) discriminate in regard to hire or tenure of employment or a term or condition of employment to encourage or discourage membership in an organization;

(4) discharge or discriminate against an employee because he has signed or filed an affidavit, petition or complaint or given testimony under §§ 70—260 of this chapter;

(5) refuse to bargain collectively in good faith with an organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.

(b) Nothing in this chapter prohibits a public employer from making an agreement with an organization to require as a condition of employment

(1) membership in the organization which represents the unit on or after the 30th day following the beginning of employment or on the effective date of the agreement, whichever is later; or

(2) payment by the employee to the exclusive bargaining agent of a service fee to reimburse the exclusive bargaining agent for the expense of representing the members of the bargaining unit.

(c) A labor or employee organization or its agents may not

(1) restrain or coerce

(A) an employee in the exercise of the rights guaranteed in § 80 of this chapter, or

(B) a public employer in the selection of his representative for the purposes of collective bargaining or the adjustment of grievances;

(2) refuse to bargain collectively in good faith with a public employer, if it has been designated in accordance with the provisions of §§ 70—260 of this chapter as the exclusive representative of employees in an appropriate unit. (§ 2 ch 113 SLA 1972)

Sec. 23.40.120. Investigation and conciliation of complaints. If a verified written complaint by or for a person claiming to be aggrieved by a practice prohibited by § 110 of this chapter, or a written accusation that a person subject to §§ 70—260 of this chapter has engaged in a prohibited practice, is filed with the labor relations agency, it shall investigate the complaint or accusation. If it determines after the preliminary investigation that probable cause exists in support of the complaint or accusation, it shall try to eliminate the prohibited practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during this endeavor may be used as evidence in a subsequent proceeding. (§ 2 ch 113 SLA 1972)

Sec. 23.40.130. Complaint and accusation. If the labor relations agency fails to eliminate the prohibited practice by conciliation and to obtain voluntary compliance with §§ 70—260 of this chapter, or, before it attempts conciliation, it may serve a copy of the complaint or accusation upon the respondent. The complaint or accusation and the subsequent procedures shall be handled in accordance with the administrative adjudication portion of the Administrative Procedure Act (AS 44.62). (§ 2 ch 113 SLA 1972)

Sec. 23.40.140. Orders and decisions. If the labor relations agency finds that a person named in the written complaint or accusation has engaged in a prohibited practice, the labor relations agency shall issue and serve on the person an order or decision requiring him to cease and desist from the prohibited practice and to take affirmative action which will carry out the provisions of §§ 70—260 of this chapter. If the labor relations agency finds that a person named in the complaint or accusation has not engaged or is not engaging in a prohibited practice, the labor relations agency shall state its findings of fact and issue an order dismissing the complaint or accusation. (§ 2 ch 113 SLA 1972)

Sec. 23.40.150. Enforcement by injunction. The labor relations agency may apply to the superior court in the judicial district in which the prohibited practice occurred for an order enjoining the prohibited acts specified in the order or decision of the labor relations agency. Upon a showing by the labor relations agency that the person has engaged or is about to engage in the practice, an

injunction, restraining order, or other order which is appropriate may be granted by the court and shall be without bond. (§ 2 ch 113 SLA 1972)

Sec. 23.40.160. Power to investigate and compel testimony. (a) For the purpose of the investigations, proceedings, or hearings which the labor relations agency considers necessary to carry out the provisions of §§ 70—260 of this chapter, the labor relations agency may issue subpoenas requiring the attendance and testimony of witnesses and the production of relevant evidence.

(b) The labor relations agency may administer oaths, examine witnesses, and receive evidence.

(c) The attendance of witnesses and the production of evidence may be required from any place in the state at any designated place of hearing.

(d) If a person refuses to obey a subpoena issued under §§ 70—260 of this chapter, the superior court in the district in which the person resides or is found may, upon application by the labor relations agency, issue an order requiring him to comply with the subpoena. (§ 2 ch 113 SLA 1972)

Sec. 23.40.170. Regulations. The labor relations agency may adopt regulations under the Administrative Procedure Act (AS 44.62) to carry out the provisions of §§ 70—260 of this chapter. (§ 2 ch 113 SLA 1972)

Sec. 23.40.180. Penalty for violation of order or decision. A person who violates a provision of an order or decision of the labor relations agency is guilty of a misdemeanor and is punishable by a fine of not more than $500. (§ 2 ch 113 SL. 1972)

Sec. 23.40.190. Mediation. If, after a reasonable period of negotiation over the terms of a collective bargaining agreement, a deadlock exists between a public employer and an organization, the labor relations agency may appoint a competent, impartial, disinterested person to act as mediator in any dispute either on its own initiative or on the request of one of the parties to the dispute. The parties may also select a mediator by agreement or mutual consent. It is the function of the mediator to bring the parties together voluntarily under such favorable auspices as will tend to effectuate settlement of the dispute, but neither the mediator nor the labor relations agency has any power of compulsion in mediation proceedings. (§ 2 ch 113 SLA 1972)

Sec. 23.40.200. Arbitration. (a) For purposes of this section, public employees are employed to perform services in one of the three following classes:

(1) those services which may not be given up for even the shortest period of time;

(2) those services which may be interrupted for a limited period but not for an indefinite period of time; and

(3) those services in which work stoppages may be sustained for extended periods without serious effects on the public.

(b) The class in (a)(1) of this section is composed of police and fire protection employees, jail, prison and other correctional institution employees, and hospital employees. Employees in this class may not engage in strikes. Upon a showing by a public employer or the labor relations agency that employees in this class are engaging or about to engage in a strike, an injunction, restraining order, or other order which may be appropriate shall be granted by the superior court in the judicial district in which the strike is occurring or is about to occur. If an impasse or deadlock is reached in collective bargaining between the public employer and employees in this class, and mediation has been utilized without resolving the deadlock, the parties shall submit to arbitration to be carried out under AS 09.43.030.

(c) The class in (a)(2) of this section is composed of public utility, snow removal, sanitation and public school and other educational institution employees. Employees in this class may engage in a strike after mediation, subject to the voting requirement of (d) of this section, for a limited time. The limit is determined by the interests of the health, safety or welfare of the public. The public employer or the labor relations agency may apply to the superior court in the judicial district in which the strike is occurring for an order enjoining the strike. A strike may not be enjoined unless it can be shown that it has begun to threaten the health, safety or welfare of the public. A court, in deciding whether or not to enjoin the strike, shall consider the total equities in the particular class. "Total equities" includes not only the impact of a strike on the public but also the extent to which employee organizations and public employers have met their statutory obligations. If an impasse or deadlock still exists after the issuance of an injunction, the parties shall submit to arbitration to be carried out under AS 09.43.030.

(d) The class in (a)(3) of this section includes all other public employees who are not included in the classes in (a)(1) or (a)(2) of this section. Employees in this class may engage in a strike if a majority of the employees in a collective bargaining unit vote by secret ballot to do so.

(e) Notwithstanding the provisions of (b), (c) and (d) of this section, the employees with the concurrence of the employer may agree in writing to submit a dispute arising from interpretation or application of a collective bargaining agreement to arbitration.

(f) The parties to a collective bargaining agreement may provide in the agreement a contract for arbitration to be conducted

solely according to the Uniform Arbitration Act (AS 09.43) if the Act is incorporated into the agreement or contract by reference. (§ 2 ch 113 SLA 1972)

Sec. 23.40.210. Agreement. Upon the completion of negotiations between an organization and a public employer, if a settlement is reached, the employer shall reduce it to writing in the form of an agreement. The agreement may include a term for which it will remain in effect, not to exceed three years. The agreement shall include a grievance procedure which shall have binding arbitration as its final step. Either party to the agreement has a right of action to enforce the agreement by petition to the labor relations agency. (§ 2 ch 113 SLA 1972)

Sec. 23.40.215. Funding. The monetary terms of any agreement entered into under the Public Employment Relations Act are subject to funding through legislative appropriation. (§ 2 ch 113 SLA 1972)

Sec. 23.40.220. Labor or employee organization dues and employee benefits, deduction and authorization. Upon written authorization of a public employee within a bargaining unit, the public employer shall deduct from the payroll of the public employee the monthly amount of dues, fees and other employee benefits as certified by the secretary of the exclusive bargaining representative and shall deliver it to the chief fiscal officer of the exclusive bargaining representative. (§ 2 ch 113 SLA 1972)

Sec. 23.40.230. Assistance by Department of Labor. When state employees are involved, the Department of Labor shall, if requested by the personnel board, and if there is no objection by the organization involved, assist the personnel board on matters such as, but not limited to, conducting elections and investigating unfair labor practices. (§ 2 ch 113 SLA 1972)

Sec. 23.40.240. Effect on certain units, representatives and agreements. Nothing in this chapter terminates or modifies a collective bargaining unit, recognition of exclusive bargaining representative, or collective bargaining agreement if the unit, recognition, or agreement is in effect on September 5, 1972. (§ 2 ch 113 SLA 1972)

Sec. 23.40.250. Definitions. In §§ 70—260 of this chapter, unless the context otherwise requires,

(1) "collective bargaining" means the performance of the mutual obligation of the public employer or his designated representatives and the representative of the employees to meet at reasonable times, including meetings in advance of the budget-making process and negotiate in good faith with respect to wages,

hours and other terms and conditions of employment, or the negotiation of an agreement, or negotiation of a question arising under an agreement and the execution of a written contract incorporating an agreement reached if requested by either party, but these obligations do not compel either party to agree to a proposal or require the making of a concession;

(2) "election" means a proceeding conducted by the labor relations agency in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives, or for any other purpose specified in §§ 70—260 of this chapter;

(3) "labor relations agency" means the state personnel board with regard to the state and employees of the state, and means the Department of Labor with regard to all other public employees and all other public employers;

(4) "organization" means a labor or employee organization of any kind in which employees participate and which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment and conditions of employment;

(5) "public employee" means any employee of a public employer, whether or not in the classified service of the public employer, except elected or appointed officials or teachers or noncertificated employees of school districts;

(6) "public employer" means the state or a political subdivision of the state, including without limitation, a town, city, borough, district, board of regents, public and quasi-public corporation, housing authority or other authority established by law, and a person designated by the public employer to act in its interest in dealing with public employees;

(7) "terms and conditions of employment" means the hours of employment, the compensation and fringe benefits, and the employer's personnel policies affecting the working conditions of the employees; but does not mean the general policies describing the function and purposes of a public employer. (§ 2 ch 113 SLA 1972)

Sec. 23.40.260. Short title. Sections 70—260 of this chapter may be cited as the Public Employment Relations Act. (§ 2 ch 113 SLA 1972)

HB

524

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

PROPOSED INTEREST RATE CS:

1) Loans of $50 or less(60%)
2) Loans between $50 and $1,000 (36%)
3) Loans between $1,000 and $5,000 (24%)
4) Loans in excess of $5,000 and to $25,000: at a rate agreed upon by contract;

Loans categories to be adjusted in 10% increments based on 10% increases in the ANchorage CPI using November 1982 as the base period.

Late fee not to exceed 10% of the payment or $1: whichever is less;

NEW PROPOSED INTEREST RATE CS:

0 to $1,000: 36%
$1,000 to $10,000 24%
$10,000 to $25,000 at market rate

Late fee not to exceed 10% of the payment or $15, whichever is less;

PRESENTLY IN STATUTE

1) Loans of $50 or less (60%)
2) Loans between $50 and $500 (36%)
3) Loans between $500 and $1,000 (24%)
4) $1,000 to $25,000 (12%)
5) Open end loans between $5,000 and $25,000 the greater of 1½% per month (18%) or 8% points above the federal reserve discount rate on the first day of the month before the calendar quarter during which the loan is made.

Suggested amendments to CSHB 534

Page 1:

Line 14 - Strike ($500), insert $1,000.

Line 15 - Strike ($500), insert $1,000; strike ($1,000), insert $5,000.

Lines 15, 16, 17 - Delete (and one percent a month on the remainder of any unpaid principal balance exceeding $1,000 but not exceeding $25,000.)

Line 26 - Strike (1978), insert 1982.

Page 2:

Line 6 - Strike (1978), insert 1982.

Add new section to bill as Section #5.

Sec. 5. AS 06.20.230(b) is amended to read:

(b) Notwithstanding the provisions of (a) of this section, a licensee who makes open-end loans under A.S. 06.20.010 - 06.20.920 or who makes a loan under A.S. 06.20.010 - 06.20.920 exceeding $5,000 but not exceeding $25,000 may elect to charge, contract for, and receive interest at any rate agreed upon by contract. (NOT TO EXCEED THE GREATER OF

(1) ONE AND ONE-HALF PERCENT A MONTH: OR

(2) EIGHT PERCENTAGE POINTS ABOVE THE FEDERAL RESERVE DISCOUNT RATE ON 90-DAY COMMERCIAL PAPER CHARGED TO BANKS FOR ADVANCES BY THE 12th FEDERAL RESERVE DISTRICT ON THE FIRST DAY OF THE MONTH BEFORE THE CALENDAR QUARTER DURING WHICH THE LOAN IS MADE.)

Sec. 6. This Act takes effect immediately in accordance with A.S. 01.10.070(c).

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

CS HB 524 (L&C):

Amends the Small Loans Act with the addition of a new subsection relating to the maximum interest permitted for various loan amounts, and that the interest rates may be annually adjusted according to changes in the consumer price index.

LOAN AMOUNT CATEGORIES:

Interest rates based upon unpaid principal balance for the following categories:

1) Loans up to $50; 5% per month
2) Loans in excess of $50 but not exceeding $500; 3% per month
3) Loans in excess of $500 but not exceeding $1,000; 2% per month
4) Loans in excess of $1,000 but not exceeding $25,000; 1% per month

Consumer Price Index Adjustments

1) Adjustments shall be made if the change in the CPI for Anchorage is 10% or more using the Anchorage CPI for November 1978 as a base
2) Adjustments are to be made in 10% increments
3) An increase may not exceed 10% in one year
4) An adjustment may not result in a decrease of amounts for loan categories below the maximum amounts in effect on the effective date of this act
5) On or before March 1st, the Department of Commerce and Econ Dev shall publish changes
6) Adjustments are to be effective on April 1st of each year

If the method of calculating the CPI is revised by the US Department of Labor, the CPI for Anchorage (1978) as revised shall be used for computations.

Amends AS 06.20.260 with a new paragraph: "(a) No further or other charge or amount for any examination, service, brokerage commission, expense, fee, or bonus or other thing or otherwise shall be directly or indirectly charged contracted for or received

except (6) A late payment fee of not more than 10% of the payment which is due or $15, whichever is less."

Section 4 of the bill changes the definition of consumer price index to include any revision of the CPI which the Bureau of Labor Statistics determines accurately reflects changes in the purchasing power of the dollar for consumers.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

November 19, 1981

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

Dear Senator Mulcahy:

Thank you for your request for a position statement and fiscal note on each of HB 386, CSHB 524 (L&C) and SB 606.

Fiscal notes are enclosed.

Our position on HB 386, an act relating to business corporations, is that there will be no fiscal effect on the Department of Commerce and Economic Development or the Division of Banking and Securities. The Department neither endorses nor objects to the substantive intent of the bill. The Department objects procedurally because a draft revision of AS 10.05 has been completed under the direction of the Code Revision Committee. Parties interested in HB 386 should contact John W. Abbott, Attorney at Law and Chairman, Code Revision Commission, 601 W. 5th, Suite 820, Anchorage, Alaska 99501 (907/276-3222), or Catherine Walsh, Secretary, Code Revision Committee, Juneau, Alaska 99811 (907/465-4878).

Our position on CSHB 524 (L&C), an act relating to small loans, is that there will be no fiscal effect on the Department of Commerce and Economic Development or the Division of Banking and Securities. The Department neither endorses nor objects to the bill.

Essentially, CSHB 524 (L&C) allows for interest adjustments on small loans, on an annual basis, if the Anchorage consumer price index exceeds 10% in any calendar year. This automatic rate adjustment should make it unnecessary to constantly initiate rate adjustments by legislative action.

On SB 606, an act relating to ownership of financial institutions by out-of-state bank holding companies, this Department and the Division of Banking and Securities, although not necessarily advocating interstate banking, do support the full legislative process in determining the needs of the state, its citizens, and a sound financial community. We opposed the special interest activity noted on this subject last session.

08-H2LH

SB 606 is acceptable inasmuch as it is not limited or restrictive to any size, condition, location, etc., of the bank holding company or subsidiary bank. We feel if interstate banking is going to be a benefit to the state it should go through the bank holding company structure. This will tend to preserve the dual banking system and also maintain some Alaska (community) management control and local interest of the subsidiary bank.

As to the regulatory scheme toward the proposed legislation, we see no problem as specifics in public protection are covered under the Alaska Banking Code and can be implemented by regulations. If, however, restricted activity or limiting provisions are amended into the bill, there may be serious problems in regulations and enforcement ability by the Department.

Sincerely,

Lois J. Cook

Lois J. Cook
Acting Deputy Commissioner

LJC/wfs 5/5

Enclosures

"A person may" near the beginning of the subsection.

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 06.20.230. Maximum interest permitted. (a) A licensee may lend any sum of money not exceeding $25,000 and may charge, contract for, and receive on the loan interest at a rate not exceeding three percent a month on that part of the unpaid principal balance of a loan not in excess of $500; two percent a month on the remainder of any unpaid principal balance exceeding $500 but not exceeding $1,000; and one percent a month on the remainder of any unpaid principal balance exceeding $1,000 but not exceeding $25,000. On loans the principal of which is $50 or less a licensee may charge, contract and receive interest at a rate not exceeding five percent a month.

(b) Notwithstanding the provisions of (a) of this section, a licensee who makes open-end loans under this chapter or who makes a loan under this chapter exceeding $5,000 but not exceeding $25,000 may elect to charge, contract for, and receive interest not to exceed the greater of

(1) one and one-half percent a month; or

(2) eight percentage points above the Federal Reserve discount rate on 90-day commercial paper charged to banks for advances by the 12th Federal Reserve District on the first day of the month before the calendar quarter during which the loan is made.

(c) Interest on loans under (b) of this section shall be computed according to the actuarial method on the entire unpaid principal balance as determined in AS 06.20.285(b). (§ 16(a) ch 73 SLA 1955; am § 5 ch 94 SLA 1969; am § 7 ch 71 SLA 1978; am § 2 ch 84 SLA 1979; am § 3 ch 63 SLA 1980)

Effect of amendments.

The 1979 amendment added subsection (b).

The 1980 amendment, effective June 5, 1980, in subsection (a), substituted "$25,000" for "$5,000" twice; in subsection (b), inserted "or who makes a loan under this chapter exceeding $5,000 but not exceeding $25,000" and "the greater of", restructured the subsection into the present introductory paragraph and paragraphs (1) and (2), added "or" following "a month" in paragraph (1), added the provisions of paragraph (2); designated the provisions beginning "Interest on loans" as subsection (c), added "Interest on loans under (b) of this section shall be", and inserted "entire" preceding "unpaid principal" in subsection (c).

Sec. 06.20.250. Computation and payment of interest. (a) Interest shall not be paid, deducted, or received in advance. Except for open-end loans made under AS 06.20.285, interest shall be computed and paid only on unpaid principal balances and shall not be compounded; however, if part or all of the consideration for a loan contract is the unpaid principal balance of a prior loan, the principal amount payable under the loan contract may include any unpaid charges on the prior loan which have accrued within 60 days before the

making of the loan contract. The maximum interest permitted on loans made under this chapter shall be computed on the basis of the number of days actually elapsed. For the purpose of these computations a month is any period of 30 consecutive days.

(c) Except for open-end loans under AS 06.20.285, a licensee may not enter into any contract for a loan that provides for a scheduled repayment of principal over more than the maximum terms set out below opposite the respective size of loans.

Principal amount of loan to	Maximum term
$1,000	24 and ½ months
Over $1,000 to $2,500	48 and ½ months
Over $2,500 to $5,000	60 and ½ months
Over $5,000 to $25,000	as agreed to by the parties

(am §§ 3, 4 ch 84 SLA 1979; am § 4 ch 63 SLA 1980)

Effect of amendments.

The 1979 amendment added "Except for open-end loans made under AS 06.20.285" at the beginning of the second sentence of subsection (a) and "Except for open-end loans under AS 06.20.285" at the beginning of subsection (c).

The 1980 amendment, effective June 5, 1980, in subsection (c), substituted "a" for "no" preceding "licensee" near the beginning of the subsection, inserted "not" following "licensee may" near the beginning of the subsection, added the provisions of the last line of both columns of the loan repayment terms beginning "Over $5,000" and ending "as agreed to by the parties."

As the rest of the section was not affected by the amendments, it is not set out.

Sec. 06.20.260. Charges prohibited. (a) No further or other charge or amount for any examination, service, brokerage commission, expense, fee, or bonus or other thing or otherwise shall be directly or indirectly charged, contracted for or received except

(1) lawful fees actually paid out by the licensee to a public officer for filing, recording, or releasing any instrument securing the loan, or for transferring certificate of title to a motor vehicle securing the lien or noting a lien on that certificate;

(2) premiums actually paid out for insurance on any one or combination of the following: pledged property of the borrower, credit life insurance on the life of one or more borrowers, or credit disability insurance to provide indemnity for payments becoming due on the indebtedness;

(3) taxable costs and expenses to which the licensee becomes entitled under general law in any court proceedings to collect a loan or to realize on the security after default;

(4) Repealed by § 16 ch 71 SLA 1978.

(5) reasonable fees paid by a licensee for appraisals, surveys, and title insurance or reports if the loan is secured by an interest in real estate.

(am § 5 ch 84 SLA 1979)

Sec. 06.20.310. Illegal interest rate. No loan of the amount or value of $25,000 or less for which a greater rate of interest, consideration or charge than is permitted by this chapter has been charged, contracted for or received, wherever made, may be enforced in the state, and every person participating in such a loan in the state is subject to this chapter. This section does not apply to loans legally made in any state or territory of the United States which has in effect a regulatory small loan law similar in principle to this chapter. (§ 20(c) ch 73 SLA 1955; am § 5 ch 94 SLA 1969; am § 13 ch 71 SLA 1978; am § 9 ch 63 SLA 1980)

Effect of amendment.
The 1980 amendment, effective June 5, 1980, substituted "$25,000" for "$5,000."

Sec. 06.20.320. Civil and criminal penalties.
(c) If a penalty for failure to comply with financing disclosure requirements under regulations adopted by the Board of Governors of the Federal Reserve System is imposed by the federal authorities, the department may not impose a civil penalty under this section for the same act or omission.
(am § 7 ch 84 SLA 1979)

Effect of amendment.
The 1979 amendment added subsection (c).

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 06.20.900. Definitions. As used in this chapter, unless the context otherwise requires,

(1) "commissioner" means the commissioner of commerce and economic development or his designee;

(2) "department" means the Department of Commerce and Economic Development.

(3) "open-end loan" means a loan made by a licensee under this chapter under an agreement between the licensee and a borrower which provides that

(A) the borrower may obtain advances of money from the licensee from time to time or the licensee may advance money on behalf of the borrower from time to time as directed by the borrower;

(B) the amount of each advance and interest and charges will be added to the borrower's open-end loan account and payments and other credits are deducted from that account;

(C) interest will be computed on the unpaid principal balance or the average unpaid principal balance of the open-end loan account;

(D) the borrower may pay all or any part of the unpaid principal balance of his open-end loan account or, if the account is not in default, in monthly installments of fixed amounts as provided in the loan agreement; and

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 524 (L&C)

Title An Act Relating to Small Loans

Requested by Senate Labor and Commerce Committee Date November 9, 1981

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development

Program Category Affected Consumer Protection

BRU, Program, or Subprogram(s) Affected Financial Institutions

(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	0	0	0	0
200 TRAVEL		0	0	0	0	0
300 CONTRACTUAL		0	0	0	0	0
400 COMMODITIES		0	0	0	0	0
500 EQUIPMENT		0	0	0	0	0
600 LAND & STRUCTURES		0	0	0	0	0
700 GRANTS, CLAIMS, ETC.		0	0	0	0	0
TOTAL		0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME		0	0	0	0	0
PART TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

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

IV. DATE November 12, 1981 PREPARED BY Willis F. Kirkpatrick

AGENCY Department of Commerce & Economic Development

PHONE 465-2521

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80