

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4637 HJUD WITNESS REGISTERS - HB 3

209



Official Business

COMMITTEE:

HOUSE JUDICIARY

DATE: 4-16-88

SIGN-IN

Subject of meeting:

SB 322

NAME	ADDRESS FULL ADDRESS PLEASE	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY? WHICH BILL?
BUD JAEGER	3451 MEANDER WAY JUNEAU AK 99801	789-2446	ALASKA AGENTS & BROKERS SHATTUCK & GRUMMETT, INC	SB322
DECK CRITZMACH	1101 OLD SEWARD ANCHORAGE, AK	349-6666	AM THE COMMITTEE	SB322
TOM BATCHELOR	167 Municipal Way JUNEAU, AK 99801	586-9455	W C & A	yes SB322
B. Sue Roth	636 SEWARD, JUNEAU, AK 99801	586-1816	—	SB322
J.P. TANGER	105 Municipal way # 300 JUNEAU AK 99801	586-2286	Alliance of American Insurers	SB322
JAN HANSEN	3301 Eagle Anchorage	264-2424	WCD	SB322
CARL ANDERSON	18711 Jupit. Anchorage,	248-2642	Alaska NATL Ins Co	SB322



Official Business

COMMITTEE:

HOUSE JUDICIARY

DATE: April 20, 1988

SIGN-IN

Subject of meeting:

- SB 79 Runaway & missing minors
- SB 282 Municipal sales & use taxes.
- SJR 15 Right to bear arms.
- SB 17 Vandalism of traffic control devices.
- HB 406 Care of persons in protective custody.

NAME	ADDRESS FULL ADDRESS PLEASE !	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY? WHICH BILL?
LARRY MCKINSTRY	Dept of Law Box K L Juneau	465-3428	Law/Corrections	HB 406
G HORETSKI	BOX M, JUNE AV, AK	465-4322	PUB. SAFETY	SJR 15
Rupe Andrews	Juneau	9-7422	NIRA	SJR-15
Bruce Samuelli	Juneau	9-2399	ACE	SJR 15
Scott Burgess	Juneau	6-1325	AMC	HB 406
Sherril Goll	419 Kennedy Street, Juneau	586-4788	Alaska Women's Lobby	SB 79
Louis BENEARDINO	Box 167 Seward 99664	224-3338	Chief Assoc	SJR 15
Wesley A. Anderson Jr.	Box 234 Dillingham, Alaska 99576	842-2366	City of Dillingham	HB 406
S. Joannides	Box K, Juneau	5-3428	Law	SJR 15

* DELIVER TO: LI0CJ0A

* ORIGINAL

* SENT: 04/20/88 TIME: 13:18

* FROM: LI0CMAT

* SUBJECT: HJUD, 4-20

* PRINT DATE: 04/20/88 TIME: 13:18

MSG #1 FROM [REDACTED]

TO [REDACTED]

1. MICHAEL GATTI, NAT-SU BOROUGH ATTORNEY - SB406

EOM

*
* DELIVER TO: LIOCJOA *
*
* ORIGINAL *
* SENT: 04/20/88 TIME: 15:28 *
* FROM: LIOCDAV *
* SUBJECT: HJUD;HB 403+SR15,PL #2 *
* PRINT DATE: 04/26/88 TIME: 13:29 *
*

***** [REDACTED] PARTICIPANT LIST *****

THE FOLLOWING PEOPLE ARE STANDING BY TO PARTICIPATE IN TODAY'S HOUSE JUDICIARY COMMITTEE TELECONFERENCE:

TO TESTIFY:

- 1.) [REDACTED]
- 2.) [REDACTED]
- 3.) [REDACTED]
- 4.) [REDACTED]

TO OBSERVE:

- 1.)
- 2.)
- 3.)

EOM

*
* DELIVER TO: LIOCJOA *
*
*
*

*
* DELIVER TO: LIOCJOA *
*
* ORIGINAL *
* SENT: 04/20/88 TIME: 14:06 *
* FROM: LIOCDAV *
* SUBJECT: HJUD;FL 73---> ANCHORAGE *
* PRINT DATE: 04/20/88 TIME: 14:06 *
*

***** ANCHORAGE PARTICIPANT LIST *****

THE FOLLOWING PEOPLE ARE STANDING BY TO PARTICIPATE IN TODAY'S
HOUSE JUDICIARY COMMITTEE TELECONFERENCE:

TO TESTIFY:

- 1.) [REDACTED]
- 2.) [REDACTED]
- 3.) [REDACTED]
- 4.) [REDACTED]

TO OBSERVE

- 1.) NORM NAULT
- 2.) NORMA OSTENBERG
- 3.)

 * DELIVER TO: LIOCJGA
 *
 *
 * ORIGINAL
 * SENT: 04/20/88 TIME 14:19
 * FROM: LYCOTE,
 * SUBJECT: ADD-PL#2, JURIS, 4-29-88
 * PRINT DATE: 04/20/88 TIME: 14:19
 *

DATE: APRIL 20, 1988
 SITE: FAIRBANKS
 SPONSOR: HOUSE JUDICIARY
 SUBJECT: HR 408
 ABBREVIATION: FRANK

 TESTIFY:

NAME REPRESENTING	ADDRESS	PHONE #
1.) [REDACTED]	[REDACTED]	
2.) [REDACTED]	[REDACTED]	
3.)		
4.)		
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 OBSERVE:

NAME REPRESENTING	ADDRESS	PHONE #
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*
* DELIVER TO: LIGCJDA *
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* ORIGINAL *
* SENT: 04/20/88 TIME: 13:33 *
* FROM: LIGCJLS *
* SUBJECT: HJUD;PL#1;HB406, SJR15,4-20 *
* PRINT DATE: 04/20/88 TIME: 13:33 *
*

DATE: APRIL 20, 1988, 1:15 PM
SITE: [REDACTED] LIG
SPONSOR: H. JUDICIARY
SUBJECT: SJR15, HB406
MODERATOR: DOROTHY M. LARSON

PARTICIPANT LIST

[REDACTED]

1. GLENN HERBST, CHIEF, DILLINGHAM CITY POLICE, DILLINGHAM, ALASKA 99575, PHONE 842-5354
2. LYLE LARSON, CITY MANAGER, DILLINGHAM CITY, DILLINGHAM, ALASKA 99576, PHONE 842-5211



Official Business

COMMITTEE:

HOUSE JUDICIARY

DATE: April 21, 1988

SIGN-IN

Subject of meeting:

- HB 354 Relating to dring while intoxicated; ed.
- SB 17 Vandalism of traffic control devices.
- HB 406 Care of persons in protective custody.
- SB 67 Health insurance for mental conditions.
- SB 102 Missing persons information clearinghouse.
- HB 394 Relating to electric and telephone coops.
- HB 364 Relating to commercial fishing violations.

NAME	ADDRESS FULL ADDRESS PLEASE !	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY? WHICH BILL?
Crystal Smith	AML 217 2nd, Suite 200 Juneau, AK 99801	586-1325	AML	HB 406
Dupe Hood	Juneau Wellness Center 369 S. Franklin Juneau 99801	586-6810	Self as Marriage, Family Therapist	SB 67
Polly Prechal	City of Nome Box 281 Nome 99762	443-5242	City of Nome	HB 406
Ivan Frasier	9347 Rivercourt Way Juneau, AK 99802	789-4932	Self as MFT	SB 67
Shannon Hoban	3740 Fritz Cove Juneau	586-4952	Alliance/MI	SB 67
Bonnie Berg	Box 1404 Juneau, Ak.	586-1524	Self	SB 67
C.S. Christensen	111 CAP	3755	Sen Files	SB 67 SB 17 SB 102
LARRY MCKINSTY	Box KC Juneau AK	3428	Dept of Law	HB 406
Cathy Jenkins		586-4100	NFIB	YES SB 67
Jeff Bohm	Box 10093 Anchorage, AK 99501	278-3661	AKPIRG	HB 394
BOB STALNAKER	P.O. BOX CR	465-4470	RETIREMENT+BENE.	HB 67 NEEDED
MIKE MILLER	Box 21494, JUNO	586-3067	Self	SB 67
POW CLASBY	1200 FRITZ COVE RD JUNO	289-2307	Sub & Public Safety	SB 67 SB 102

*
* ORIGINAL *
* SENT: 04/22/88 TIME: 13:45 *
* FROM: LIDCVL *
* SUBJECT: NJUD,PL,LD406;4-22-88 *
* PRINT DATE 04/22/88 TIME: 13:47 *
*

SUBJECT: ~~XXXXXXXXXX~~
DATE: APRIL 22, 1988
SITE: ~~XXXXXXXXXX~~ WALDEZ

PARTICIPANT LIST

TO TESTIFY:

1. ~~JOE K. MITCHAUD~~ WALDEZ DEPT OF EMERGENCY SERVICES

Assistant Chief, Valdez Police Dept.

EON

*
 * DELIVER TO: LIDGGL
 *
 * ORIGINAL
 * SENT: 04/22/88 TIME: 13:37
 * FROM: LIDGGL
 * SUBJECT: H. AUD. HE 406:04-22-88
 * PRINT DATE: 04/22/88 TIME: 13:57
 *

***** ANCHORAGE PARTICIPANT LIST *****

THE FOLLOWING PEOPLE ARE STANDING
BY TO PARTICIPATE IN TODAY'S - TELECONFERENCE:

TO TESTIFY:
 1. HARRY SJOBERG HB 406

2.
 3.
 4.

TO OBSERVE:
 1. LINDA SJOBERG

2.

* DELIVER TO: LIOGGL
 * ORIGINAL
 * SENT: 04/22/88 TIME 13:34
 * FROM: LYCC:JL
 * SUBJECT: H JUD:PL41,4-22-88
 * PRINT DATE 04/22/88 TIME 13:35

4-22-88

~~SOLOOTNA~~

H JUD

RD406 INTOXICATED & INCAP. PERSONS
 VESTA

PARTICIPANT LIST

TESTIFIED	ADDRESS	PHONE	BILL#
JANE/REPRESENTING		253-3441	188406
WILL ROGERS CITY OF KENAI	210 TICALSO, KENAI		

2.

3.

4.

5.

6.

OBSERVED	ADDRESS	PHONE	BILL#
NAME/REPRESENTING			

1.

2.

3.

4.

5.

6.

TESTIFIED:
 UNABLE:
 OBSERVED:
 TOTAL:

START/END TIME



Official Business

COMMITTEE:

HOUSE JUDICIARY

DATE: April 29, 1988

SIGN-IN

Subject of meeting:

- HB 540 Employee Access to own PERSONNEL FILE
- SB 304 Filing and recording of documents
- SB 339 Tobacco sales to minors
- SB 444 Eligibility for PFDs
- SB 324 Correctional restitution centers
- SB 231 Sexual abuse of minor

NAME	ADDRESS FULL ADDRESS PLEASE !	PHONE..	REPRESENTING	DO YOU WANT TO TESTIFY? WHICH BILL?
C. S. CHRISTENSEN	CAD III	3755	SEN. FAIRS	SB 339
Cliff Gosh	Dept of Revenue Box 5 Juneau, AK 99801	2323	Dept. of Revenue	SB 444
Margot Did	130 Seward St. Room 301 Juneau, AK 99801	596-3650	AK Network on DV/SA	SB 324
Bill PAULSEN	Box 7 JUNO 99811	405 3376	CORRECTIONS	SB 324
JOHN ABBOTT	o/o LAA LEGAL SERVICES Juneau AK.	465-2450	AK. CODE REV. Comm	SB 304
Patsy Plotnick-Weller	2162A Lawson Crk. Rd Douglas, AK. 99824	586-6806	Am. Lung Assoc. of Alaska	SB 339



Official Business

COMMITTEE:
HOUSE JUDICIARY

DATE: May 5th, 1988

Subject of meeting:
 SB 320 Damages for death of a minor
 SB 67 Insurance for mental or nervous conditions
 SB 399 Alaska automated fingerprint system
 SB 120 Entry of information re: minors on APSIN
 SJR 15 Proposing an amendment to the Constitution of the State of Alaska relating to the right to keep and bear arms.
 SB 415 Appropriation to the Alaska Court System
 SB 462 Seizure or forfeiture of property

SIGN-IN

NAME	ADDRESS FULL ADDRESS PLEASE !	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY? WHICH BILL?
P. Pompe	AIDE	4978	SZYMAN	SB 399
S. Jensen		586-4100	NFIB	yes SB 67 <i>FS heard</i>
A. Snowden	COURTS	463-4770	COURTS	SB 415
MANO FREY	2501 COMMERCIAL DR ANCH.	272-4571	AK. A.F.L.-C.I.O.	SB 415
Resa Ferrel	134 No. Franklin Juneau 99801	586-1740	A.G.C. of Alaska	SB 415
Kyncho Spositt	219 INT DIPONT RD ANCH	563 3576	IRONWORKERS LOCAL 1751	SB 415
Phil Husted	407 Tuzual, Anch. Ak. 99501	276-3533	AK Building Trades	SB 415



Official Business

COMMITTEE:
HOUSE JUDICIARY

DATE: 5-8-84

SIGN-IN

Subject of meeting:
 SB 508 Relating to property exceptions
 SB 515 Judicial and non-judicial foreclosure
 SB 211 Tort Reform
 SB 136 Multiple use of state land and water

BILLS PREVIOUSLY HEARD & HELOVER

NAME	ADDRESS FULL ADDRESS PLEASE !	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY? WHICH BILL?
CONNIE SIPE AL CAMOSSO	BOX C JUNO 99811 - 0209	465 - 3250	OLDER ALASKANS COMMISSION	SB 211 yes
AL CAMOSSO	3200 Providence Dr. Anchorage	562-2211	Providence Hospital	211 yes
David McBurne	4048 Laurel St Anchorage	562-4142	Citizens Coalition for Tort Reform	211 yes
AUGROSS	8470 W Douglas	6-2377	God fearing, decent, moral trial lawyer	211 yes
SHERIE BOLL	419 Kennedy Street	6-4788	ALASKA WOMEN'S LEAGUE + ALASKA DOCTORS POLITICAL CHOCOS	211 yes
Sr. BARBARA HAASE	3100 Tongass AVE, KETCHIKAN 99901	225-5171	Ketchikan Gen. Hosp.	211 yes
Paul Cossman	12601 Atherton Rd., Anchorage 99516	345-5678	Alaska Academy of Trial Lawyers	yes 211

*

DELIM ;
INBOX

SUBJECT: FS;H.JUD.;SB211;05-08-88
FROM: LIOCHTM
FOLDER:

SENT 05/09/88 12:49

SECURITY LEVEL: 2 RETENTION PERIOD: PERM

.....2.....+.....3.....+.....4.....+.....5.....+.....6.....+.....7.....+.....8.. 001/01
*** FINAL TELECONFERENCE STATISTICS *** 001/02

DATE: MAY 8TH, 1988 SUNDAY 001/03
SITE: ANCHORAGE 1ST FLOOR CONFERENCE ROOM 001/04
SPONSOR: HOUSE JUDICIARY COMMITTEE 001/05
SUBJECT: SB 211 - TORT REFORM 001/06
LOCAL MODERATOR: INEZ WEBB 001/07

***** 001/08

TESTIFIED: 001/09
NAME\REPRESENTING ADDRESS PHONE # 001/10
1. DR. LAWRENCE WEISS/AHP 431 W. 7TH AVE. 99501 276-2864 001/11
2. RUSS WINNER 2470 BELMONT DRIVE 99501 27709522 001/12

***** 001/13

MORE...
DELIM ;
INBOX

SUBJECT: FS;H.JUD.;SB211;05-08-88
FROM: LIOCHTM
FOLDER:

SENT 05/09/88 12:49

SECURITY LEVEL: 2 RETENTION PERIOD: PERM

.....+.....2.....+.....3.....+.....4.....+.....5.....+.....6.....+.....7.....+.....8.. 001/01
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SPONSOR: HOUSE JUDICIARY COMMITTEE 001/05
SUBJECT: SB 211 - TORT REFORM 001/06
LOCAL MODERATOR: INEZ WEBB 001/07

***** 001/08

TESTIFIED: 001/09
NAME\REPRESENTING ADDRESS PHONE # 001/10
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2. RUSS WINNER 2470 BELMONT DRIVE 99501 27709522 001/12

***** 001/13

MORE...
DELIM ;
INBOX

SUBJECT: FS;H.JUD.;SB211:05-08-88
FROM: LIOCHTM
FOLDER:

SENT 05/09/88 12:49

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TESTIFIED:

NAME\REPRESENTING	ADDRESS	PHONE #
1. DR. LAWRENCE WEISS/AHP	471 W. 7TH AVE. 99501	276-2864
2. RUSS WINNER	2470 BELMONT DRIVE 99501	27709522

4B

- 31 LINE 1 COL 3
DELIM ;
INBOX

SUBJECT: FS;H.JUD.;SB211;05-08-88
FROM: LIOCHTM
FOLDER: SECURITY LEVEL: 2 RETENTION PERIOD: PERM

SENT 05/09/88 12:49

.....2.....3.....4.....5.....6.....7.....8.. *****

PERSON'S WHO WANTED TO TESTIFY BUT DIDN'T GET TOO:

NAME\REPRESENTING	ADDRESS	PHONE #
1. CHRISTOPHER A. TOAL	702 N. PARK ST. #5 99508	274-4648
2. KRIS BENSON	700 H ST. #4 99501	274-3621
3. MICHAEL J. SCHNEIDER	880 N. ST. #202 99501	277-4551
4. ALISON HORTON	1526 F ST. 99501	276-1339
5. JEFF BOHMAN	BOX 101093 99510	278-3661
6. BARBARA COLLINS	AKPIRG P.O.BOX 101093 99510	278-3661
7.		

TESTIFIED: 2 START TIME: 2:00 PM
OBSERVED: 6 END TIME: 5:45 PM
TOTAL: 8

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MORE...

4B

- 31 LINE 1 COL 2
DELIM ;
INBOX

SUBJECT: FS;H.JUD.;SB211;05-08-88
FROM: LIOCHTM
FOLDER: SECURITY LEVEL: 2 RETENTION PERIOD: PERM

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4. ALISON HORTON	1526 F ST. 99501	276-1339
5. JEFF BOHMAN	BOX 101093 99510	278-3661
6. BARBARA COLLINS	AKPIRG P.O.BOX 101093 99510	278-3661
7.		

TESTIFIED: 2 START TIME: 2:00 PM
OBSERVED: 6 END TIME: 5:45 PM

001/30
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001/32
001/33

H B

2

CONTENTS OF HB 2 COMMITTEE FILE

1. HB 2
2. Max Memo
3. '87 sectional analysis
4. '87 zero fiscal note
5. List of states that have adopted the Uniform Simultaneous Death Act and Prefatory note
6. Bill history of HB 408 with Journal pages for House Judiciary. Committee vote, House floor vote and Senate Judiciary Committee vote
7. House Judiciary Committee minutes referencing the bill 10/25/85 and 1/17/86
8. Senate Judiciary Committee minutes referencing the bill 4/15/86 and 5/9/86
9. Letter from Anchorage Estate Planning Council
10. Letter from Alaska Bar Association Probate section
11. Letter from Richard S. Thawtes, Alaska Bar Probate & Tax section

UNIFORM SIMULTANEOUS DEATH ACT

Table of Jurisdictions Wherein Act Has Been Adopted

Jurisdiction	Laws	Effective Date	Statutory Citation
Alabama	1949, p. 852	9-7-1949	Code 1975, §§ 43-7-1 to 43-7-8.
Arizona	1959, c. 77	6-20-1959	A.R.S. §§ 14-2804 to 14-2810.
Arkansas	1941, Act 15	1-30-1941*	Ark.Stats. §§ 61-124 to 61-130.
California	1945, p. 1885	9-15-1945	West's Ann.Cal.Prob.Code, §§ 296 to 296.8.
Colorado	1967, p. 104	3-14-1967	C.R.S.1973, 15-11-613.
Connecticut	1943, c. 266, p. 272	10-1-1943	C.G.S.A. § 45-287.
Delaware	1945, c. 234	4-18-1945*	12 Del.C. §§ 701 to 707.
Dist. of Columbia ...	1965, 79 Stat. 700	1-1-1966	D.C.Code 1981, §§ 19-501 to 19-506.
Florida	1941, c. 20884	6-12-1941	West's F.S.A. § 732.601.
Georgia	1966, p. 606	7-1-1966	O.C.G.A. §§ 53-11-1 to 53-11-6.
Hawaii	1941, Act 74	4-22-1941	HRS §§ 534-1 to 534-5.
Idaho	1943, c. 83	2-23-1943*	I.C. § 15-2-613.
Illinois	1941, vol. 1, p. 6	7-16-1941	S.H.A. ch. 110½, ¶¶ 3-1, 3-2.
Indiana	1941, c. 49	2-24-1941*	West's A.I.C. 29-2-14-1 to 29-2-14-8.
Iowa	1963, c. 326	1-1-1964	I.C.A. §§ 633.523 to 633.528.
Kansas	1947, c. 239	6-30-1947*	K.S.A. 58-701 to 58-707.
Kentucky	1942, c. 79	3-5-1942	KRS 397.010 to 397.080.
Maine	1941, c. 111	3-29-1941	18-A M.R.S.A. § 2-805.
Maryland	1941, c. 191	6-1-1941	Code, Courts and Judicial Proceedings, §§ 10-801 to 10-807.
Massachusetts'	1941, c. 549	7-29-1941	M.G.L.A. c. 190A, §§ 1 to 8.
Michigan	1941, No. 73	1-10-1942	M.C.L.A. §§ 720.101 to 720.104.
Minnesota	1943, c. 248	4-2-1943*	M.S.A. § 525.90.
Mississippi	1956, c. 214	7-1-1956	Code 1972, §§ 91-3-1 to 91-3-15.
Missouri	1947, Vol. 1, p. 13	9-10-1947	V.A.M.S. §§ 471.010 to 471.080.
Nebraska'	1947, c. 112	3-6-1947	R.R.S.1943, §§ 30-121 to 30-128.
Nevada	1949, c. 44	3-9-1949*	N.R.S. 135.010 to 135.090.
New Hampshire	1941, c. 55	4-8-1941	RSA 563:1 to 563:9.
New Jersey	1947, c. 384	7-3-1947	N.J.S.A. 3B:6-1 to 3B:6-7.
New Mexico	1959, c. 172	3-31-1959	NMSA 1978, §§ 45-8-1 to 45-8-8.
New York	1966, c. 952	9-1-1967	McKinney's EPTL 2-1.6.
North Carolina	1947, c. 1016	4-5-1947	G.S. §§ 28A-24-1 to 28A-24-7.
North Dakota	1943, c. 211	3-17-1943	NDCC 31-12-01 to 31-12-06.
Oklahoma	1959, c. 385	10-2-1959	58 Okl.St. Ann. §§ 1001 to 1008.
Oregon	1947, c. 555	4-21-1947	ORS 112.575 to 112.645.
Pennsylvania	1972, No. 164	7-1-1972	20 Pa.C.S.A. §§ 8501 to 8505.
Rhode Island	1947, c. 1871	4-28-1947	Gen.Laws 1956, §§ 33-2-1 to 33-2-9.
South Carolina	1948, p. 1753	4-3-1948	Code 1976, §§ 21-9-10 to 21-9-80.
South Dakota	1941, c. 332	3-4-1941	SDCL 29-8-1 to 29-8-8.
Tennessee	1941, c. 59	2-10-1941	T.C.A. §§ 31-501 to 31-508.
Texas	1955, c. 55	1-1-1956	V.A.T.S.Probate Code, § 47.
Utah	1953, c. 78	5-12-1953	U.C.A.1953, 75-2-1001 to 75-2-1009.
Vermont	1941, No. 41	3-21-1941	14 V.S.A. §§ 621 to 627.
Virgin Islands	1957, c. 3	9-1-1957	15 V.I.C. § 88.
Virginia	1942, c. 63	2-25-1942	Code 1950, §§ 64.1-97 to 64.1-104.
Washington	1943, c. 113	3-16-1943	West's RCWA 11.05.010 to 11.05.910.
West Virginia	1953, c. 66	2-18-1953	Code, 42-5-1 to 42-5-10.
Wisconsin	1941, c. 284	6-25-1941	W.S.A. 851.55.
Wyoming	1941, c. 94	2-21-1941	W.S.1977, §§ 2-13-101 to 2-13-107.

* Date of approval.

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SIMULTANEOUS DEATH

Historical Note

The Uniform Simultaneous Death Act was approved by the National Conference of Commissioners on Uniform State Laws, and the American Bar Association, in 1940. The Act was subsequently amended in 1953 and similarly approved.

PREFATORY NOTE

After more than five years study a Uniform Simultaneous Death Act has been approved by the National Conference of Commissioners on Uniform State Laws and recommended to the various legislatures for adoption. Two considerations justify the hope that the Act which is presented herewith will be received favorably by the legislative bodies of the various States. It may be a sad commentary, but the pace of modern living with its multiple forms of transportation has caused the instances of simultaneous death to occur with much greater frequency than in the past. More and more therefore courts will be called upon to administer the estates of persons who have died under circumstances that there is no evidence of survivorship and it is desirable to have a workable and uniform rule to apply in such instances. The second consideration which should recommend this Act to the various legislative bodies is the unsatisfactory variety of methods that have been devised either as a result of jurisprudence or the result of legislation to administer this troublesome legal situation. Some States have set arbitrary presumptions which are employed by the courts to determine the devolution of property. In other States there is the "common law rule" which indulges no presumption one way or the other and leaves the matter to the respective claimants to prove survivorship. Both situations seem to be unrealistic. Prescribed presumptions frequently ignore the facts of life. For instance in some States it is presumed (conclusively) that an adult in good health survives a minor child or infant. If the minor happened to be the son or daughter of the adult it is more reasonable to suppose that the adult would have used every expedient to protect the child even at the sacrifice of his own life. In those States where there is no presumption whatever indulged courts are faced with an anachronism. The reason for the difficulty of administration is that it is impossible to know which of the persons has survived. Yet the "common law rule" in effect says that the person who claims by virtue of an alleged survivorship must prove the survivorship which is tantamount to demanding the impossible.

The theory of the present Act makes no effort whatever to resolve the un-resolvable. The formula is a simple one and easily applied. The theory of the present Act is that as to the property of each person he is presumed to be the survivor and it is administered accordingly.

Perhaps a word ought to be said with respect to Section four which deals with contracts of insurance. The Act provides that when the insured and the beneficiary in a policy of life or accident insurance have died and there is no sufficient evidence that they have died otherwise

SIMULTANEOUS DEATH

than simultaneously the proceeds of the policy shall be distributed as if the insured had survived. Obviously this section creates a conclusive presumption. The special circumstances seem to justify the creation of a presumption relative to the survivorship of the insured or beneficiary. By providing that the insured presumably survived it is thought that the result will most nearly approximate the intention of the real party in interest. If it does not, he is at liberty to provide otherwise in the contract of insurance.

General Statutory Notes

Alaska. L.1972, c. 78, repealed former title 13 of the Alaska Statutes and enacted a new title 13 in lieu thereof. While the new title 13 contains provisions relating to simultaneous deaths (see A.S. §§ 13.06.035 and 13.11.020), they are not in substantial conformity with the uniform act. Accordingly, Alaska has been deleted from the table of jurisdictions wherein the uniform act has been adopted.

California. Adds sections as follows:

"§ 296.41. Proceeding to determine simultaneous death; petition; notice of hearing; service. When it is claimed that, in accordance with the provisions of this chapter, any persons have died under circumstances where there is no sufficient evidence that they have died otherwise than simultaneously, the executor or administrator of any such person, or any other person interested in the estate of any such person, may file a petition, in the estate proceeding where he received his appointment, or in which he claims an interest, seeking to have it determined that such persons died under circumstances where there is no sufficient evidence that they died otherwise than simultaneously. The clerk shall set the petition for hearing by the court and cause notice thereof to be personally served at least 10 days before the date of the hearing upon the executor or administrator of each other person claimed to have so died. If the representative of any such other person is also the petitioner then, in lieu of personal service upon him, such notice shall be mailed to the heirs and devisees of such other person, so far as they are known to

the petitioner, at least 10 days before the date of hearing."

"§ 296.42. Proceeding by executor or administrator to determine simultaneous death; hearing; determination of order of death; jurisdiction. At the time appointed, the court, upon proof that due notice of the hearing has been given, shall proceed to hear the petition and any objections thereto that may have been filed or presented; and if, after a full hearing, the court is satisfied that the named persons are dead and that there is no sufficient evidence that they died other than simultaneously, it shall make an order to that effect. If the court is satisfied that the named persons are dead and that they did not die simultaneously then the court shall make an order setting forth the order in which such persons died. Such order when it becomes final shall be a binding determination of the facts therein set forth and conclusive as against the personal representatives of the deceased persons named in the order and against all persons claiming by, through or under any such deceased persons. The probate court which first acquires jurisdiction under Section 296.41 shall have exclusive jurisdiction to determine, by its order, that there is no sufficient evidence that the named persons died otherwise than simultaneously or to determine the order in which the named persons died."

Florida. L.1974, c. 74-106 repealed West's F.S.A. § 736.05, which formerly constituted the Uniform Simultaneous Death Act, and reenacted said Uniform Act as part of the Florida Probate Code in West's F.S.A. § 732.601.

04/10/86 (B)	2298	SA RPT SDP
05/07/86 (B)	2651	FIN RPT SCS 6DP
05/08/86 (B)	2708	RULES RPT CALENDAR 5/9
05/09/86 (S)	2722	RETURN TO RLS COMMITTEE
05/10/86 (S)	2756	RULES RPT SUPPLEMENTAL CALENDAR 5/10
05/10/86 (S)	2775	HELD TO 5/11
05/11/86 (B)	2805	READ THE SECOND TIME
05/11/86 (S)	2805	FIN SCS ADOPTED UNAN CONSENT
05/11/86 (S)	2805	ADVANCED TO THIRD READING UNAN CONSENT
05/11/86 (S)	2805	READ THE THIRD TIME SCS HB 406 FIN
05/11/86 (S)	2806	PASSED Y18 N- A2
05/11/86 (S)	2836	TRANSMITTED TO (H) AS AMENDED
05/12/86 (H)	3414	HELD UNDER UNFINISHED BUSINESS
05/12/86 (H)	3456	CONCUR AM OF (S) Y40 N-
05/21/86 (H)	3540	10:45 AM 5/21/86 TRANSMITTED TO GOVERNOR
06/08/86 (H)	3587	SIGNED INTO LAW CHAPTER 125 SLA 86
06/08/86 (H)		EFFECTIVE DATE OF LAW 9/6/86

HB 407
SCS CSHB 407 RES
AN ACT RELATING TO THE USE OF, AND CERTAIN REPORTS AND RECORDS
CONCERNING GAME ANIMALS.

PRIME SPONSOR: SHULTZ
CO-SPONSORS: MARROU, THOMPSON

CURRENT STATUS: VETOED BY GOVERNOR

DATE	PAGE	ACTION
04/29/85 (H)	1159	READ THE FIRST TIME - REFERRAL(S)
02/03/86 (H)	1961	RES RPT CS(RES) NEW TITLE 5DP 4NR
02/19/86 (H)	2176	ZERO FISCAL NOTE RECEIVED FROM RULES
02/22/86 (H)	2194	CORRECTION: ZERO FISCAL NOTE FROM RES
02/28/86 (H)	2247	RLS RPT CS(RLS) NEW TITLE 1DP 3NR 1DNP
02/28/86 (H)	2247	ZERO FISCAL NOTE
03/07/86 (H)		RULES TO CALENDAR 3/10/86
03/10/86 (H)	2323	READ THE SECOND TIME
03/10/86 (H)	2323	RLS CS ADOPTED Y32 N6 X2
03/10/86 (H)	2323	AM NO 1 ADOPTED UNAN CONSENT
03/10/86 (H)	2324	AM NO 2 FAILED Y12 N27 X1
03/10/86 (H)	2324	ADVANCED TO THIRD READING UNAN CONSENT
03/10/86 (H)	2325	READ THE THIRD TIME CSHB 407 RLS AM
03/10/86 (H)	2325	PASSED Y28 N10 X1 A1
03/10/86 (H)	2325	HILLER, HM NOTICE OF RECONSIDERATION
03/12/86 (H)	2362	RECON TAKEN UP - IN THIRD READING
03/12/86 (H)	2362	AM 4 TO TITLE ADOPTED UNAN CONSENT
03/12/86 (H)	2363	PASSED ON RECONSIDERATION Y22 N11 X2 AS
03/12/86 (H)	2363	TRANSMITTED TO (S)
03/13/86 (S)	2060	READ THE FIRST TIME - REFERRAL(S)
05/04/86 (B)	2595	RES RPT SCS 3DP 3NR
05/07/86 (S)	2681	RULES RPT CALENDAR 5/8
05/08/86 (S)	2686	READ THE SECOND TIME
05/08/86 (S)	2686	RES SCS ADOPTED UNAN CONSENT
05/08/86 (S)	2686	ADVANCED TO THIRD READING UNAN CONSENT
05/08/86 (S)	2686	READ THE THIRD TIME SCS CSHB 407 RES
05/08/86 (S)	2686	PASSED Y16 N3 A1
05/08/86 (S)	2697	TRANSMITTED TO (H) AS AMENDED
05/09/86 (H)	3254	HELD UNDER UNFINISHED BUSINESS
05/10/86 (H)	3336	CONCUR AM OF (S) Y35 N2 A3
05/12/86 (H)	3523	6:09 PM 5/12/86 TRANSMITTED TO GOVERNOR
06/03/86 (H)	3567	GOVERNOR VETOED

HB 408

CSHB 408 JUD
AN ACT PROVIDING FOR THE ADOPTION OF THE UNIFORM SIMULTANEOUS DEATH ACT.

PRIME SPONSOR: GRUENBERG

CO-SPONSORS: TAYLOR, CLOCKSIN, HILLER, HM, PETTY, JOHN, SUND, PHILLIPS

CURRENT STATUS: (S) RLS

DATE	PAGE	ACTION
04/29/85 (H)	1159	READ THE FIRST TIME - REFERRAL(S)
01/20/86 (H)	1828	JUD RPT CS(JUD) 7DP
01/20/86 (H)	1828	ZERO FISCAL NOTE
01/21/86 (H)		RULES TO CALENDAR 1/22/86
01/22/86 (H)	1854	READ THE SECOND TIME
01/22/86 (H)	1854	JUD CS ADOPTED UNAN CONSENT
01/22/86 (H)	1854	ADVANCED TO THIRD READING UNAN CONSENT
01/22/86 (H)	1855	READ THE THIRD TIME
01/22/86 (H)	1855	PASSED Y40 N-
01/22/86 (H)	1857	TRANSMITTED TO (S)
01/23/86 (S)	1614	READ THE FIRST TIME - REFERRAL(S)
05/10/86 (S)	2738	JUD RPT SDP 2NR RULES

HB 409

CSHB 409 TRSP

AN ACT RELATING TO TRAINING AND LICENSING OF SCHOOL BUS DRIVERS; AND
PROVIDING FOR AN EFFECTIVE DATE.

PRIME SPONSOR: JENKINS

CO-SPONSORS: LARSON, HURLEY, HANLEY, COLLINS, PEARCE, PHILLIPS, RIEGER, THOMPSON
UEHLING, COTTEN, FURNACE, BOUCHER, GRUENBERG

CURRENT STATUS: CHAPTER 19 SLA 86

DATE	PAGE	ACTION
04/29/85 (H)	1159	READ THE FIRST TIME - REFERRAL(S)
01/29/86 (H)	1916	TRSP RPT CS(TRSP) NEW TITLE 3DP 2NR 1DNP
01/29/86 (H)	1916	2 FISCAL NOTES HSE SUPPL 78
02/05/86 (H)	1900	SA RPT CS(TRSP) 6DP 1NR
02/05/86 (H)	1980	FIN REFERRAL ADDED
03/03/86 (H)	2265	FIN RPT CS(TRSP) 8DP
03/03/86 (H)	2265	ZERO FISCAL NOTE
03/03/86 (H)	2265	RULES TO CALENDAR 3/3/86
03/03/86 (H)	2266	READ THE SECOND TIME
03/03/86 (H)	2266	TRSP CS ADOPTED UNAN CONSENT
03/03/86 (H)	2266	ADVANCED TO THIRD READING UNAN CONSENT
03/03/86 (H)	2266	READ THE THIRD TIME CSHB 409 (TRSP)
03/03/86 (H)	2266	PASSED Y34 N2 X3 A1
03/03/86 (H)	2267	EFFECTIVE DATE SAME AS PASSAGE
03/03/86 (H)	2267	DAVIS NOTICE OF RECONSIDERATION
03/05/86 (H)	2287	RECON TAKEN UP - IN THIRD READING
03/05/86 (H)	2287	RETURN TO SECOND FOR AM 1 Y28 N8 X3 A1
03/05/86 (H)	2288	AM NO 1 FAILED Y17 N19 X3 A1
03/05/86 (H)	2288	PASSED ON RECONSIDERATION Y36 N1 X3
03/05/86 (H)	2289	EFFECTIVE DATE SAME AS PASSAGE
03/05/86 (H)	2292	TRANSMITTED TO (S)
03/06/86 (S)	1993	READ THE FIRST TIME - REFERRAL(S)
03/20/86 (S)	2119	TRSP RPT 4DP
04/11/86 (S)	2315	RULES RPT CALENDAR 4/14
04/14/86 (S)	2340	HELD TO 4/16
04/16/86 (S)	2368	READ THE SECOND TIME
04/16/86 (S)	2369	AM NO 1 FAILED Y5 N14 X1
04/16/86 (S)	2369	ADVANCED TO THIRD READING UNAN CONSENT
04/16/86 (S)	2369	READ THE THIRD TIME CSHB 409 TRSP
04/16/86 (S)	2369	PASSED Y19 N- X1

HB 408

The Judiciary Committee considered CS FOR HOUSE BILL NO. 408 (JUD) (providing for the adoption of the Uniform Simultaneous Death Act) and a majority of the committee recommended do pass. The report was signed by Senator Rodey, Chairman and concurred in by Senators Kelly and Ziegler. Senators Halford and Faiks signed "no recommendation".

CS FOR HOUSE BILL NO. 408 (JUD) was referred to the Rules Committee.

HB 440

The Finance Committee considered CS FOR HOUSE BILL NO. 440 (FIN) (recreation management plan implementing the Bristol Bay Area Plan; efd) and recommended the Resources Senate Committee Substitute be adopted. Senator Faiks, Co-Chairman, signed "do not pass unless amended". Senator Kerttula signed "do pass". Senator Halford signed "do not pass". Senator Paul Fischer signed "no recommendation".

CS FOR HOUSE BILL NO. 440 (FIN) was referred to the Rules Committee.

HB 454

The Finance Committee considered CS FOR HOUSE BILL NO. 454 (FIN) (compensation of state officers; establishing a commission on compensation of state officers; efd) and recommended it be replaced with

SENATE CS FOR CS FOR HOUSE BILL NO. 454 (FIN)

and a majority do pass. The report was signed by Senator Faiks, Co-Chairman and concurred in by Senators Kerttula, Halford, Eliason and Paul Fischer. Senator Ferguson signed "do pass if amended".

One fiscal note from the Senate Finance Committee is zero.

Three additional fiscal notes are in Senate Supplement No. 80.

CS FOR HOUSE BILL NO. 454 (FIN) was referred to the Rules Committee.

HB 456

The Judiciary Committee considered CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 456 (JUD) (registration of commercial and noncommercial motor vehicles and providing a penalty for failure to obtain title or registration; efd) and a majority of the committee recommended do pass. The report was signed by Senator Rodey, Chairman and concurred in by Senators Halford, Ziegler and Faiks.

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 456 (JUD) was referred to the Rules Committee.

HB 471

The Judiciary Committee considered CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 471 (JUD) (abuse and exploitation of children) and the committee recommended do pass. The report was signed by Senator Rodey, Chairman and concurred in by Senators Kelly, Ziegler, Halford and Faiks.

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 471 (JUD) was referred to the Rules Committee.

HB 476

The Judiciary Committee considered CS FOR HOUSE BILL NO. 476 (JUD) (automobile insurance premiums) and a majority of the committee recommended do pass. The report was signed by Senator Rodey, Chairman and concurred in by Senators Halford and Faiks. Senator Ziegler signed "no recommendation".

CS FOR HOUSE BILL NO. 476 (JUD) was referred to the Rules Committee.

HB 497

The Judiciary Committee considered CS FOR HOUSE BILL NO. 497 (JUD) am (custody, support, visitation, and birth certificates of children) and a majority of the committee recommended the Health, Education and Social Services Senate Committee Substitute be adopted and do pass. The report was signed by Senator Rodey, Chairman and concurred in by Senators Halford, Ziegler and Faiks.

CS FOR HOUSE BILL NO. 497 (JUD) am was referred to the Rules Committee.

REPORTS OF STANDING COMMITTEESHB 356

The Judiciary Committee has considered HOUSE BILL NO. 356 (relating to assignment of group life policies of insurance) and reports it back as follows: M.M. Miller (Chairman), Sund, Gruenberg, Taylor, Pettyjohn, Phillips and Clocksin recommend do pass.

HB 356 was referred to the Rules Committee for placement on the calendar.

HB 408

The Judiciary Committee has considered HOUSE BILL NO. 408 (providing for the adoption of the Uniform Simultaneous Death Act), recommends it be replaced with COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 408 (Judiciary) (same title) and reports it back as follows: M.M. Miller (Chairman), Sund, Gruenberg, Taylor, Pettyjohn, Phillips and Clocksin recommend do pass. A zero fiscal note was attached.

HB 408 was referred to the Rules Committee for placement on the calendar.

INTRODUCTION OF CITATIONS

The following citations were received:

Honoring - Rose Palmquist
by Representatives Clocksin, Szymanski,
Uehling, Pearce, Rieger, Collins, Furnace,
Hurley, Larson, Cato, Pignalberi and
Martin and Senator V. Fischer

Honoring - East High School "Thunderbirds"
Football Team
by Representatives Martin and Pourchot

Honoring - Juneau Eagle Scouts
by Representatives Duncan and M.M. Miller
and Senator Ray

In Memoriam - Betty J. Alexander
by Representative Fuller

The citations were referred to the Rules Committee for placement on the calendar.

INTRODUCTION, FIRST READING AND REFERENCE
OF HOUSE RESOLUTIONSHJR 61

HOUSE JOINT RESOLUTION NO. 61 by Fuller by request, entitled:

Proposing amendments to the Constitution of the State of Alaska creating a fish and wildlife management fund.

was read the first time and referred to the Resources, Judiciary and Finance Committees.

INTRODUCTION, FIRST READING AND REFERENCE
OF HOUSE BILLSSSHB 475

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 475 by Clocksin, Uehling, Koponen, M.M. Miller, Collins, Gruenberg and Duncan, entitled:

"An Act making January 15, Martin Luther King Day, a legal holiday."

was read the first time and referred to the State Affairs and Finance Committees.

HB 486

HOUSE BILL NO. 486 by Ringstad by request, entitled:

"An Act relating to financing expansion of the power plant on the Fairbanks campus of the University of Alaska; and providing for an effective date."

was read the first time and referred to the House Special Committee on State Loans and the Finance Committee.

HB 487

HOUSE BILL NO. 487 by Davis, Koponen, Hurley, Goll and Marrou, entitled:

"An Act relating to projected operating and maintenance costs of capital improvements."

was read the first time and referred to the Community & Regional Affairs and Finance Committees.

HB 322

HB 322 was read the third time.

The question being: "Shall HB 322 pass the House?" The roll was taken with the following result:

HB 322

Yeas:	36	Adams, Binkley, Boucher, Cato, Collins, Cotten, Duncan, Frank, Fuller, Furnace, Goll, Gruenberg, Grussendorf, Hanley, Herrmann, Hurley, Jenkins, Koponen, Larson, Martin, Miller, M.M., Miller, M.W., Navarre, Pearce, Pettyjohn, Phillips, Pignalberi, Pourchot, Rieger, Ringstad, Shultz, Sund, Taylor, Thompson, Uehling, Wallis
Nays:	4	Clocksins, Davis, Marrou, Szymanski
Excused:	0	
Absent:	0	

And so, HB 322 passed the House.

Representative Goll gave notice of reconsideration of his vote on HB 322.

HB 408

HOUSE BILL NO. 408 (providing for the adoption of the Uniform Simultaneous Death Act) was read the second time with the Judiciary Committee report (page 1828).

Representative Clocksin moved and asked unanimous consent that COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 408 (Judiciary) (same title) be adopted in lieu of the original bill. There being no objection, it was so ordered.

CSHB 408(Jud)

Representative Clocksin moved and asked unanimous consent that CSHB 408(Jud) be considered engrossed, advanced to third reading and placed on final passage. There being no objection, it was so ordered.

CSHB 408(Jud)

CSHB 408(Jud) was read the third time.

The question being: "Shall CSHB 408(Jud) pass the House?" The roll was taken with the following result:

CSHB 408(JUD)

Yeas:	40	Adams, Binkley, Boucher, Cato, Clocksin, Collins, Cotten, Davis, Duncan, Frank, Fuller, Furnace, Goll, Gruenberg, Grussendorf, Hanley, Herrmann, Hurley, Jenkins, Koponen, Larson, Marrou, Martin, Miller, M.M., Miller, M.W., Navarre, Pearce, Pettyjohn, Phillips, Pignalberi, Pourchot, Rieger, Ringstad, Shultz, Sund, Szymanski, Taylor, Thompson, Uehling, Wallis
Nays:	0	
Excused:	0	
Absent:	0	

And so, CSHB 408(Jud) passed the House and was referred to the Chief Clerk for engrossment.

LEGISLATIVE CITATIONS

Representative Clocksin moved and asked unanimous consent that the House approve the citations on the calendar. There being no objection, the House approved the following citations:

Honoring - East Anchorage High School
"Thunderbirds" Football Team

Honoring - Rose Palmquist

Honoring - Juneau Eagle Scouts

In Memoriam - Betty J. Alexander

which were referred to the Chief Clerk for transmittal to the Senate; and

In Memoriam - Marvin Mitchell

In Memoriam - Joseph P. Wiley

which were sent to enrolling.

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H. JUD.	10 - 25 - 86
H. JUD	1 - 17 - 86
S. JUD	4 - 15 - 86
S. JUD	5 - 9 - 86



Anchorage Estate Planning Council

March 19, 1986

Representative Max F. Gruenberg, Jr.
1024 West Sixth Avenue, Suite 201D
Anchorage, Alaska 99501

Dear Representative Gruenberg:

The Estate Planning Council of Anchorage is an affiliate of a national organization comprised of certified public accountants, attorneys, certified life underwriters and trust officers who specialize in estate planning.

A number of bills which impact the estate planning process have been submitted this session. Consequently, the Estate Planning Council has created a committee to evaluate and comment upon those bills.

I hope you will find the attached comments enlightening as these bills come up for consideration.

If you desire further information, please feel free to contact me.

Yours very truly,

Kathryn A. Black

Kathryn A. Black,
Estate Planning Council President
1127 West Seventh Avenue
Anchorage, Alaska 99501

KAB/jy

HOUSE BILL 408

An Act providing for the adoption of the Uniform Simultaneous Death Act.

RECOMMENDATION:

The Estate Planning Council recommends adoption of this Bill in its current form.



ALASKA BAR ASSOCIATION

P.O. BOX 279, ANCHORAGE, ALASKA 99510. (907) 272-7469

PROBATE LAW SECTION

March 11, 1985

Representative Max Gruenberg
Pouch V
Juneau, AK 99811

RE: Prospective Amendments to Uniform Probate
Code deemed desirable by Probate Law Section
and Taxation Law Section of Alaska Bar
Association

Dear Mr. Gruenberg:

In response to your letter to the Alaska Bar Association, I have talked with David Shaftel and Rodney Kleedehn of the Alaska Bar Association's Taxation Law Section and with members of the Probate Law Section and offer the following as amendments to the Uniform Probate Code as enacted in Alaska.

Please note that the provisions under the letter from Mr. Goerig referring to the Uniform Simultaneous Death Act were essentially to be part of the Uniform Probate Code but were inadvertently eliminated when the Code was adopted in 1973. Alaska happens to be one of the few remaining states which does not have a specific provision in this regard.

Trigg Davis has advised me he would be willing to meet with you regarding these modifications to the statute as well as the proposed modification under the Taxation Law Section's letterhead as proposed by Dave Shaftel and Rodney Kleedehn.


Both committees are currently working on more extensive proposals; however, those proposals will probably be pursued through the Code Revision Commission some time this Fall. These provisions were considered by all to be relatively non-controversial and fairly straightforward.

Mr. Max Gruenberg
March 11, 1985
Page 2

Your assistance in enacting these statutes will do much to bring Alaska residents up to par with the residents of other states in the area of estate and gift tax planning.

Your cooperation in this regard is greatly appreciated. If I can be of any assistance, please feel free to contact me.

Sincerely,



Richard S. Thwaites, Jr.

RST:lj

Enclosures

cc: David G. Shaftel, Esq.
G. Rodney Kleedehn, Esq.
George E. Goerig, Jr., Esq.
Trigg T. Davis, Esq.

LAW OFFICES
DAVIS & GOERIG
A PROFESSIONAL CORPORATION
405 WEST 36TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99503

TRIGG T. DAVIS
GEORGE E. GOERIG, JR.

TELEPHONE 581-4420
AREA CODE 907

February 25, 1985

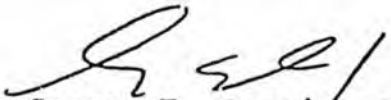
Richard S. Thwaites, Jr.
Chairman of the Alaska Bar Association
Probate Law Section
1031 West 4th Ave., Suite 500
Anchorage, AK 99501

Re: Introduction of the Uniform Simultaneous
Death Act in Alaska

Dear Dick:

Enclosed is a proposed statute relating to the Uniform Simultaneous Death Act. The statute provides for the disposition of non-probate property where there is no sufficient evidence that persons have died otherwise than simultaneously. I have left the provision regarding community property in the act because of the new statute which allows for community property status here in Alaska. The taxation law section supports enactment of this proposed statute.

Very truly yours,


George E. Goerig, Jr.
Attorney At Law

GEG/dvs

Enclosure

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H. JUD.

1-27-87

1:30p.m.

HOUSE COMMITTEE REPORT

(7)

Date referred: 1/19/87

FURTHER REFERRALS:

DATE: 1/27/87

The Judiciary Committee has considered HB 2

"An Act providing for the adoption of the Uniform Simultaneous Death Act."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

SIGNING OTHER RECOMMENDATIONS:

[Signature]

Chairman's signature

State of Alaska

House Majority Leader

COMMITTEES

HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES
HOUSE JUDICIARY
HOUSE RULES



Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3718
465-4968/4986

914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

MEMORANDUM

DATE: January 23, 1987
TO: Members of the House Judiciary Committee
FROM: Representative Max Gruenberg *MFG*
RE: HB 2, An Act providing for the adoption of the
Uniform Simultaneous Death Act

The Uniform Simultaneous Death Act has been adopted in forty-eight states. Only the State of Louisiana has failed to adopt it.

Alaska adopted it but repealed it by mistake when it adopted the Uniform Probate Code.

The Uniform Simultaneous Death Act provides for each person's estate to be settled as though that person had survived the others in a case of simultaneous deaths. This avoids costly court disputes to establish the sequence of death when there is not enough evidence to determine who, in fact, died first.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99801
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 19, 1987

SUBJECT: HB 2 - Uniform Simultaneous Death Act
TO: Representative John Sund, Chair
House Judiciary Committee
FROM: Michael F. Ford *M.F.*
Legislative Counsel

The following is a section by section analysis of HB 2:

Section 1 Provides that certain general rules of evidence in determining death and status are applicable in proceedings under the Uniform Simultaneous Death Act, unless specifically displaced.

Section 2

13.43.010 - States the general rule, that in cases of simultaneous death the property of each person shall be disposed of as if that person had survived. This is a legal presumption that is simple, and avoids the difficulty of proving survivorship.

13.43.020 - Applies the same presumption of survivorship to a beneficiary or beneficiaries in simultaneous death situations.

13.43.030 - Provides for distribution of property held by joint tenants or tenants by the entirety in simultaneous death cases.

13.43.040 - Provides for distribution of community property in cases of simultaneous death of a husband and wife.

13.43.050 - Subsection (a) creates a conclusive presumption that when an insured and beneficiary die simultaneously, proceeds shall be distributed as if the insured had survived. This is presumed to be the intention of the insured, but the insured would be able to provide otherwise in the contract

of insurance, if it does not. Subsection (b) provides that when insurance is community property and an alternative beneficiary is not selected, proceeds are distributed as community property under 13.43.040.

13.43.060 - Allows a person to provide for a different kind of distribution of property than is provided in this chapter.

13.43.070 - Uniformity provision.

13.43.080 - Citation section.

Section 3 - This Act will not apply to distribution of property of those persons dying before the effective date of the Act.

MFF:mkr
M8/023

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : HB 2
Publish Date : _____

Revision Date: 1/24/87
Title: An Act providing for the adoption of the Uniform Simultaneous Death Act
Sponsor: Gruenberg, et al
Requestor: Rep. Gruenberg

Agency Affected : None
BRU : _____
Components : _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact.

Prepared by: John Hartle, JH Committee Aide,
Division: House Judiciary Committee

Phone: 465-4990
Date: 1/24/87

Approved by Commissioner: Rep. John Sund, Chair
Agency: House Judiciary Committee

Date: 1/24/87

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

H

B

3

HOUSE COMMITTEE REPORT

(7)

Date referred:

1/19/87

FURTHER REFERRALS: Judiciary

DATE: _____

The Labor & Commerce Committee has considered HB 3

"An Act relating to the private sale and consignment of works of art."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

John F. Koponen
John Ellis
Cliff Dinkins
Samuel Palumbo
Dave Douley

SIGNING OTHER RECOMMENDATIONS:

Dave Douley

 Chairman's signature

State of Alaska

House Majority Leader

COMMITTEES

HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES
HOUSE JUDICIARY
HOUSE RULES



Representative Max F. Gruenberg, Jr.
District 11
Spennard, Upper Midtown Anchorage

P.O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3718
465-4968/4986

914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

MEMORANDUM

DATE: February 6, 1987
TO: House Labor and Commerce Committee
FROM: Max F. Gruenberg, Jr. *MFG*
RE: HB3, "An Act Relating to the Private Sale and
Consignment of Works of Art."

Sectional Analysis

Sec. 1

AS 45.02.326(e) The present law protects works of art from the claims of an art dealer's creditors. This section adds language which requires that art dealers post notice that works of art are being sold on consignment so that potential creditors will be on notice that the works of art will not be subject to their claims against the art dealer.

Sec. 2

AS 45.67.010 Provides that works of art sold on consignment and the proceeds from such a sale are trust property and remain trust property until the art dealer transmits the proceeds of the sale to the art dealer. It also requires that the art dealer transmit the proceeds to the artist within 30 days of the sale.

Sec. 3

AS 45.670.20 Provides that the only valid waiver of the above provisions is a waiver of the 30 day requirement which is clear, conspicuous, and agreed to in writing by the artist, and that such a waiver will not make the proceeds subject to the claims of the dealer's creditors.

Sec. 4

AS 45.67.030 Provides that an art dealer will return an unsold work of art to the artist on demand unless otherwise agreed to in writing.

Sec. 5

AS 45.67.040 Provides that the provisions of 45.67.010, 020 and 030 do not have an effect on contracts or arrangements in existence before the effective date of the bill unless agreed to in writing, and that these provisions govern in the event of a conflict with other state laws.

Sec. 6

As 45.67.050 Provides that when a work of art is transferred by an artist, the right to reproduce the artwork remains the property of the artist unless the right is specifically transferred by a written instrument and that conversely when a right to reproduce a work of art is transferred by an artist the work of art remains the property of the artist unless specifically transferred in a written instrument.

Sec. 7

AS 45.67.100 Defines for the purposes of the bill the terms artist, art dealer, consignment, creditor, right of reproduction and work of art.

may on reasonable notification to the buyer require payment directly from the buyer.

(c) Unless otherwise agreed, the term "letter of credit" or "banker's credit" in a contract for sale means an irrevocable credit issued by a financing agency of good repute and, if the shipment is overseas, of good international repute. The term "confirmed credit" means that the credit must also carry the direct obligation of such an agency which does business in the seller's financial market. (§ 2.325 ch 114 SLA 1962)

Sec. 45.02.326. Sale on approval and sale or return; consignment sales and rights of creditors. (a) Unless otherwise agreed, if delivered goods may be returned by the buyer even though they conform to the contract, the transaction is

(1) a "sale on approval" if the goods are delivered primarily for use; and

(2) a "sale or return" if the goods are delivered primarily for resale.

(b) Except as provided in (c) of this section, goods held on approval are not subject to the claims of the buyer's creditors until acceptance; goods held on sale or return are subject to such claims while in the buyer's possession.

(c) If goods are delivered to a person for sale and the person maintains a place of business at which the person deals in goods of the kind involved under a name other than the name of the person making delivery, then, with respect to claims of creditors of the person conducting the business, the goods are considered to be on sale or return. This subsection is applicable even though an agreement purports to reserve title to the person making delivery until payment or resale or uses such words as "on consignment" or "on memorandum." However, this subsection is not applicable if the person making delivery

(1) complies with an applicable law providing for a consignor's interest or the like to be evidenced by a sign;

(2) establishes that the person conducting the business is generally known by the person's creditors to be substantially engaged in selling the goods of others; or

(3) complies with the filing provisions of AS 45.09.

(d) An "or return" term of a contract for sale is to be treated as a separate contract for sale within the statute of frauds section (AS 45.02.201), and as contradicting the sale aspect of the contract within the provisions on parol or extrinsic evidence (AS 45.02.202).

(e) Whenever an artist delivers or causes to be delivered a work of fine art of the artist's creation to an art dealer for the purpose of sale, or exhibition and sale to the public on a commission or fee or other basis of compensation, the work of fine art is not subject to the claims of the art dealer's creditors. For the purposes of this subsection

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subsection

- (1) "art dealer" means a person other than a public auctioneer engaged in the business of selling works of fine art;
 - (2) "artist" means the creator of a work of fine art;
 - (3) "fine art" includes a painting, sculpture, drawing, photograph, or work of graphic art.
- (§ 2.326 ch 114 SLA 1962; am § 1 ch § SLA 1979)

Editor's notes. — Subsection (e), added by the 1979 amendment, is not part of the official text of the Uniform Commercial Code.

Collateral references. — Consignment transactions under the Uniform Commercial Code. 40 ALR3d 1078.

Sec. 45.02.327. Special incidents of sale on approval and sale or return. (a) Under a sale on approval, unless otherwise agreed,

- (1) although the goods are identified to the contract, the risk of loss and the title do not pass to the buyer until acceptance;
- (2) use of the goods consistent with the purpose of trial is not acceptance, but failure seasonably to notify the seller of election to return the goods is acceptance, and, if the goods conform to the contract, acceptance of any part is acceptance of the whole; and
- (3) after due notification of election to return, the return is at the seller's risk and expense but a merchant buyer must follow reasonable instructions.

(b) Under a sale or return, unless otherwise agreed,

- (1) the option to return extends to the whole or a commercial unit of the goods while in substantially their original condition, but must be exercised seasonably; and
- (2) the return is at the buyer's risk and expense. (§ 2.327 ch 114 SLA 1962)

Collateral references. — Goods in "sale or return" transaction under U.C.C. § 2-327. 66 ALR3d 190.

Sec. 45.02.328. Sale by auction. (a) In a sale by auction if goods are put up in lots each lot is the subject of a separate sale.

(b) A sale by auction is complete when the auctioneer so announces by the fall of the hammer or in other customary manner. Where a bid is made while the hammer is falling in acceptance of a prior bid, the auctioneer has discretion to reopen the bidding or declare the goods sold under the bid on which the hammer was falling.

(c) A sale by auction is with reserve unless the goods are in explicit terms put up without reserve. In an auction with reserve, the auctioneer may withdraw the goods at any time until the auctioneer announces completion of the sale. In an auction without reserve, after the auctioneer calls for bids on an article or lot, that article or lot

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H JUD.	3-18-87	1:30p.m.
H JUD	3-10-87	1:30p.m.

Date referred: 2/13/87

FURTHER REFERRALS:

DATE: 3/18/87

The Judiciary Committee has considered HB 3

"An Act relating to the private sale and consignment of works of art."

RECOMMENDS:

- replace with CS HB 3 (Judiciary) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published 2/13/87
- zero with analysis

SIGNING DO PASS:

[Handwritten signature]

SIGNING OTHER RECOMMENDATIONS:

[Handwritten notes]

[Handwritten signature]

 Chairman's signature

art dealer for the benefit of the artist;

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 31, 1988

SUBJECT: Private sale and consignment of works of art -
SCS CSHB 3(Jud)

TO: Representative Max Gruenberg

FROM: Michael F. Ford *M.F.*
Legislative Counsel

You have asked if AS 45.67.030 would be applicable to a sale or transfer that occurred prior to the effective date of SCS CSHB 3(Jud). The applicability language in section 2 of the bill and the general prohibition against retrospective application of statutes contained in AS 01.10.090, would preclude AS 45.67.030 from being applied to a sale or transfer that occurs prior to the effective date of the bill.

You have also asked how AS 45.67.030 affects a museum's right to reproduce a work of art. Under this section the right of reproduction is reserved to the grantor, unless expressly transferred in writing. Therefore, until the right of reproduction passes into the public domain, the museum would need written permission from the owner of the right of reproduction in order to reproduce the art work.

Please contact me if you have further questions.

MFF:bb
b4/081

State of Alaska

House Majority Leader

COMMITTEES

HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES
HOUSE JUDICIARY
HOUSE RULES



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914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

MEMORANDUM

DATE: February 9, 1987

TO: Members of the House Labor and Commerce Committee

FROM: Max F. Gruenberg, Jr.

RE: HB 3, "An Act Related to the Sale and Consignment of Art."

HB 3 was adapted from two New York statutes that were passed in 1966. This bill is intended to protect Alaskan artists. It provides that art work delivered to an art dealer for sale constitutes a trust in the legal sense. This protects the proceeds of the sale from the art dealer's creditors. The bill also guarantees that the right of reproduction is not transferred with the artist's transfer of the work of art itself, unless there's a specific agreement to that effect.

This bill removes the filing requirements of the U.C.C. in regards to consignment sales of artworks. It shifts the burden to notify potential creditors that works of art are sold on consignment from the artist to the dealers themselves.

This is especially important for Alaskan artists who often ship their art from the rural areas, where they live, to population centers, where art dealers do their business. It is therefore more equitable and practicable to place the burden of securing credit to art dealers on the art dealers themselves and on creditors who are in a better position to secure their loans and monitor the art dealer's solvency.

This bill is essentially the same as HB 517 which passed the House last session, but died in the Senate Rules Committee. I have made some technical changes which clarify the language in regards to an artist's view of the provisions of the bill.

5-0117B

Ford
3/18/87

Original sponsors: Gruenberg, Goll,
Larson, et al.

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 3 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the private sale and consignment
7 of works of art."

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

9 * Section 1. AS 45.02.326(e) is repealed and reenacted to read:

10 (e) When an artist delivers a work of art to an art dealer as
11 described in AS 45.67.010, the art dealer shall prominently display a
12 sign stating substantially, "Works of art for sale are on consign-
13 ment." Works of art on consignment are not subject to the claims of
14 the art dealer's creditors.

15 * Sec. 2. AS 45 is amended by adding a new chapter to read:

16 CHAPTER 67. ARTISTS AND WORKS OF ART.

17 Sec. 45.67.010. ARTISTS AND ART DEALER RELATIONSHIPS. (a) When
18 an artist delivers or causes to be delivered a work of art of the
19 artist's own creation to an art dealer for the purpose of sale, or
20 exhibition and sale, on a commission, fee, or other basis of compen-
21 sation, the acceptance of the work of art by the art dealer is a
22 consignment, and

23 (1) the art dealer is, with respect to the work of art, the
24 agent of the artist;

25 (2) the work of art is trust property in the hands of the
26 art dealer for the benefit of the artist;

27 (3) proceeds from the sale of the work of art are trust
28 funds in the hands of the art dealer for the benefit of the artist;
29 and

1 (4) the dealer shall transmit the proceeds to the artist
2 within 30 days of the sale of the work of art.

3 (b) A work of art initially received as a consignment remains
4 trust property notwithstanding the subsequent purchase of the artwork
5 by the art dealer directly or indirectly for the art dealer's own
6 account until the consignment price due to the artist is paid in full.

7 If the work of art is resold to a bona fide third party before the
8 artist has been paid in full, the proceeds of the resale are trust
9 funds in the hands of the art dealer for the benefit of the artist to
10 the extent necessary to pay any balance still due to the artist. The
11 trusteeship continues until the fiduciary obligation of the art dealer
12 with respect to the transaction is discharged in full.

13 Sec. 45.67.020. WAIVER. (a) A provision of a contract or
14 agreement whereby the artist waives a provision of AS 45.67.010 is
15 void except as provided in this subsection. An artist may waive the
16 provisions of AS 45.67.010 if the waiver is clear, conspicuous, and
17 agreed to in writing by the artist. A waiver under this subsection is
18 not valid with respect to the proceeds of a work of art initially
19 received as a consignment but subsequently purchased by the art dealer
20 directly or indirectly for the art dealer's own account.

21 (b) A waiver under (a) of this section may not inure to the
22 benefit of the art dealer's creditors in a manner that is inconsis-
23 tent with the artist's rights under AS 45.67.010.

24 Sec. 45.67.030. RETURN TO ARTIST. Unless the artist and art
25 dealer have otherwise agreed in writing, the art dealer shall return
26 an unsold work of art on demand of the artist.

27 Sec. 45.67.040. APPLICABILITY. The provisions of AS 45.67.010,
28 45.67.020, and 45.67.030 may not be construed to have an effect upon a
29 written or oral contract or arrangement in existence on the effective

1 date of this section, except by the mutual written consent of the
2 parties.

3 Sec. 45.67.050. RIGHT TO REPRODUCE WORKS OF ART. (a) When a
4 work of art is sold or otherwise transferred by or on behalf of the
5 artist who created it, or the heirs or personal representatives of the
6 artist, the right of reproduction is reserved to the grantor until it
7 passes into the public domain by act or operation of law, unless the
8 right is sooner expressly transferred by an instrument, note, or
9 memorandum in writing signed by the owner of the right or an author-
10 ized agent of the owner.

11 (b) When an exclusive or nonexclusive conveyance of a right of
12 reproduction is made by the holder of the right, or the holder's
13 authorized agent, ownership of the physical art work is presumed to
14 remain with and be reserved to the grantor unless expressly trans-
15 ferred in writing signed by the grantor or the grantor's authorized
16 agent.

17 (c) This section may not be construed to prohibit the fair use
18 of a work of art or to conflict with federal copyright law.

19 Sec. 45.67.100. DEFINITIONS. In this chapter, unless the con-
20 text otherwise requires,

21 (1) "art dealer" means a person engaged in the business of
22 selling works of art, other than a person exclusively engaged in the
23 business of selling goods at public auction;

24 (2) "artist" means the creator of a work of art or, if
25 deceased, the heirs or personal representatives of the creator;

26 (3) "consignment" means that no title to or estate in the
27 goods or right to possession superior to that of the consignor vests
28 in the consignee, notwithstanding the consignee's power or authority
29 to transfer and convey, to third person, all of the right, title and

1 interest of the consignor, in and to the goods;

2 (4) "creditor" has the meaning given in AS 45.01.201;

3 (5) "right of reproduction" means a right to reproduce,
4 prepare derivative works of, distribute copies of, or publicly display
5 a work of art;

6 (6) "work of art" means a painting, sculpture, drawing,
7 work of graphic art, photograph, or craft work, in any medium.
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5-0117B ✓

Ford
3/17/87

Original sponsors: Gruenberg, Goll,
Larson, et al.

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 3 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the private sale and consignment
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9 * Section 1. AS 45.02.326(e) is repealed and reenacted to read:

10 (e) When an artist delivers a work of art to an art dealer as
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12 sign stating substantially, "Works of art for sale are on consign-
13 ment." Works of art on consignment are not subject to the claims of
14 the art dealer's creditors.

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22 consignment, and

23 (1) the art dealer is, with respect to the work of art, the
24 agent of the artist; and

25 (2) the work of art is trust property in the hands of the
26 art dealer for the benefit of the artist.

27 (b) A work of art initially received as a consignment remains
28 trust property notwithstanding the subsequent purchase of the artwork
29 by the art dealer directly or indirectly for the art dealer's own

1 account until the consignment price due to the artist is paid in full.
2 If the work of art is resold to a bona fide third party before the
3 artist has been paid in full, the proceeds of the resale are trust
4 funds in the hands of the art dealer for the benefit of the artist to
5 the extent necessary to pay any balance still due to the artist. The
6 trusteeship continues until the fiduciary obligation of the art dealer
7 with respect to the transaction is discharged in full.

8 Sec. 45.67.020. WAIVER. (a) A provision of a contract or
9 agreement whereby the artist waives a provision of AS 45.67.010 is
10 void except as provided in this subsection. An artist may waive the
11 provisions of AS 45.67.010 if the waiver is clear, conspicuous, and
12 agreed to in writing by the artist. A waiver under this subsection is
13 not valid with respect to the proceeds of a work of art initially
14 received as a consignment but subsequently purchased by the art dealer
15 directly or indirectly for the art dealer's own account.

16 (b) A waiver under (a) of this section may not inure to the
17 benefit of the art dealer's creditors in a manner that is inconsis-
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24 written or oral contract or arrangement in existence on the effective
25 date of this section, except by the mutual written consent of the
26 parties.

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28 work of art is sold or otherwise transferred by or on behalf of the
29 artist who created it, or the heirs or personal representatives of the

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artist, the right of reproduction is reserved to the grantor until it passes into the public domain by act or operation of law, unless the right is sooner expressly transferred by an instrument, note, or memorandum in writing signed by the owner of the right or an authorized agent of the owner.

(b) When an exclusive or nonexclusive conveyance of a right of reproduction is made by the holder of the right, or the holder's authorized agent, ownership of the physical art work is presumed to remain with and be reserved to the grantor unless expressly transferred in writing signed by the grantor or the grantor's authorized agent.

(c) This section may not be construed to prohibit the fair use of a work of art or to conflict with federal copyright law.

Sec. 45.67.100. DEFINITIONS. In this chapter, unless the context otherwise requires,

(1) "art dealer" means a person engaged in the business of selling works of art, other than a person exclusively engaged in the business of selling goods at public auction;

(2) "artist" means the creator of a work of art or, if deceased, the heirs or personal representatives of the creator;

(3) "consignment" means that no title to or estate in the goods or right to possession superior to that of the consignor vests in the consignee, notwithstanding the consignee's power or authority to transfer and convey, to third person, all of the right, title and interest of the consignor, in and to the goods;

(4) "creditor" has the meaning given in AS 45.01.201;

(5) "right of reproduction" means a right to reproduce, prepare derivative works of, distribute copies of, or publicly display a work of art;

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(6) "work of art" means a painting, sculpture, drawing, work of graphic art, photograph, or craft work, in any medium.

Introduced: 1/19/87
Referred: Labor & Commerce
and Judiciary

BY GRUENBERG, GOLL, LARSON,
DAVIDSON AND KOPONEN

1 IN THE HOUSE

2 HOUSE BILL NO. 3

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the private sale and consignment
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13 ment." Works of art on consignment are not subject to the claims of
14 the art dealer's creditors.

15 * Sec. 2. AS 45 is amended by adding a new chapter to read:

16 CHAPTER 67. ARTISTS AND WORKS OF ART.

17 Sec. 45.67.010. ARTISTS AND ART DEALER RELATIONSHIPS. (a) When
18 an artist delivers or causes to be delivered a work of art of the
19 artist's own creation to an art dealer for the purpose of sale, or
20 exhibition and sale, on a commission, fee, or other basis of compen-
21 sation, the acceptance of the work of art by the art dealer is a
22 consignment, and

23 (1) the art dealer is, with respect to the work of art, the
24 agent of the artist;

25 (2) the work of art is trust property in the hands of the
26 art dealer for the benefit of the artist;

27 (3) proceeds from the sale of the work of art are trust
28 funds in the hands of the art dealer for the benefit of the artist;
29 and

Handwritten scribbles and notes on the left margin, including "AS 45.02.326(e)" and "AS 45.67.010".

Handwritten word "Delete" with a bracket pointing to lines 27-29.

Handwritten signature or initials "P. J. B..." in the bottom right corner.

1 (4) the dealer shall transmit the proceeds to the artist
2 within 30 days of the sale of the work of art.

3 (b) A work of art initially received as a consignment remains
4 trust property notwithstanding the subsequent purchase of the artwork
5 by the art dealer directly or indirectly for the art dealer's own
6 account until the consignment price due to the artist is paid in full.

7 If the work of art is resold to a bona fide third party before the
8 artist has been paid in full, the proceeds of the resale are trust
9 funds in the hands of the art dealer for the benefit of the artist to
10 the extent necessary to pay any balance still due to the artist. The
11 trusteeship continues until the fiduciary obligation of the art dealer
12 with respect to the transaction is discharged in full.

13 Sec. 45.67.020. WAIVER. (a) A provision of a contract or
14 agreement whereby the artist waives a provision of AS 45.67.010 is
15 void except as provided in this subsection. An artist may waive the
16 provisions of AS 45.67.010(a)(4) if the waiver is clear, conspicuous,
17 and agreed to in writing by the artist. A waiver under this subsec-
18 tion is not valid with respect to the proceeds of a work of art ini-
19 tially received as a consignment but subsequently purchased by the art
20 dealer directly or indirectly for the art dealer's own account.

21 (b) A waiver under (a) of this section may not inure to the
22 benefit of the art dealer's creditors in a manner that is inconsis-
23 tent with the artist's rights under AS 45.67.010.

24 Sec. 45.67.030. RETURN TO ARTIST. Unless the artist and art
25 dealer have otherwise agreed in writing, the art dealer shall return
26 an unsold work of art on demand of the artist.

27 Sec. 45.67.040. APPLICABILITY. (a) The provisions of AS 45.-
28 67.010, 45.67.020, and 45.67.030 may not be construed to have an
29 effect upon a written or oral contract or arrangement in existence on

Put back

Delet

Delet

Artist may not waive 010 with respect to the proceeds

~~1. No waiver at all~~

may waive 010 if clear + conspicuous + agreed

1 the effective date of this section, except by the mutual written
2 consent of the parties.

3 (b) The provisions of AS 45.67.010 and 45.67.020 apply notwith-
4 standing the absence of, or a conflict with, a written agreement
5 between the artist and the art dealer concerning any matter covered by
6 AS 45.67.010 and 45.67.020. In the event of a conflict between
7 AS 45.67.010, 45.67.020, or 45.67.030 and AS 45.01 - AS 45.09 (Uniform
8 Commercial Code) or other provision of law, the provisions of AS 45.
9 67.010, 45.67.020, and 45.67.030 govern.

10 Sec. 45.67.050. RIGHT TO REPRODUCE WORKS OF ART. (a) When a
11 work of art is sold or otherwise transferred by or on behalf of the
12 artist who created it, or the heirs or personal representatives of the
13 artist, the right of reproduction is reserved to the grantor until it
14 passes into the public domain by act or operation of law, unless the
15 right is sooner expressly transferred by an instrument, note, or
16 memorandum in writing signed by the owner of the right or an author-
17 ized agent of the owner.

18 (b) When an exclusive or nonexclusive conveyance of a right of
19 reproduction is made by the holder of the right, or the holder's
20 authorized agent, ownership of the physical art work is presumed to
21 remain with and be reserved to the grantor unless expressly trans-
22 ferred in writing signed by the grantor or the grantor's authorized
23 agent.

24 (c) This section may not be construed to prohibit the fair use
25 of a work of art or to conflict with federal copyright law.

26 Sec. 45.67.100. DEFINITIONS. In this chapter, unless the con-
27 text otherwise requires,

28 (1) "artist" means the creator of a work of art or, if
29 deceased, the heirs or personal representatives of the creator;

1 (2) "art dealer" means a person engaged in the business of
2 selling works of art, other than a person exclusively engaged in the
3 business of selling goods at public auction;

4 (3) "consignment" means that no title to or estate in the
5 goods or right to possession superior to that of the consignor vests
6 in the consignee, notwithstanding the consignee's power or authority
7 to transfer and convey, to third person, all of the right, title and
8 interest of the consignor, in and to the goods;

9 (4) "creditor" has the meaning given in AS 45.01.201;

10 (5) "right of reproduction" means a right to reproduce,
11 prepare derivative works of, distribute copies of, or publicly display
12 a work of art;

13 (6) "work of art" means a painting, sculpture, drawing,
14 work of graphic art, photograph, or craft work, in any medium.

pathe

1st hearing 3/11/86 -

Offered: 2/17/86
Referred: Judiciary

- canned salmon
- bottle dealer
- photography records / tapes
- paper products

Original sponsors: Gruenberg, Goll, Koponen, et al

BY THE LABOR AND COMMERCE COMMITTEE

1 IN THE HOUSE

2

CS FOR HOUSE BILL NO. 517 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the private sale and consignment

7

of works of art."

8

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

9

* Section 1. AS 45 is amended by adding a new chapter to read:

10

CHAPTER 67. ARTISTS AND WORKS OF ART.

11

Sec. 45.67.010. ARTISTS AND ART DEALER RELATIONSHIPS. (a) When

12

an artist delivers or causes to be delivered a work of art of the

13

artist's own creation to an art dealer for the purpose of sale, or

14

exhibition and sale, on a commission, fee, or other basis of compen-

15

sation, the acceptance of the work of art by the art dealer is a

16

consignment, and

17

(1) the art dealer is, with respect to the work of art, the

18

agent of the artist;

19

(2) the work of art is trust property in the hands of the

20

art dealer for the benefit of the artist; and

21

(3) proceeds from the sale of the work of art are trust

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funds in the hands of the art dealer for the benefit of the artist.

23

(b) A work of art initially received as a consignment remains

24

trust property notwithstanding the subsequent purchase of the artwork

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by the art dealer directly or indirectly for the art dealer's own

26

account until the consignment price due to the artist is paid in full.

27

If the work of art is resold to a bona fide third party before the

28

artist has been paid in full, the proceeds of the resale are trust

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funds in the hands of the art dealer for the benefit of the artist to

Trust expands to proceeds of sales

major philosophical step to give priority =

CSHB 517(L&C)

1 the extent necessary to pay any balance still due to the artist. The
2 trusteeship continues until the fiduciary obligation of the art dealer
3 with respect to the transaction is discharged in full.

4 (c) The proceeds due to the artist from a sale or resale of the
5 work of art are not subject or subordinate to a claim, lien or secur-
6 ity interest of the art dealer's creditors.

7 Sec. 45.67.020. WAIVER. (a) A provision of a contract or
8 agreement whereby the artist waives a provision of AS 45.67.010 is
9 void except as provided in this subsection. An artist may waive the
10 provisions of AS 45.67.010(a)(3) if the waiver is clear, conspicuous,
11 and agreed to in writing by the artist. A waiver under this subsec-
12 tion is not valid with respect to the proceeds of a work of art ini-
13 tially received as a consignment but subsequently purchased by the art
14 dealer directly or indirectly for the art dealer's own account.

15 (b) A waiver under (a) of this section may not inure to the
16 benefit of the art dealer's creditors in a manner that is inconsis-
17 tent with the artist's rights under AS 45.67.010.

18 Sec. 45.67.030. RETURN TO ARTIST. Unless the artist and art
19 dealer have otherwise agreed in writing, the art dealer shall return
20 an unsold work of art on demand of the artist.

21 Sec. 45.67.040. APPLICABILITY. (a) The provisions of AS 45.-
22 67.010, 45.67.020, and 45.67.030 may not be construed to have an
23 effect upon a written or oral contract or arrangement in existence on
24 the effective date of this section, except by the mutual written
25 consent of the parties.

26 (b) The provisions of AS 45.67.010 and 45.67.020 apply notwith-
27 standing the absence of, or a conflict with, a written agreement
28 between the artist and the art dealer concerning any matter covered by
29 AS 45.67.010 and 45.67.020. In the event of a conflict between

I.R.S. Utilizes Wage claims

Who is the grantor?

1 AS 45.67.010, 45.67.020, or 45.67.030 and AS 45.01 - AS 45.09 (Uniform
2 Commercial Code) or other provision of law, the provisions of
3 AS 45.67.010, 45.67.020, and 45.67.030 govern.

4 Sec. 45.67.050. RIGHT TO REPRODUCE WORKS OF ART. (a) When a
5 work of art is sold or otherwise transferred by or on behalf of the
6 artist who created it, or the heirs or personal representatives of the
7 artist, the right of reproduction is reserved to the grantor until it
8 passes into the public domain by act or operation of law, unless the
9 right is sooner expressly transferred by an instrument, note, or
10 memorandum in writing signed by the owner of the right or an author-
11 ized agent of the owner.

12 (b) When an exclusive or nonexclusive conveyance of a right of
13 reproduction is made by the holder of the right, or the holder's
14 authorized agent, ownership of the physical art work is presumed to
15 remain with and be reserved to the grantor unless expressly trans-
16 ferred in writing signed by the grantor or the grantor's authorized
17 agent.

18 (c) This section may not be construed to prohibit the fair use
19 of a work of art (or) to conflict with federal copyright law.

20 Sec. 45.67.100. DEFINITIONS. In this chapter, unless the con-
21 text otherwise requires,

22 (1) "artist" means the creator of a work of art or, if
23 deceased, the heirs or personal representatives of the creator;

24 (2) "art dealer" means a person engaged in the business of
25 selling works of art, other than a person exclusively engaged in the
26 business of selling goods at public auction;

27 (3) "consignment" means that no title to or estate in the
28 goods or right to possession superior to that of the consignor vests
29 in the consignee, notwithstanding the consignee's power or authority

What is it?

1 to transfer and convey, to third person, all of the right, title and
2 interest of the consignor, in and to the goods;

3 (4) "creditor" has the meaning given in AS 45.01.201;

4 (5) "right of reproduction" means a right to reproduce,
5 prepare derivative works of, distribute copies of, or publicly display
6 a work of art;

7 (6) "work of art" means a painting, sculpture, drawing,
8 work of graphic art, photograph, or craft work, in any medium.

9 * Sec. 2(AS 45.02.326(e) is repealed.

Renacted 1979

Original sponsors: Gruenberg, Goll,
Koponen, et al

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 517 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 - A BILL

6 For an Act entitled: "An Act relating to the private sale and consignment
7 of works of art."

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

9 * Section 1. AS 45.02.326(e) is repealed and reenacted to read:

10 (e) When an artist delivers a work of art to an art dealer as
11 described in AS 45.67.010, the art dealer shall prominently display a
12 sign stating substantially, "Works of art for sale are on consign-
13 ment." Works of art on consignment are not subject to the claims of
14 the art dealer's creditors.

15 ✓ ~~* Sec. 2. AS 45.09.114(a) is amended to read:~~

16 ~~(a) A person who delivers goods under a consignment, other than~~
17 ~~a consignment under AS 45.02.326(e) or AS 45.67.010, that [WHICH] is~~
18 ~~not a security interest and who would be required to file under~~
19 ~~AS 45.09.101 - 45.09.507 by AS 45.02.326(c)(3) has priority over a~~
20 ~~secured party who is or becomes a creditor of the consignee and who~~
21 ~~would have a perfected security interest in the goods if they were the~~
22 ~~property of the consignee, and also has priority with respect to~~
23 ~~identifiable cash proceeds received on or before delivery of the goods~~
24 ~~to a buyer, if~~

25 (1) the consignor complies with the filing provision of
26 AS 45.02.326(c)(3) before the consignee receives possession of the
27 goods;

28 (2) the consignor gives notification in writing to the
29 holder of the security interest if the holder has filed a financing

1 statement covering the same types of goods before the date of the
2 filing made by the consignor;

3 (3) the holder of the security interest receives the noti-
4 fication within five years before the consignee receives possession of
5 the goods; and

6 (4) the notification states that the consignor expects to
7 deliver goods on consignment to the consignee, describing the goods by
8 item or type.

9 / * Sec. 3. AS 45.09.114 is amended by adding a new subsection to read:

10 (c) When an art dealer sells a work of art for an artist as
11 described in AS 45.67.010, the proceeds due to the artist from the
12 sale or resale of the work of art are not subject or subordinate to a
13 claim, lien, or security interest of the art dealer's creditors.

14 * Sec. 3. AS 45 is amended by adding a new chapter to read:

15 CHAPTER 67. ARTISTS AND WORKS OF ART.

16 Sec. 45.67.010. ARTISTS AND ART DEALER RELATIONSHIPS. (a) When
17 an artist delivers or causes to be delivered a work of art of the
18 artist's own creation to an art dealer for the purpose of sale, or
19 exhibition and sale, on a commission, fee, or other basis of compen-
20 sation, the acceptance of the work of art by the art dealer is a
21 consignment, and

22 (1) the art dealer is, with respect to the work of art, the
23 agent of the artist;

24 (2) the work of art is trust property in the hands of the
25 art dealer for the benefit of the artist; and

26 (3) proceeds from the sale of the work of art are trust
27 funds in the hands of the art dealer for the benefit of the artist.

28 (b) A work of art initially received as a consignment remains
29 trust property notwithstanding the subsequent purchase of the artwork

1 by the art dealer directly or indirectly for the art dealer's own
2 account until the consignment price due to the artist is paid in full.
3 If the work of art is resold to a bona fide third party before the
4 artist has been paid in full, the proceeds of the resale are trust
5 funds in the hands of the art dealer for the benefit of the artist to
6 the extent necessary to pay any balance still due to the artist. The
7 trusteeship continues until the fiduciary obligation of the art dealer
8 with respect to the transaction is discharged in full.

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10 agreement whereby the artist waives a provision of AS 45.67.010 is
11 void except as provided in this subsection. An artist may waive the
12 provisions of AS 45.67.010(a)(3) if the waiver is clear, conspicuous,
13 and agreed to in writing by the artist. A waiver under this subsec-
14 tion is not valid with respect to the proceeds of a work of art ini-
15 tially received as a consignment but subsequently purchased by the art
16 dealer directly or indirectly for the art dealer's own account.

17 (b) A waiver under (a) of this section may not inure to the
18 benefit of the art dealer's creditors in a manner that is inconsis-
19 tent with the artist's rights under AS 45.67.010.

20 Sec. 45.67.030. RETURN TO ARTIST. Unless the artist and art
21 dealer have otherwise agreed in writing, the art dealer shall return
22 an unsold work of art on demand of the artist.

23 Sec. 45.67.040. APPLICABILITY. (a) The provisions of AS 45.-
24 67.010, 45.67.020, and 45.67.030 may not be construed to have an
25 effect upon a written or oral contract or arrangement in existence on
26 the effective date of this section, except by the mutual written
27 consent of the parties.

28 (b) The provisions of AS 45.67.010 and 45.67.020 apply notwith-
29 standing the absence of, or a conflict with, a written agreement

1 between the artist and the art dealer concerning any matter covered by
2 AS 45.67.010 and 45.67.020. In the event of a conflict between
3 AS 45.67.010, 45.67.020, or 45.67.030 and AS 45.01 - AS 45.09 (Uniform
4 Commercial Code) or other provision of law, the provisions of AS 45.-
5 67.010, 45.67.020, and 45.67.030 govern.

6 Sec. 45.67.050. RIGHT TO REPRODUCE WORKS OF ART. (a) When a
7 work of art is sold or otherwise transferred by or on behalf of the
8 artist who created it, or the heirs or personal representatives of the
9 artist, the right of reproduction is reserved to the grantor until it
10 passes into the public domain by act or operation of law, unless the
11 right is sooner expressly transferred by an instrument, note, or
12 memorandum in writing signed by the owner of the right or an author-
13 ized agent of the owner.

14 (b) When an exclusive or nonexclusive conveyance of a right of
15 reproduction is made by the holder of the right, or the holder's
16 authorized agent, ownership of the physical art work is presumed to
17 remain with and be reserved to the grantor unless expressly trans-
18 ferred in writing signed by the grantor or the grantor's authorized
19 agent.

20 (c) This section may not be construed to prohibit the fair use
21 of a work of art or to conflict with federal copyright law.

22 Sec. 45.67.100. DEFINITIONS. In this chapter, unless the con-
23 text otherwise requires,

24 (1) "artist" means the creator of a work of art or, if
25 deceased, the heirs or personal representatives of the creator;

26 (2) "art dealer" means a person engaged in the business of
27 selling works of art, other than a person exclusively engaged in the
28 business of selling goods at public auction;

29 (3) "consignment" means that no title to or estate in the

1 goods or right to possession superior to that of the consignor vests
2 in the consignee, notwithstanding the consignee's power or authority
3 to transfer and convey, to third person, all of the right, title and
4 interest of the consignor, in and to the goods;

5 (4) "creditor" has the meaning given in AS 45.01.201;

6 (5) "right of reproduction" means a right to reproduce,
7 prepare derivative works of, distribute copies of, or publicly display
8 a work of art;

9 (6) "work of art" means a painting, sculpture, drawing,
10 work of graphic art, photograph, or craft work, in any medium.
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State of Alaska

COMMITTEES

HOUSE HEALTH, EDUCATION
AND SOCIAL SERVICES
(Co-Chairman)
HOUSE JUDICIARY
HOUSE COMMUNITY AND
REGIONAL AFFAIRS



POUCH Y
JUNEAU, ALASKA 99811
(907) 465-4968

914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

Representative Max F. Gruenberg, Jr.
District 11
Spenard, Upper Midtown Anchorage

MEMORANDUM

TO: HOUSE LABOR AND COMMERCE COMMITTEE MEMBERS

FROM: REPRESENTATIVE MAX F. GRUENEBRG, JR.

DATE: FEBRUARY 8, 1986


RE: HB 517 RELATING TO THE PRIVATE SALE AND CONSIGNMENT
OF WORKS OF ART

THIS BILL WAS ADAPTED FOR ALASKA LAW FROM TWO NEW YORK STATUTES PASSED IN 1966. IT IS INTENDED TO PROTECT ARTISTS IN THEIR DEALINGS WITH ART DEALERS BY PROVIDING THAT ARTWORK DELIVERED FOR SALE CONSTITUTES A TRUST FOR THE BENEFIT OF THE ARTIST AND PROTECTS SALE PROCEEDS FROM THE CREDITORS OF THE ART DEALER. THE BILL WOULD ALSO GUARANTEE REPRODUCTION RIGHTS IN STATE STATUTE.

THE PROPOSED DRAFT COMMITTEE SUBSTITUTE REFLECTS TWO CHANGES RECOMMENDED BY ARTISTS WHO HAVE REVIEWED THE BILL:

1. PAGE 2, LINES 18-20 PROVIDES THAT AN ART DEALER MUST RETURN UNSOLD ARTOWRK ON DEMAND TO THE ARTIST IF CONSISTENT WITH ANY WRITTEN AGREEMENTS.
2. PAGE 4, LINE 9 REPEALS AN EXISTING SUBSECTION IN THE UNIFORM CORPORATION CODE WHICH IS SIMILAR TO PROPSD LANGUAGE IN SECTION 1.

THE BILL HAS BEEN WIDELY DISTRIBUTED BY THE SPONSORS TO ARTISTS AND ART DEALERS IN THE STATE AND HAS RECEIVED POSITIVE FEEDBACK. IT IS SUPPORTED BY THE INSTITUTE OF ALASKA NATIVE ARTS AND THE ALASKA STATE COUNCIL ON THE ARTS.



R. T. Wallen
P. O. Box 1063
Juneau, Alaska, 99802

Rep. Max Gruenberg
Pouch V
State Capitol
Juneau, Alaska, 99811

February 9, 1986

Dear Max,

I very much appreciate the efforts of the sponsors of this arts bill. I think it is going to clarify some rather vague areas concerning the rights and responsibilities of artists, art dealers and art patrons. The section of the bill in which I am most interested is 45. 67. 020, the section dealing with the right to reproduce works of art.

Whenever an artist creates a series of original prints, from a stone or metal plate, for example, or when he reproduces a painting with a series of prints, or makes a series of castings from a mold, the artist may elect to mark these original prints, or reproductions, or castings with the letter "c" enclosed in a circle, followed by his initials and the year date. This copyright symbol and initials and date proclaim his "intent to copyright" and proclaim his rights under Federal Copyright Law. The system functions well with works of art which appear as multiple images or forms since everyone, artist, dealer and buyer understand, by the fact of the copyright signal appearing on the art that certain rights to the reproduction of that work have been established.

Original works, however, one of a kind works, whether they be paintings, or drawings or sculptures, often do not bear the copyright symbol because the artist has not reproduced them, and does not intend that they be reproduced. In fact, the artist, although he has the option of marking the work with the copyright symbol, often will not do so because the appearance of the copyright symbol on an original work implies that it has been reproduced, or might be reproduced in the future, and the mark might thus affect the value of the work both aesthetically and commercially. As I understand Federal Copyright Law, the artist has sole rights to reproduction of an original work of his own art regardless of whether he has marked it with the copyright symbol. However, the lack of such a symbol on a work of art can create an area of uncertainty in the mind of a buyer or art dealer.

For this and other reasons I think that there is value in a state law which addresses the problem and spells out the legal rights of artists in regards to the reproduction of their works of art. I think the fairness of the theory of this section of of the bill is reflected in Federal Copyright Law, in the legal rights of authors to their printed works, and in the legal rights that pertain to many kinds of design work, such as achitecture, boat design and so on.

As a state law, this is close to home, and every person seriously involved in the art world here in the state will be familiar with it. As an artist who has had to deal with copyright related issues a number of times in my career, and who has business with many different art dealers, and who is often asked by patrons about their rights in regard to a work of art, I see great value in this bill and benefits to artist, dealer and buyer alike. It goes a long way in clearly establishing the ground rules.

Sincerely,

A handwritten signature in black ink, appearing to read "R. T. WALLEN". The letters are bold and somewhat stylized, with a cursive-like flow.

R. T. Wallen

AN ACT RELATING TO THE PRIVATE SALE AND CONSIGNMENT OF WORKS OF ART.

PRIME SPONSOR: GRUENBERG

CO-SPONSORS: GOLL, KOPONEN, LARSON, JENKINS, FAYLOR, HURLEY, HANLEY, NAVARRE
MILLER.MM

\$000 GENERAL(FNOTE)

\$000 OTHER(FNOTE)

CURRENT STATUS: (S) RLS

DATE		PAGE	ACTION
01/27/86	(H)	1892	READ THE FIRST TIME - REFERRAL(S)
02/17/86	(H)	2127	L&C RPT CS(L&C) 7DP
02/17/86	(H)	2127	ZERO FISCAL NOTE/ANALYSIS HSE SUPPL 86
04/11/86	(H)	2674	JUD RPT CS(JUD) 5DP 2NR
04/16/86	(H)		RULES TO CALENDAR 4/17/86
04/17/86	(H)	2763	READ THE SECOND TIME
04/17/86	(H)	2763	JUD CS ADOPTED UNAN CONSENT
04/17/86	(H)	2763	ADVANCED TO THIRD READING UNAN CONSENT
04/17/86	(H)	2763	READ THE THIRD TIME CSHB 517(JUD)
04/17/86	(H)	2763	PASSED Y31 N6 X1 A2

HB 517 MEASURE HISTORY PAGE 02 OF 02

DATE		PAGE	ACTION
04/17/86	(H)	2764	RIEGER NOTICE OF RECONSIDERATION
04/18/86	(H)	2779	RECON TAKEN UP - IN THIRD READING
04/18/86	(H)	2780	RETURN TO SECOND FOR AM 1 UNAN CONSENT
04/18/86	(H)	2780	AM NO 1 ADOPTED Y17 N15 X5 A3
04/18/86	(H)	2781	RETURN TO SECOND FOR AM 2 UNAN CONSENT
04/18/86	(H)	2781	AM NO 2 ADOPTED UNAN CONSENT
04/18/86	(H)	2781	PASSED ON RECONSIDERATION Y27 N5 X5 A3
04/18/86	(H)	2785	TRANSMITTED TO (S)
04/21/86	(S)	2414	READ THE FIRST TIME - REFERRAL(S)
05/08/86	(S)	2678	L&C RPT SCS 2DP 1NR
05/11/86	(S)	2831	FIN RPT 6DP L&C SCS RULES

FISCAL NOTE

Revision Date : _____

REQUEST Page 1 of 2

FISCAL DETAIL

Bill/Resolution No. : CSWB 517 (L&C)
 Title : "An Act relating to the private sale and consignment of works of art."

Agency Affected : Department of Law
 BRU : Legal Services

Sponsor : Repr. Gruenberg
 Requestor : House Labor & Commerce
 Date of Request : February 11, 1986

Components : Legal Services Operations

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

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

ANALYSIS : Attach a separate page if necessary

-Please see attached analysis.-

Prepared by : Richard I. Pegues, Director Phone : 465-3672
 Division : Administrative Services Division Date : 2/12/86

Approved by Commissioner : Richard I. Pegues/Fel Date : 2/12/86
 Agency : Department of Law

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