

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
5928 HOUSE LABOR & COMMERCE

332



KENAI PENINSULA BOROUGH

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DON GILMAN
MAYOR

POSITION PAPER SB 501 RELATING TO CHARITABLE GAMING Presented by Marla Huss

The Kenai Peninsula Borough would like to submit the following comments related to SB 501, relating to charitable gaming. While the Department of Commerce and Economic Development has addressed many of our concerns regarding regulation of vendors in gaming sales compatible with the regulations pertaining to operators, there are two points which have not been addressed that we request be considered in drafting a committee substitute.

1. Neither the original version of the bill, nor draft 6-2220E which is being considered by the committee, allows municipalities to regulate or ban vendors as the current statutes allow for operators.

#7 AS 5.15.124 currently allows municipalities to regulate or prohibit operators within the municipality. The legislation before you does not permit a municipality to exercise that local option against vendors, and thus against the further commercialization and proliferation of gaming sales, which is the purpose for the current "local option" statute. Legislation passed without this local option could pose an equal protection problem for the state and/or a municipality, who may have exercised the local option for a ban on operators.

The Kenai Peninsula Borough requests that language be added allowing this local option for vendors.

#8 2. There is no notice requirement to local municipalities in either the bill or draft CS. Currently, under AS 5.15.030, a permittee and an operator are required to give notice to the municipality that they are applying for a license from the state. The borough requests that notice be given to a municipality at the time a permittee contracts with a vendor. Notice requirements are necessary to enforce local codes and regulations.

PERMITTEE/OPERATOR RELATIONSHIP

Full-Tab Net Proceeds

Comparable Analysis

CURRENT LAW

(For purposes of discussion, the chart below is based on a gross handle of \$1,000.00, i.e., 1,000 pull-tabs sold at \$1.00 each.)

	Prize Payout 55%	Prize Payout 75%	Prize Payout 85%
Gross Receipts	\$1,000.00	\$1,000.00	\$1,000.00
Prize Payout	<u>[550.00]</u>	<u>[750.00]</u>	<u>[850.00]</u>
<u>IDEAL NET</u>	450.00	250.00	150.00
<u>1/ Operator Gross Profit</u> (limited to 85% of AGI)	<u>382.50</u>	<u>212.50</u>	<u>127.50</u>
<u>2/ NET PROCEEDS TO PERMITTEE</u> (minimum required return)	<u>\$ 67.50</u>	<u>\$ 37.50</u>	<u>\$ 22.50</u>

Footnotes:

- 1/ Current Law - provides the operator must report an adjusted gross of 15% and pay at least 15% of the adjusted gross to the permittee.
AS 05.15.128(1) and (2)
- 2/ Adjusted Gross Income is defined as the gross income less the prizes awarded and any state, federal and municipal income taxes paid or owed.
AS 05.15.210(1)

PERMITTEE/VENDOR RELATIONSHIP

Pull-Tab Net Proceeds

Comparable Analysis

PROPOSED AMENDMENT P.E: VENDOR COMPENSATION

(For purposes of discussion, the chart below is based on a gross handle of \$1,000.00, i.e., 1,000 pull-tabs sold at \$1.00 each.)

	Prize Payout 55%	Prize Payout 75%	Prize Payout 85%
Gross Receipts	\$1,000.00	\$1,000.00	\$1,000.00
Prize Payout	<u>[550.00]</u>	<u>[750.00]</u>	<u>[850.00]</u>
<u>IDEAL NET</u>	450.00	250.00	150.00
<u>1/ Vendor Compensation</u> (maximum 30% of ideal net) Proposed: Sec. 9, AS 05.15.188(f)	<u>135.00</u>	<u>75.00</u>	<u>45.00</u>
<u>2/ GROSS PROCEEDS TO PERMITTEE</u> (as required)	<u>\$ 315.00</u>	<u>\$ 175.00</u>	<u>\$ 105.00</u>

Footnotes:

- 1/ CS-SB-501
Section 9, AS 05.15.188(f): If a permittee contracts with the vendor, the contract must provide that the permittee will receive no less than 70% of the ideal net.
- 2/ Permittee gross revenue is reduced by the cost of pull-tabs (approximately \$.02 each) and the 3% pull-tab tax (computed on ideal net) to arrive at Permittee Net Proceeds.

Example Utilizes 75% Prize Payout

Gross Proceeds to Permittee	175.00
Cost of Tabs (\$.02 x 1,000)	[20.00]
Tax (3% x \$250.00)	<u>[7.50]</u>
NET PROCEEDS	<u>\$ 147.50</u>

PERMITTEE (40%)/OPERATOR (60%) RELATIONSHIP

Pull-Tab Net Proceeds

Comparable Analysis

PROPOSED AMENDMENT RE: OPERATOR MUST PAY 40% OF IDEAL NET TO THE PERMITTEE

(For purposes of discussion, the chart below is based on a gross handle of \$1,000.00, i.e., 1,000 pull-tabs sold at \$1.00 each.)

	Prize Payout 55%	Prize Payout 75%	Prize Payout 85%
Gross Receipts	\$1,000.00	\$1,000.00	\$1,000.00
Prize Payout	<u>[550.00]</u>	<u>[750.00]</u>	<u>[850.00]</u>
<u>IDEAL NET</u>	450.00	250.00	150.00
<u>Operators Gross Profit</u> (limited to 60% of ideal net) Proposed: Sec. 3, AS 05.15.115(b) and Sec. 5, AS 05.15.128(a)	<u>270.00</u>	<u>150.00</u>	<u>90.00</u>
<u>NET PROCEEDS TO PERMITTEE</u> (as required)	<u>\$ 180.00</u>	<u>\$ 100.00</u>	<u>\$ 60.00</u>

PERMITTEE (40%) AND OPERATOR/VENDOR (60%) RELATIONSHIP

Pull-Tab Net Proceeds

Comparable Analysis

PROPOSED AMENDMENTS

(For purposes of discussion, the chart below is based on a gross handle of \$1,000.00, i.e., 1,000 pull-tabs sold at \$1.00 each.)

	Prize Payout 55%	Prize Payout 75%	Prize Payout 85%
Gross Receipts	\$1,000.00	\$1,000.00	\$1,000.00
Prize Payout	<u>[550.00]</u>	<u>[750.00]</u>	<u>[850.00]</u>
<u>IDEAL NET</u>	450.00	250.00	150.00
<u>Operators Gross Profit</u> (limited to 60% of ideal net) Proposed: Sec. 3, AS 05.15.115(b)	<u>270.00</u>	<u>150.00</u>	<u>90.00</u>
<u>Vendors Compensation</u>	?	?	?
<u>Operators Adjusted Profit</u>	?	?	?
<u>NET PROCEEDS TO PERMITTEE</u> (as required)	<u>\$ 180.00</u>	<u>\$ 100.00</u>	<u>\$ 60.00</u>

FISCAL NOTE

REQUEST:

Revision Date: _____
 Title: An Act relating to the retail sale of pull-tabs, tickets, and cards
 Sponsor: Reps. Boucher and Bover
 Requestor: House C&RA

Agency Affected: Commerce & Economic Dev.
 BRU: Occupational Licensing
 Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary) The bill authorizes a person other than a permittee or operator to sell the pull-tabs, tickets, and cards necessary to conduct a charitable gaming activity under AS 05.15.100 provided the person is authorized by a written contract with the permittee or operator. The bill requires the department to be notified within five days of commencement of sales by a person other than a permittee or operator. (CONTINUED)

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
 Division: Occupational Licensing Date: 2/27/90

Approved by Commissioner: Larry Merculieff Date: 2/27/90
 Agency: Department of Commerce & Economic Development

Distribution (by preparer):

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

CONTINUATION OF FISCAL NOTE ANALYSIS - HB 512

Current resources for the gaming program are inadequate to fully regulate charitable gaming in the state. There are over 1,000 gaming permittees, operators, and distributors authorized to conduct gaming activities in an industry which generates millions of dollars each year.

If the gaming program is to regulate gaming activities by persons other than a permittee or operator (conceivably another 2,000 individuals) and beef up its enforcement over current gaming activities, additional staff resources are definitely needed. In the Division of Occupational Licensing's original FY 91 budget request and its budget amendments, the division has requested funding for a total of six positions, only four of which are new (the other two are taken from permanent part-time to permanent full-time). The positions include: two PFT Investigators, one PPT Licensing Examiner, one PPT Clerk Typist, one PPT Data Processing Clerk, and one PFT Attorney. The zero fiscal note attached to HB 512 assumes authorization of the division's budget request.

TESTIMONY OF REPRESENTATIVE H.A. 'RED' BOUCHER ON HB 512

House Bill 512 was introduced at the request of several individuals involved in gaming activities. The intent of this legislation is to start the process of addressing the third party vendor issue and open up the channels to debate the pros and cons regarding charitable gaming in Alaska.

Charities and non-profit corporations have been selling pull-tabs through retail stores since the gaming act was passed three years ago. The statute does not prohibit retail sales, in other words the law does not detail conditions under which pull tabs can be sold by third party vendors.

The area of vendor sales must certainly be addressed and I am in agreement with the need to take a close and careful look at tightening up regulations regarding third party vendor sales. The result of debate over this legislation will hopefully allow charitable organizations to sustain themselves, particularly with the current down turn in other revenue sources.

Thank you for your time.

House Bill 512: "An Act relating to the retail sale of pull-tabs, tickets, and cards for charitable gaming activities."

The department was given responsibility for administration of the Alaska Gaming Reform Act in July of 1989. Since that time, the department has been actively engaged bringing stability and equality of enforcement to the charitable gaming industry.

One of the areas of concern to the department has been the so-called "third party vendor" issue. Presently, across the state, both permittees and operators have turned to vendors (e.g., retail outlets, bars, restaurants) to sell pull-tabs on their behalf. The department has found no specific statutory authorization for these vendor sales. As a result, the department gave notice late last year of its belief that legislation was needed if vendor sales were to be allowed.

Of major concern to the department has been the unregulated nature of vendor sales. The concerns discussed below have prompted our belief that if vendor participation in charitable gaming is to be authorized by the Legislature, then it must be strictly regulated.

1. Competition for prime vendor locations has increased the amount of compensation charged permittees by vendors to the detriment of the charities (some vendors are now asking and getting in excess of 50% of pull-tab proceeds). Limits must be placed on the amount of allowable vendor compensation in order to both eliminate "bidding" for locations by permit holders and ensure that an acceptable share of gaming proceeds is returned to those nonprofit organizations issued gaming permits. Most other states do limit the amount of compensation a vendor can charge.
2. There is no penalty or regulation presently in place that penalizes the unscrupulous vendor. We have become increasingly aware of cases where vendors have failed to pay permittees any share of the proceeds from the sale of pull-tabs. Under the present gaming law, there is no protection for the permittee in such cases. The permittee must sue the vendor to collect the gaming proceeds due the permittee.
3. Vendors have shouldered responsibility for ordering and purchasing pull-tabs from pull-tab distributors, bypassing the permittee. As a result, permittees have lost accountability for the pull-tab sales conducted under the auspices of their permits. We have investigated cases in which a permittee was unaware of pull-tab purchases made by its vendor. In addition, we recently had a case in which a vendor continued to order pull-tabs from a distributor after the permittee had removed its permit from the vendor's premises because the distributor was unaware of the permittee's action to end its relationship with that vendor.

Not surprisingly then, the department approaches a review of HB 512 with the consequences of unregulated vendor activity at the forefront of its thoughts. From that perspective, HB 512 clearly lacks the kind of specific regulatory language needed to provide justifiable controls over this very active area of charitable gaming and would curtail our ability to properly administer the program.

In addition, we question the bill because its language is so broad that the bill, however, unintentionally, considerably expands the list of persons who could become involved in charitable gaming in this state.

If the title of a bill is any indication of its scope, then HB 512's title suggests it only addresses the "retail" sale of pull-tabs, tickets, and cards. However, no limitation to retail businesses is actually found in the proposed new section. Indeed, it simply says "a person," other than a permittee or an operator, may sell pull-tabs or other gaming tickets and cards. Under state law the word "person" is quite broad and encompasses any and all corporations, businesses, associations, partnerships, natural persons, etc., regardless of residency.

Thus, under the proposed language of HB 512, there would be no reason, for instance, for anyone to become licensed as an operator: they could simply function as a sales vendor. Also, organizations denied a charitable gaming permit because, for example, they did not meet the criteria for a permit could simply opt instead to sell gaming pull-tabs, tickets, or cards for those nonprofit organizations that did have a permit. Under this scenario, such organizations could charge the permittee a percentage of the proceeds for their sales efforts equal to or more than the permittee might receive (which is already happening), thus, thoroughly defeating the intent of the Gaming Reform Act.

This bill, as presently written, would effectively do away with any justification for calling the activities we presently authorize in the state as "charitable" gaming activities. While we do not believe this was the intent of the drafters of this legislation, the department cannot support the bill in its present form for these reasons.

The department understands, however, that there is broad permittee and operator support for recognition of a vendor class. Certainly, the testimony the department heard in mid-December regarding its position on vendor sales made it very clear that eliminating or severely restricting the vendor class would drastically reduce the gaming proceeds presently collected by organizations granted charitable gaming permits.

Given that a vendor bill has been introduced, and assuming that the broad support evidenced for this issue means that some legislative recognition of a vendor class is forthcoming, the department has attached to this position paper draft language that reflects the department's perspective on the issue of vendor sales.

Most importantly, please note that the department's proposed language limits vendor sales to the sale of pull-tabs.

To allow vendors to get into the business of selling more than pull-tabs will effectively guarantee the additional proliferation of gaming activities in bars, restaurants, retail stores, and "gaming parlors" in malls or other storefronts throughout Alaska.

At this point in time, permittees and operators have only expressed a desire to see pull-tab sales by vendors authorized. We see no need to greatly expand the role of vendor sales in this state by including vendor sales for any and all games beyond those vendor sales already recognized and authorized under AS 05.15 (i.e., for ice classics).

The department's proposals include:

1. vendor registration by the permittee or operator;
2. issuance of an endorsement to a permittee's or operator's license that authorizes a vendor to sell pull-tabs on behalf of the permittee or operator;
3. a cap of 30% of ideal net on the amount that a vendor can charge a permittee or operator to compensate the vendor for selling pull-tabs on their behalf;
4. the requirement that the vendor pay the agreed upon amount of profit to the permittee or operator at the time of delivery of a pull-tab series to the vendor for sale;
5. payment into the charitable gaming surety fund by the registered vendor;
6. the requirement that a vendor and permittee or operator enter into a written contract;
7. the provision that only a permittee or operator may supply pull-tabs to a vendor;
8. a provision prohibiting an employee of a vendor from purchasing a pull-tab from any series sold by the vendor;
9. a prohibition that the owner or manager of a vendor who is also a member of permittee organization or a municipal officer may not enter into a contract to sell pull-tabs on behalf of that organization or municipality for compensation;
10. provisions to clarify that a distributor may not deal directly with a vendor; and

11. provisions giving the department cease and desist authority when violations of the gaming act have occurred or are about to occur.

We believe that a bill that contains the provisions outlined above will meet the department's concerns for the proper regulation of a vendor class while also maintaining primary responsibility for the state's charitable gaming activity with the licensed permittee and operator.

We urge your consideration of the attached language. A bill which included language substantially similar to that found in the attached draft and which covered the areas described above would at least address the department's concerns sufficiently for the department to go on record as unopposed to legislative recognition of vendor sales.



Larry Mercurieff, Commissioner

Date: 2-27-90

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

* Section 1. AS 05.15 is amended by adding a new section to article 2 to read:

Sec. 05.15.188. PULL-TAB SALES BY VENDORS ON BEHALF OF PERMITTEES AND OPERATORS; VENDOR REGISTRATION, ENDORSEMENT. (a) A permittee or operator may contract with a vendor to sell pull-tabs on behalf of a permittee or operator.

(b) A permittee or operator that contracts with a vendor to sell pull-tabs on the permittee's or operator's behalf shall first register the vendor with the department on a form prescribed by the department. The annual vendor registration fee is \$50.

(c) The department shall act upon an initial vendor registration within 10 working days of receipt of the registration form from a permittee or operator.

(d) Upon approval of the vendor registration, the department will issue an endorsement to the permittee's permit or the operator's license that authorizes the conduct of pull-tab sales at that vendor location.

(e) The endorsement issued under (d) of this section is an extension of the permittee's or operator's privilege under AS 05.15.100 to conduct pull-tab sales in this state. A vendor may not sell a pull-tab series until the permit or license containing the endorsement for the new vendor location has been posted by the permittee or operator in the registered vendor establishment. The endorsed permit or license must be clearly visible to the gaming public.

(f) A separate endorsement shall be issued for each vendor location. It is the responsibility of the permittee or operator to inform the department when it changes a vendor location. A permittee

or operator must return to the department the endorsed permit or license of a vendor that is no longer selling pull-tabs on behalf of the permittee or operator. Failure to inform the department of a change in vendor location, or to return the endorsed permit or license to the department after a vendor change, may constitute grounds for the suspension of a permittee's permit or an operator's license.

(g) The vendor registration required by (b) of this section must be accompanied by a contribution from the vendor to the charitable gaming surety fund established in AS 05.15.220. The contribution must be drawn on the checking account of the vendor and may not be paid by the permittee or operator on the vendor's behalf.

(h) At the time a permittee or operator annually renews its permit or license, the registration of all locations where a vendor is selling pull-tabs on the permittee's or operator's behalf must also be renewed. In addition, in accordance with AS 05.15.230, the permittee or operator shall forward, with each vendor registration renewal, that vendor's annual contribution to the charitable gaming surety fund.

(i) The permittee or operator that uses a vendor to sell pull-tabs on its behalf shall enter into a written contract with that vendor. The contract is subject to review by the department. If the contract contains agreements counter to the provisions of this chapter or the regulations adopted under it, the department may declare the contract void.

(j) A vendor may not purchase a pull-tab series from a licensed distributor. Only a permittee's member-in-charge or an operator may directly supply a pull-tab series to a registered vendor for sale by that vendor on behalf of the permittee or operator.

(k) A permittee or operator may not compensate a vendor more than 30% of the ideal net to sell pull-tabs on the permittee's or operator's behalf.

(l) An amount equal to the ideal net less the compensation paid to the vendor must be paid by the vendor at the time the member-in-charge or operator delivers a pull-tab series to the vendor for sale. The amount required to be paid by the vendor under this subsection must be paid by check and must be deposited by the permittee or operator directly into its gaming checking account.

(m) A vendor that fails to meet its contractual agreement with a permittee or operator, fails to comply with a requirement of this chapter or a regulation adopted under it, or the vendor or vendor owner or manager that is convicted of forgery, fraud, theft, or a crime of dishonesty related to the activities governed by this chapter, shall be prohibited for a period of five years from any further involvement in any activity authorized by or conducted under AS 05.15.

(n) An employee of a registered vendor may not purchase a pull-tab from any pull-tab series sold by that vendor. A person who knowingly violates this subsection is guilty of a class B misdemeanor.

(o) When the owner or manager of a registered vendor is also a member of a qualified organization issued a permit under this chapter, then the vendor may not enter into a contract with that qualified organization to sell pull-tabs for compensation. When an owner or manager of a registered vendor is also an elected municipal officer or holds a managerial position with a municipality, then the vendor may not enter into a contract with that municipality to sell pull-tabs for compensation.

* Sec. 2. AS 05.15.183 is amended by adding a new subsection to read:

(e) A distributor may not

(1) take an order for the purchase of a pull-tab series from a vendor;

(2) sell a pull-tab series to a vendor; or

(3) deliver a pull-tab series to a vendor location.

*Sec. 3. AS 05.15.210 is amended by adding new paragraphs to read:

(35) "ideal net" means an amount equal to the total amount of receipts that would be received if every individual pull-tab ticket in a series were sold at face value, less the prizes to be awarded for that series;

(36) "permittee" means either a municipality or qualified organization;

(37) "vendor" means a business whose primary activity is not regulated by AS 05.15 but which is engaged in the sale of pull-tabs on behalf of a permittee or operator and holds a business license under AS 43.70 and is

(i) a retail establishment;

(ii) an eating establishment; or

(iii) an establishment licensed under AS 04.11.

* Sec. 4. AS 05.15 is amended by adding a new section to article 3 to read:

Sec. 05.15.195. CEASE AND DESIST ORDER. (a) If the commissioner of commerce and economic development determines that a person has engaged in or is about to engage in an act or practice in violation of a provision of this chapter or a regulation adopted under it, the commissioner may issue a cease and desist order prohibiting further action by the person. The cease and desist order remains in effect

until the person has submitted evidence acceptable to the commissioner showing that the violation has been corrected.

(b) A person affected by an order issued under (a) of this section may seek equitable relief preventing the commissioner of commerce and economic development from enforcing the order.

**Testimony Before The
Community and Regional Affairs Committee
Alaska House of Representatives
Sixteenth Legislature - Second Session**

February 27, 1990

Representative Eileen MacLean, Chair and Members:

Subject: Testimony concerning HB-512

I'm Roger Cunningham, a Licensed Pull-Tab Distributor from Wasilla, and President of the Coalition for Non-Profit Gaming. I am here today on their behalf to offer full and complete support for HB-512.

COALITION FOR NON-PROFIT GAMING

Formation, Purpose, Make-up:

The Coalition for Non-profit Gaming was formed in the fall of 1989 when the Department of Commerce announced in a 7-page letter that it had determined that the sale of pull-tabs by merchants had not been contemplated in the Gaming Reform Act of 1988. I will offer testimony in a few minutes as to how the Department of Commerce reached its faulty conclusion.

Merchants who sell pull-tabs in cooperation with a non-profit or charity have become known as "3rd Party Vendors." The Coalition's sole purpose is to PROTECT the "3rd Party Vendor" relationship, an extremely valuable and vital fundraising method for non-profit groups.

The Coalition is composed of members from each segment of the gaming community:

Permitees:

The Charities and Non-profit groups who hold Games of Skill and Chance Permits issued by the Department of Commerce and Economic Development.

- Vendor:** Merchants who have entered into agreements to sell pull-tabs on behalf of non-profits/charities.
- Distributors:** Businesses licensed by the state to sell the paper product "pull-tabs." Licensed Distributors sell only to holders of a valid Gaming Permit.
- Operators:** individuals licensed by the state to "manage" or conduct gaming on behalf of a permittee, remitting net proceeds monthly.

Three-quarters of the membership is made up of permittees. The balance is composed of the three other segments of the gaming community.

In order to assure that the interests of the permittees are foremost in the work of the Coalition, the Executive Board is composed of 3 permittees, 1 vendor, 1 distributor, and 1 operator.

From this diverse group, with many seemingly conflicting interests and points of view, there is one major point on which we all agree:

For the continued financial well-being of non-profits and charities across the State of Alaska, the 3rd-party vendor relationship must be recognized in statute and allowed to continue. This is the only purpose of HB-512

By November, 1989, the Coalition for Non-profit Gaming had adopted By-Laws, elected officers and produced Position Paper #1 which I have attached to this testimony.

Background of the Gaming Reform Act

House Bill 299, which became the Alaska Gaming Reform Act of 1988, was an effort by the legislature to REFORM statutes enacted in 1984. The primary focus of the REFORM ACT was to PROTECT the interests of NON-PROFITS AND CHARITIES from abuses that were occurring primarily in the bingo industry and by operators. Bonding and licensing of operators was the primary feature of the Gaming Reform Act.

The 3rd Party Vendor issue was not addressed at that time because THEN as now, 3RD PARTY VENDOR relationships were not a major source of abuse which often left the non-profits and charities with little profit to show for their effort. In other words, in a properly conducted 3rd party relationship, the non-profit/charity gets its rightful share of the profits derived from the sale of pull-tabs at the merchants' location.

Interpretation by the Department of Commerce

In a 7-page letter dated September 27, 1989, Commissioner Mercurieff took aim on the "3rd Party Vendor" stating that "The Gaming Reform Act of 1988 did not contemplate or authorize a pull-tab 'vendor' class."

At face value, this is only a partial truth based on the reasoning in the preceding paragraphs. Recent history shows plainly that legislators and regulators alike, acknowledged the existence of "3rd Party Vendors" before the reform act was made law. Further, the Department of Revenue acknowledged their existence when the issue of "vendor compensation" was the subject of proposed regulation by the Department of Revenue months later.

Point 1: The Nenana Ice Classic IS specifically mentioned in statute, along with other similar fundraising activities:

The Nenana Ice Classic is:

- A state-wide fundraising activity,
- Conducted by members, without the services of an operator,
- Utilizes 3RD PARTY VENDORS who are compensated.

Point 2: In proposed regulations issued by the Department of Revenue on April 4, 1989:

- 12 AAC 34.380 attempted to establish a

limit on the compensation allowable to 3RD PARTY VENDORS. Specifically mentioned by example were "employees of a restaurant (who) sold a pull-tab series on behalf of a permittee".

Within 2 months of the transfer of Games of Skill and Chance to the Department of Commerce, the commissioner, acting without the benefit of any broad-based community input, nor gaming experience of any long-standing, proposed the OUTRIGHT BAN ON 3RD PARTY VENDORS by emergency regulations.

Permittees from across the state rallied to protest the commissioner's lack of understanding. This miscarriage was successfully blocked by Lt. Governor McAlpine who concluded that no emergency existed.

Public hearings grudgingly scheduled for December, 1989.

Quoting from the text of Mr. Mercurieff's prepared remarks to the Anchorage Chamber of Commerce on November 27th, he said:

" . . . and no matter what, the Department is going to get clobbered. We knew that going in. When the Department of Revenue (earlier) attempted to provide order where chaos existed, they got clobbered . . . "

The Department of Revenue, before handing over control of gaming to Commerce, produced 64 pages of regulations without ever getting to the meat of the subject. They were dismayed by the nearly hostile reaction they received when public hearings were held in May.

I submit to you that the reason the Department of Commerce (and the Department of Revenue, earlier) GOT CLOBBERED . . . is the simple fact that THEY FAILED TO LISTEN TO PERMITEES whose interest, after all, was supposed to be protected by the Gaming Reform Act . . . not regulated into oblivion by misguided regulation.

In the hearings held in December by Commerce, witness after witness testified that the 3RD PARTY VENDOR relationship is the backbone of charitable fundraising in Alaska. Many witnesses drew a comparison of the net result of placing their permit with a commercial bingo

operator vs: the net result they have experienced with 3rd party vendors.

The Director of the Division of Occupational Licensing, Randall Burns, has said publicly that support for the 3rd party vendor relationship was "OVERWHELMING". He and the commissioner have specifically asked that the legislature address this question and HB-512 is the Coalition's response.

House Bill 512

HB-512 is a one-page bill, direct and to-the-point. It says simply that pull-tabs may be sold on behalf of a permittee by others so long as a contract or written agreement exists between the parties. The bill has no other meaning and no hidden agenda.

I urge that the House Community and Regional Affairs Committee act favorably to give charities and non-profits full legal status to conduct fundraising with "3rd Party Vendors", an arrangement that has existed for the mutual benefit of all participants since before the enactment of the Gaming Reform Act of 1988.

Legal status for "3rd Party Vendors" is not without precedent. In 32 of the 33 states which now conduct state lotteries, "3rd Party Vendors" are utilized to provide tickets to the buying public. They are commonly referred to as "RETAILERS".

I have attached a two-page summary produced in January, 1990 by the Public Gaming Research Institute which lists the states conducting lotteries, the number of RETAILERS engaged, and the sales commission paid by the various states. There are currently 147,738 retailers in 32 states.

Sales of Charitable Gaming products by RETAILERS, pull-tabs, in this instance, is a legitimate, legal fundraising method in 32 other states today. There is not one solid reason why Alaska should not fully legitimize this activity for the mutual benefit of non-profits, charities, retailers, and the public who have shown a strong desire to participate.

For clarification or additional information:

Roger Cunningham

Bill's Distributing of Alaska

P.O. Box 874731

Wasilla, Ak 99687

373-1500 or Toll-Free 1-800 478-4263

CNG

Coalition
for
Non-profit
Gaming

Position Paper # 1

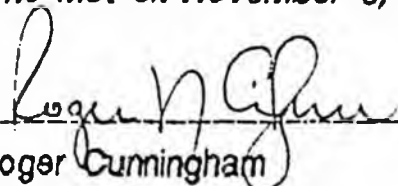
The Coalition for Non-profit Gaming, CNG, after careful deliberation by its Steering Committee, and ratification by its general membership, takes the following position(s) on issues concerning future direction of gaming regulation and legislation:

1. That an *Agent* license class be created by the legislature which establishes accountability between the *Agent* and the Operator or Permittee with whom the *Agent* conducts pull-tab activities.
2. That each *Agent* be required to register with the state each location (physical address) where pull-tab activities are conducted.
3. That Operators and/or Permittees be required to complete an *Agent Registration* form provided by the Department of Commerce and Economic Development on behalf of each agent location.
4. That, in addition to the annual registration, each entity, i.e.: Sole Proprietor, Partnership, Joint Venture, or Corporation, acting as an *Agent*, shall post into a *Surety Fund* established by the state, \$100 annually *until the fund is fully established.*

page 2. Position Paper #1

5. That the amount of the *surety fund* deposited by each Agent shall be adjusted annually based on the prior year's history of claims against the fund.
6. That AS 05.15.122 (b) (5), bonding remain in effect in its current form, as a requirement for an Operator's license.
7. That self-directed Permittees *who do not engage an operator* shall not be required to bond against their own losses.
8. That *Agents* of Operators shall be supplied pull-tabs by their Operator who, in turn, purchases from a Licensed Distributor.
9. That *Agents* of a Permittee shall be supplied pull-tabs by the Permittee's Member-in-Charge who, in turn, purchases from a Licensed Distributor.
10. That a ceiling limit be established for agent compensation.
11. That neither Operators nor Permittees be limited as to the number of *Agents* with whom they conduct pull-tab activity.
12. That current statutes adequately limit each permittee's annual activity (AS 05.15.180 (g)) and therefore, no further limit should be placed on the number of *Agents* engaged by a permittee (nor on an operator on behalf of a permittee).

I certify that the foregoing represents the consensus of CNG members who met on November 8, 1989 to amend and ratify this position paper.



Roger Cunningham
Interim Chairman

LOTTERY UPDATE

PUBLIC GAMING INTERNATIONAL

THE U.S. RETAIL CONNECTION

STATE	SALES DISTRICTS & OFFICES	# FIELD/ SALES REPS	METHOD OF TICKET DISTRIB.	TOTAL # RETAILERS	TOTAL # ON-LINE RETAILERS
ARIZONA	3 DISTRICTS 1 MAIN OFFICE 1 SATELLITE	20 (+ 3 RELIEF REPS)	FIELD REPS	2,289	1,760
CALIFORNIA	12 DISTRICTS 4 REGIONAL OFFICES 2 REG. HDQTS.	205 DSRs	COURIER	20,000	8,350
COLORADO	4 DISTRICTS 4 REGIONAL OFF.	28 DSRs	FIELD REPS	2,719	1,463
CONNECTICUT	32 SALES DISTRICTS 8 REGIONS 1 MAIN OFFICE	40	FIELD REPS	3,600	2,400
DELAWARE	4 DISTRICTS 1 MAIN OFFICE	4	COURIER	496	265
D.C.	8 WARDS 1 MAIN OFFICE	8	2 DISTRICT CENTERS	558	527
FLORIDA	9 REGIONS 13 DISTRICTS	3 REG. MGRS. 13 DISTRICT MANAGERS + 202 SALES REPS	SALES REPS	14,775	7,500
IDAHO*	1 MAIN OFFICE	9 REPS 1 KEY ACCT. REP	UPS	1,388	300-450
ILLINOIS	2 DISTRICT 2 MAIN OFFICES 5 REGIONAL OFF.	65 (+ 15 COORDINATORS) 5 REG. MGRS.	SALES REPS (COURIER IN 1 COUNTY)	9,500	4,800
INDIANA*	8 REGIONAL OFFICES	81 SALES REPS	SALES REPS	7,000	0**
IOWA	5 SALES REGIONS	37	SALES REPS	3,600	1,100
KANSAS	4 REGIONAL OFFICES & HEADQUARTERS 30 ROUTES	30 FIELD REPS	SALES REPS	2,400	920
KENTUCKY	4 REGIONS 7 OFFICES	32 SALES REPS 7 SECTIONAL MGRS. 2 REG. MGRS. 1 STATE MGR.	COURIER	3,700	1,305
MAINE	11 TERRITORIES 1 MAIN OFFICE	13 (INCLUDES TELEMKTG STAFF)	FIELD REPS	1,600	915
MARYLAND	3 DISTRICTS 1 MAIN OFFICE	18 REPS + 3 MANAGERS	COURIER	2,114	1,737
MASSACHUSETTS	5 DISTRICTS 1 MAIN OFFICE 5 REGIONAL OFF.	50 REPS + 5 MANAGERS	COURIER + FIELD REPS	6,100	5,406
MICHIGAN	1 MAIN OFF. 7 REGIONAL OFF. 8 REGIONS	60 DISTRICT MANAGERS	COURIER	8,700	9,800
MINNESOTA	8 REGIONS 6 OFFICES	N/A	COURIER	N/A	N/A
MISSOURI	4 DISTRICTS 1 HEADQUARTERS 3 REGIONAL OFF.	43 SALES REPS + 9 TELEMKTG. REPS	SALES REPS	4,100	1,430
MONTANA	9 REGIONS 1 LOTTERY OFFICE	9 REPS	TELEMKTG. & FIELD REPS	850	250
NEW HAMPSHIRE	14 SALES AREAS 1 MAIN OFFICE 2 SATELLITE OFF.	15 REPS	FIELD REPS	1,300	750
NEW JERSEY	6 DISTRICTS	30 REPS + 6 MANAGERS	COURIER	5,000	5,000
OHIO	3 REGIONAL OFFICES 30 DISTRICTS	30 SALES REPS	SALES REPS	8,000	4,615

*On-line to begin in Idaho 2/90. On-line to begin in Indiana 5/90

LOTTERY UPDATE

PUBLIC GAMING INTERNATIONAL

THE U.S. RETAIL CONNECTION (cont.)

STATE	SALES DISTRICTS & OFFICES	# FIELD SALES REPS	METHOD OF TICKET DISTRIB.	TOTAL # RETAILERS	TOTAL # ON-LINE RETAILERS
OREGON	1 MAIN OFFICE	25 REPS + 4 REGIONAL MGRS.	COURIER	3,600	1,574
PENNSYLVANIA	6 AREAS 6 OFFICES	69 MKTG REPS	COURIER	8,761	3,438
RHODE ISLAND	MAIN OFFICE	8 REPS	FIELD REPS	1,088	825
SOUTH DAKOTA	3 REGIONS 4 OFFICES	13 FIELD REPS	FIELD REPS	1,152	0
VERMONT	6 DISTRICTS 1 MAIN OFFICE	6 REPS	FIELD REPS	780	250
VIRGINIA	7 REGL. OFFICES	54 REPS	COURIER	5,400	1,500
WASHINGTON	8 DISTRICTS 6 REGIONAL OFFICES	8 REGL. MGRS. 34 SALES REPS (+ 1 HALF-TIME)	FIELD REPS	3,400	973
WEST VIRGINIA	1 DISTRICT 1 MAIN OFFICE	10 FIELD REPS.	COURIER	1,604	846
WISCONSIN	5 DISTRICTS 5 OFFICES	47 SALES REPS 4 SALES MGRS.	FIELD REPS	5,000	1,450

U.S. LOTTERY RETAIL AGENTS

STATE	POPULATION (In millions)	TOTAL # AGENTS	# ON-LINE TERMINALS	SALES COMMISSION BASE*
ARIZONA	3.2	2,289	1,760	6%
CALIFORNIA	27.0	20,000	8,350	5% CAT/4% PAT/6% Instant
COLORADO	3.3	2,719	1,463	5.5%
CONNECTICUT	3.2	3,800	2,400	5%
DELAWARE	0.6	496	265	5%
D.C.	0.6	558	549	6% instant/4% on-line
FLORIDA	11.7	11,775	7,500	5%
IDAHO	1.0	1,386	—	5%
ILLINOIS	11.6	9,500	4,800	5%
INDIANA	5.5	7,000	0**	5%
IOWA	2.9	3,800	1,100	5%
KANSAS	2.5	2,400	920	5%
KENTUCKY	3.7	3,700	1,305	5%
MAINE	1.2	1,600	915	8% instant/5% on-line
MARYLAND	4.5	2,114	1,707	4%
MASSACHUSETTS	5.8	6,100	5,406	5%+ bonuses
MICHIGAN	9.1	8,700	3,800	6%
MINNESOTA	4.3	N/A	N/A	5%
MISSOURI	5.1	4,100	1,430	5%
MONTANA	.8	850	250	5%+ bonuses
NEW HAMPSHIRE	1.0	1,300	800	5%
NEW JERSEY	7.6	5,000	5,000	5%
NEW YORK	17.8	9,766	6,010	6%
OHIO	10.8	3,300	4,815	5.5%
OREGON	2.7	3,600	1,574	5% (3% PAT)
PENNSYLVANIA	11.9	8,761	3,438	5%
RHODE ISLAND	.975	1,089	825	5% instant/8% on-line
SOUTH DAKOTA	.7	1,152	0	5%+ bonuses
VERMONT	0.5	780	250	5%
VIRGINIA	5.3	5,400	1,600	5%
WASHINGTON	4.6	3,400	973	5%
WEST VIRGINIA	1.9	1,504	846	5%
WISCONSIN	4.7	5,000	1,450	5%

General Notes

* Does not include incentive programs or cashing fees

** On-line to begin 5/90



Alaska State Legislature

Please enter into the record my testimony to the House Committee on Community and Regional Affairs on HB 512 regarding Charitable Gaming/Sales agents for the teleconference of February 27, 1990.

I represent The Big Lake Lions Club, I am currently the vice president of that club. I also am the Judge Advocate for Post 35 of the American Legion and the American Legion Department of Alaska.

Lions Clubs are dedicated to service to the community. Many of our projects are to help those that do not have the ability to help themselves. There are only two ways that the Lions Clubs obtain financing for their various activities. donations are given to the Lions or a fund raiser is held.

In this economy, donations are few and far between. The permit to conduct gaming operations is just about the sole source of revenue in our community.

Last year the Department of Commerce came close to putting regulations in effect that would have totally shut down the income for the Lions club in Big Lake. Those regulations would have stopped us from using a "third party" or agent to sell pull tabs. We currently have an agreement with three local bars to sell our pull tabs for the benefit of the community. Our club pays the bars a space rent for the use of their establishment for the sale of our pull tabs.

Most of our Lion members operate businesses but, few, if any, operate the kind of business that would allow us to sell pull tabs directly.

I urge you on behalf of the thirty five members of the Big Lake Lions Club, the community of Big Lake and the more than four hundred members of Post 35 of the American Legion to pass legislation allowing the use of third party sales points or agents to sell our pull tabs so that we can continue to provide service and charitable activities to our community.

DANA R. STOKER
Suite 100, Land Company Bldg.
701 East Parks Highway
Wasilla, Alaska 99687
Telephone: (907) 373-6101

A handwritten signature in black ink, appearing to read "Dana R. Stoker".



Alaska State Legislature

Please enter into the record my testimony to the H-C-R-A
committee name

committee on HB 512, dated 2/27/90
bill/subject

to: Chairman Foster
fr: Matt Holmes, KFSK-FM, Petersburg
re: clarification in testimony.

I do not recall who questioned me about the compensation paid to our third party vendors but I feel a clarification is necessary since the questioner (Rep. Kubine?) may have assumed that we pay 40% of the adjusted gross profit. I stated that we collect ~~an~~ appx. 60% of the adjusted gross profit. However, I neglected to point out that we pay appx. 15% of the A.G.P. in expenses. We then pay appx. 25% to our third party vendor. Therefore, our third party vendor is not paid 40%, but 25%. Thank you for this opportunity to correct my to know.

Signed: Matt Holmes

Testifier KFSK-FM public radio

Representing (Optional) Box 149, Petersburg

Address 772-3808

Phone No.

(1)



VETERANS OF FOREIGN WARS OF THE U.S.
ROBERT L. SPENCER POST NO. 7056
P.O. Box 404
Kodiak, Alaska 99615

James L. Fisk, Jr.
Senior Vice Commander
POW-MIA Chairman
Gaming Advisory Group for the
State of Alaska

Post Office Box 2068
Kodiak, Alaska 99615
Phone: (907) 486-3959

Post 7056
House Committee Chairman
(charged with all pull tab responsibilities)

18 March 1990

Ms. Eileen Panigeo MacLean, Chair
Community & Regional Affairs Committee
Room 124
Capitol Building
Juneau, Alaska 99811

Subject: Testimony for House Bill 512

Dear Ms. MacLean,

After my most recent conversation with your Administrative Assistant, Renee, I advised her my wife is out of town and that I would attempt to complete my written test and oral response to the teleconference held on 9 March 1990.

Enclosed please find my packet containing this testimony.

I would appreciate it if you would assure that each legislative representative receives a copy of this written testimony.

Very truly yours,


James L. Fisk, Jr.
JLF:nk

Enclosures: As stated

cc: Representative Dave Donley, Labor and Commerce Committee
Senator Richard I. "Dick" Eliason, Labor and Commerce Committee

Reintroduced as testimony on 3/9/90
To: Eileen Panigeo MacLean, Chair
Referred: C&RA, and Labor & Commerce
Attention: Dave Donley, Chairman

BY REP. BOUCHER, Boyer

IN THE HOUSE

HOUSE BILL NO. 512

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the retail sale of pull-tabs, tickets, and cards for charitable gaming activities."

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

*Section 1. AS 05.15 is amended by adding a new section to article 2 to read:

Sec. 05.15.188. SALES BY PERSONS OTHER THAN PERMITTEES.
A person other than a permittee may sell pull-tabs, tickets, and cards that are necessary to conduct activities authorized by AS 05.15.100(a) if the person is authorized to make sales by a written contract with a permittee or operator. The permittee shall notify the department within five days of the commencement of sales by a person under this section.

We are requesting that the following testimony be introduced as a possible amendment to House Bill 512.

My name is James L. Fisk, Jr. My address is: P.O. Box 2068, Kodiak, Alaska 99615. My phone number is: (907) 4863959. May I introduce myself and who I represent, and what the ultimate goals are to achieve a solid and sound HB 512. Madam Chair McLean and Chairman of other committees who may receive this testimony. This testimony is given on March 10, 1990 in Kodiak, Alaska.

Let me proceed with what I think as an individual representing the Kodiak Lions Club, the Rodeo State Fair Association, the Bayside Fire Department, the Veterans of Foreign Wars, the Veterans of Foreign Wars Auxiliary, the Baranoff Products and Kodiak Little League. Believe me when I say I represent those organizations as I am either a Charter Member or have served in the capacity of President or a Board Member. When I say that I represent the above organizations, I feel a deep internal commitment knowing that I have, and will continue to represent the welfare of those organizations and the other organizations throughout the State of Alaska to the utmost of my ability.

Let me start with a letter of what I think as what are the real issues for the Games of Chance and Skill administered by the Department of Commerce. When one associates with a new idea, of creating a dream - that dream has already been used in other states or other countries. They have experienced and suffered through the hardships. Don't let Alaska suffer those same hardships. Let's put together a foundation, a commission that will be responsive and face the issues of the gaming industry in Alaska. Let's clean it up and not wait like Nevada did. It took them 27 years to get the criminal element out of the gaming industry in Nevada.

We need a Gaming Commission in 1990. The job of a commission to see that funds gained from gaming activities go into the pockets mandated by the legislature. The gambling must be honest and the public is protected. All activities must be controlled and kept within the boundaries of good public policy. The heart of the gaming industry in Alaska must be to protect the public from being misled by those who operate the games. The commission must define rules and regulations to accomplish the following:

What are some of the problems? What are some of the solutions?

Problem: Inside information on the pull-tab industry.

Solution: Mark off the winners on the flare card. It is done in Washington. It cuts the odds for the permittees, the vendors, and the operators, but if that is what it takes to clean up Alaska - I say do it.

Problem: Winner pick out.

Solution: Manufacturing standards - those standards should be the highest NAFTM can deliver.

Problem: Lack of Randomization

Solution: Random testing. Protect the operators from cheating as initiated by the public.

Problem: Counterfeiting. Alaska has experienced a small though serious problem with counterfeiting, for it is out there. Don't ignore it.

Solution: Develop a secondary winner protection code such as a Trade Products Win Code. It is proven and it is successful. It take's 99% out of cheating, but nothing is 100% unless you ban the games of chance and skill in Alaska completely.

Insure the receipt of mandated income by the charity. Very important, insure the receipt of mandated income by the charity. Not 15% of the adjusted gross, but a minimum of 40% of the ideal net or gross profit. The remaining 60% will be state tax, pull-tab cost, and vendor share.

Problem: Mismanagement. In every organization there is going to be a little mismanagement. We could write laws from now to the end of the century, there is going to be some mismanagement.

Solution: An accounting system that insures appropriate profit to the charity and regulates audits by regulatory staff. If you need the people, tax the industry. Remember, audit by regulatory staff. That is important.

You could write a whole book, but if you have a stacked deck and you don't regulate it, you don't audit it, and you don't observe it, because you say you don't have the staff - forget it, it's over. You may as well say we will do the same as Nevada - let them infiltrate and then figure out how to get them out.

Mechanisms used to accomplish these goals include but are not limited to the following:

1. A clear concise criteria for construction of games. NAFTM approved manufacturers only with no exceptions.

2. A technical description and definition of the game. Break open games, pull-tabs, punch boards, lottery tickets, bingo cards, etc. A good definition of what they are and then a standard for each of those games. We are trained to write a standard to deal with the overall games. Let's deal with every game and every item. There is a difference between a \$1.00 bill, a \$20.00 bill, and a \$100.00 bill - there is a difference in every games.

I am enclosing the standards for break open tickets as an example. I am enclosing catalogues, I am enclosing the break open profit line and what to look for, I am enclosing pull-tabs (rippies-whatever you want to call them). Each game is different, each card is different, each flare card is different. All devices used in gaming should have an individual set of standards including opacity, randomization, and winner protection, etc.

Don't allow a manufacturer to write the rules if he doesn't belong to NAFTM. Allow the state to sit down with all NAFTM manufacturers and work as a team. Regulations should be drawn that provide a paper trail throughout the entire gaming process.

A process, such as Tabtrak, should give you instant control without a 30 to 60 day delay. This process should be developed by an Alaskan and workable by an Alaskan. This process should develop a paper trail for the entire gaming process including but not limited to the manufacturers, distributors, operators, permittees, and vendor locations. This paper trail follows from the manufacturers doorstep to the distributors door step, then on to the operator, permittee, or vendor identifying the date shipped, the cost, game description including color, game, and count, and serial number, as well as cost and tax to the operator and permittee. Tickets sold and prizes paid, identity of winners, and number of unsold tickets would be able to be immediately identified in a paper trail developed by Tabtrak.

Take a serious look at Tabtrak before permitting the State to develop a system when there is already a system successfully being used in the marketplace. I didn't believe in it because I felt I had the best computer program in the State - tractability and accountability from the date of invoice until the completion of the game to the quarterly to the annual reports, and to the membership of the permittees organization. Tabtrak will give the State investigators in the field, finger-tip control from a pay phone 24 hours a day at no cost to the State of Alaska. Let's give it a shot.

Licensing requirements should include, but not be limited to, licensing the charities, the distributors and their representatives, the operators and their representatives, the vendors and their representatives, and most of all the manufacturers and their representatives. This is where it starts, careful thought should be given to the criteria of who gets a license. If you license dishonest people you will have a regulatory problem from day one.

I say anyone who has had a conviction for gambling, convicted felon should never be involved in gambling or gaming - not after five years, not after ten years, but never as long as he has that conviction on his file. There is an exception, if one has an SIS then - that's the exception and that's only the exception. Once a "cheater", always a "cheater". Licensing dishonest people means dishonest accountability and dishonest tractability. A license to conduct gaming should be identified as a privilege - not a right. A license may be canceled for any reasonable threat to the integrity of the game. I say that if a license is canceled then it's gone. Once it's gone, it's gone forever.

If there is an infraction for not filing paperwork in timely response, that is a misdemeanor, it is not a threat to the integrity of the game. Finally, regulate the prize levels and cost of play to a \$500.00 prize limit on pull-tabs. Consider the level of security in break open tickets. There are tickets that are poorly manufactured and tickets which are premium of the stock. All tickets need to meet a certain standard. The security of the break open game must be the greatest integrity we can give the public consumers that play to know their money and their chances are under tight scrutiny.

There needs to be enough money to provide enforcement. The State must provide enforcement that is adequate in size - not 4 or 5 covering this State. If we need to tax 5% or 6% on the ideal net, let's do it, but let's get some effectiveness in the field. Let's stop this putting a handle on auditors and investigators. Let them do their job. They are protecting the constituents in the State of Alaska - the people who are putting their trust in the legislature. That is my opening statement.

Let me go to the State's position paper. Page three: The departments proposals include:

1. Vendor registration by permittee or operator.

Take the operator out of this position paper wherever it appears. The permittees, the vendors, the distributors, the manufacturers are one segment. The operators are a business entity. Every operator is doing it to make a profit. They would not crank up the pull-tab parlor or a bingo parlor with several thousand dollars invested if they weren't going to make a big return - more than what the vendor and the permittee is going to get. You are talking big scale

gambling. Let's divide them out, let's keep the operator as operators and keep them out of the bars and restaurants and grocery stores. Put those operators in a separate entity as a business enterprise.

The lottery is going to challenge that - they will not be able to go into 7-11 stores or grocery stores. There are three municipalities in the State of Alaska that ban operators - Kodiak, Kenai Peninsula, and Sitka. These communities are sending a clear message to the legislature that says, leave the charity's home town development for generating revenue as a revenue source with charity's who want to get involved - not operators. If Lottery Alaska wants to play in these establishments, let them license each establishment for lottery, let them foot the requirements, and let them pay the insurance. They are a business entity making big bucks otherwise they wouldn't be in business. That's a separate issue. If the State wants to run a lottery - let them do it, but let's divide the operators from the permittees and vendors.

2. Issuance of an endorsement to a permittee's or operator's license that authorizes a vendor to sell pull-tabs on behalf of the permittee or operator.

Remember we are striking the operator. We are asking for an endorsement to be able to license the vendor. We agree with a \$50 or \$100 dollar licensing fee (whatever the case may be). There should be no more than one vendor license and one permittee license per establishment. If that establishment wants another permittee, allow them to give notice to the present permittee they have in force that they would like to switch. Don't hang 15 permittee licenses on the wall. You begin to lose accountability, tractability, who's game is being played, and how it is being played. Close it off.

3. a cap of 30% of ideal net on the amount that a vendor can charge a permittee or operator to compensate the vendor for selling pull-tabs on their behalf;

Strike out the operator for they are regulated on a percentage of 15% of the adjusted gross income. My organizations and advisory board members say - make it a 50/50 split of the ideal net with the charity paying the tabs and the tax. A standard price per tabs and the tax will not change.

The unscrupulous individual is going to charge \$200.00 for the tabs instead of \$75.00 so the charity gets less and less. Adopt a 50/50 split with a reasonable price for tabs and tax.

4. the requirement that the vendor pay the agreed upon amount of profit to the permittee or operator at the time of delivery of a pulltab series to the vendor for sale.

We have a large state - the largest - and it is very remote so it is therefore difficult sending a case of pull-tabs to Pilot Point. They are going to have only one or two games which they will have return the profits and tax on. We are striking the operator and let's strike the tabs and tax and profit. Let's require every permittee to issue a signed purchase order stating, the number of games, the cost of the games, and the tax. This purchase order must be signed by the distributor and the vendor, and must note the date and time of delivery. The permittee will then have 30 days to pay the distributor for the tabs and tax. If he does not pay in 30 days, then the distributor has the right to notify the commission that the permittee has failed to pay, and the commission will write the permittee allowing him 10 days to correct the problem (or maybe 40 days) but that is a paper trail that is accountable.

5. payment into the charitable gaming surety fund by a registered vendor;

You have got a contract so forget it - you don't need a surety sitting in an account some place. The operators have \$100,000.00 - let's leave it - let's let the operators be operators. The distributors, the permittees and the vendors will take care of their homework with their standardized agreement.

6. the requirement that a vendor and permittee or operator enter into a written contract;

This has been addressed. We need a standard state approved contract.

7. the provision that only a permittee or operator may supply pull-tabs to a vendor

Forget about operators. Permittees have already given a purchase order to authorize the vendor to receive pull-tabs on his behalf. If the paper trail is not there, this is an infraction of the reasonable integrity to the playing of the game, and you are not playing by the rules.

8. a provision prohibiting an employee of a vendor from purchasing a pull-tab from any series sold by the vendor;

If an employee working for a vendor selling pull-tabs has not sold a pull-tab from that game then he should be entitled to play it. If he has sold pull-tabs from that series then he should not play one single pull-tab.

9. a prohibition that the owner or manager of a vendor who is also a member of permittee organization or a municipal officer may not enter into a contract to sell pull-tabs on behalf of that organization or municipality for compensation;

If you are a distributor - you are a distributor only. If you are a vendor - you are a vendor only. If you are a permittee - you are a permittee only. If you are in a small community we have to make allowances for this. If you are a vendor selling and a member of the Russian Orthodox Church in one of these small communities, and are using the Russian Orthodox Church permit in your your establishment, the collective effort of everybody in the community is required. In an instance such as this, I feel an allowance should be made.

10. provisions to clarify that a distributor may not deal directly with a vendor; and

We have already discussed that by providing a paper trail to account for the integrity of the game.

11. provision giving the department cease and desist authority when violations of gaming act have occurred or are about to occur. This is difficult. Let the investigators determine the seriousness of the violation or potential violation.

In conclusion, strike operators and allow permittees to handle the sale of pull-tabs in their areas.

Enclosures: Section 1. AS 05.15 (Senate and House Versions)
* (Green highlights shall be deleted from current text)
**(Blue highlights are references only)
Description of Break Open Games
Trade Products Catalog
Capital Games Catalog
Pull-tab Scales Flyer
Sample Transmittal Form
Pull-tab/Win Code Samples (Three Sample Sheets)
Sample of Winning Pull-tab ticket
Pull-tab Prize Receipt
Pull-tab Receipt Log
Sample of Distributor Game Detail
Sample of Manufacturer Game Detail (Five Sample Sheets)

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

* Section 1. AS 05.15 is amended by adding a new section to article 2
t. read:

Sec. 05.15.188. PULL-TAB SALES BY VENDORS ON BEHALF OF
PERMITTEES AND OPERATORS; VENDOR REGISTRATION, ENDORSEMENT. (a) A
permittee or operator may contract with a vendor to sell pull-tabs on
behalf of a permittee or operator.

(b) A permittee or operator that contracts with a vendor to sell
pull-tabs on the permittee's or operator's behalf shall first register
the vendor with the department on a form prescribed by the department.
The annual vendor registration fee is \$50.

(c) The department shall act upon an initial vendor registration
within ⁶⁰10 working days of receipt of the registration form from a
permittee or operator.

(d) Upon approval of the vendor registration, the department will
issue an endorsement to the permittee's permit or the operator's
license that authorizes the conduct of pull-tab sales at that vendor
location.

(e) The endorsement issued under (d) of this section is an
extension of the permittee's or operator's privilege under AS 05.15.100
to conduct pull-tab sales in this state. A vendor may not sell a
pull-tab series until the permit or license containing the endorsement
for the new vendor location has been posted by the permittee or
operator in the registered vendor establishment. The endorsed permit
or license must be clearly visible to the gaming public.

(f) A separate endorsement shall be issued for each vendor
location. It is the responsibility of the permittee or operator to
inform the department when it changes a vendor location. A permittee

or operator must return to the department the endorsed permit or license of a vendor that is no longer selling pull-tabs on behalf of the permittee or operator. Failure to inform the department of a change in vendor location, or to return the endorsed permit or license to the department after a vendor change, may constitute grounds for the suspension of a permittee's permit or an operator's license.

(g) The vendor registration required by (b) of this section must be accompanied by a ^{25⁰⁰} contribution from the ^{Permittee's} vendor to the charitable gaming surety fund established in AS 05.15.220. The contribution must be drawn on the checking account of the ^{Permittee's} vendor and may not be paid by the permittee or operator on the vendor's behalf.

(h) At the time a permittee or operator annually renews its permit or license, the registration of all locations where a vendor is selling pull-tabs on the permittee's or operator's behalf must also be renewed. In addition, in accordance with AS 05.15.230, the permittee or operator shall forward, with each ^{Permittee's} vendor registration renewal, that ^{Permittee's} vendor's annual contribution to the charitable gaming surety fund.

(i) The permittee or operator that uses a vendor to sell pull-tabs on its behalf shall enter into a written contract with that vendor. The contract ^{Forms are supplied} is subject to review by the department. If the contract contains agreements counter to the provisions of this chapter or the regulations adopted under it, the department may declare the contract void.

(j) A vendor may not purchase a pull-tab series from a licensed distributor. Only a permittee's member-in-charge ^{or alternate (one alternate only)} or an operator may directly supply a pull-tab series to a registered vendor for sale by that vendor on behalf of the permittee or operator ^{only after the following}

- Conditions are met
- A. Signed transmittal
 - B. Date & time of transmittal or P.O. order
 - C. Cost of goods taxes. See # game No #, Vendor Fee
 - D. Location? Signed by Receiver of Fund

50% (k) A permittee or operator may not compensate a vendor more than 30% of the ideal net to sell pull-tabs on the permittee's or operator's behalf.

(l) An amount equal to ^{45% gross profit on} the ideal net less the compensation paid to the ^{permittee - then funds} vendor must be paid by the vendor at the time ^{with the} the member-in-charge ^{or alternate (one only)} or operator ^(See tablet) delivers a pull-tab series to the vendor for sale. The amount required to be paid by the vendor under this subsection must be paid by check and must be deposited by the permittee or operator directly into its gaming checking account.

(m) A vendor that fails to meet its contractual agreement with a permittee or operator, fails to comply with a requirement of this chapter or a regulation adopted under it, or the vendor or vendor owner or manager that is convicted of forgery, fraud, theft, or a crime of dishonesty related to the activities governed by this chapter, shall be prohibited for a period of five years from any further involvement in any activity authorized by or conducted under AS 05.15.

(n) An employee of a registered vendor may not purchase a pull-tab from any pull-tab series ^{that they have sold from} sold by that vendor. A person who knowingly violates this subsection is guilty of a class B misdemeanor.

(o) When the owner or manager of a registered vendor is also a ^{relative of a} member ^{in charge or alternate} of a qualified organization issued a permit under this chapter, then the vendor may not enter into a contract with that qualified organization to sell pull-tabs for compensation. When an owner or manager of a registered vendor is also an elected municipal officer or holds a managerial position with a municipality, then the vendor may not enter into a contract with that municipality to sell pull-tabs for compensation.

* Sec. 2. AS 05.15.183 is amended by adding a new subsection to read:

(e) A distributor may not

(1) take an order for the purchase of a pull-tab series ^{Drop Shipment ~~to~~ from out of state for a Permittee by Vendor} ~~from~~ for the

Vendor;

(2) sell a pull-tab series to a vendor; or

(3) deliver a pull-tab series to a vendor location. ^{Unless all Requirements current is Sec 05-15-189 (5)}

*Sec. 3. AS 05.15.210 is amended by adding new paragraphs to read:

(35) "ideal net" means an amount equal to the total amount of receipts that would be received if every individual pull-tab ticket in a series were sold at face value, less the prizes to be awarded for that series; ~~shall not exceed~~ ^{Exceed} ~~30%~~ 50%

(36) "permittee" means either a municipality or qualified organization;

(37) "vendor" means a business whose primary activity is not regulated by AS 05.15 but which is engaged in the sale of pull-tabs on behalf of a permittee or operator and holds a business license under AS 43.70 and is

- (i) a retail establishment;
- (ii) an eating establishment; or
- (iii) an establishment licensed under AS 04.11.

Regulation
Primary Activity meaning
OS sales not to
exceed 20% of entire
gross sales of establishment

* Sec. 4. AS 05.15 is amended by adding a new section to article 3 to read:

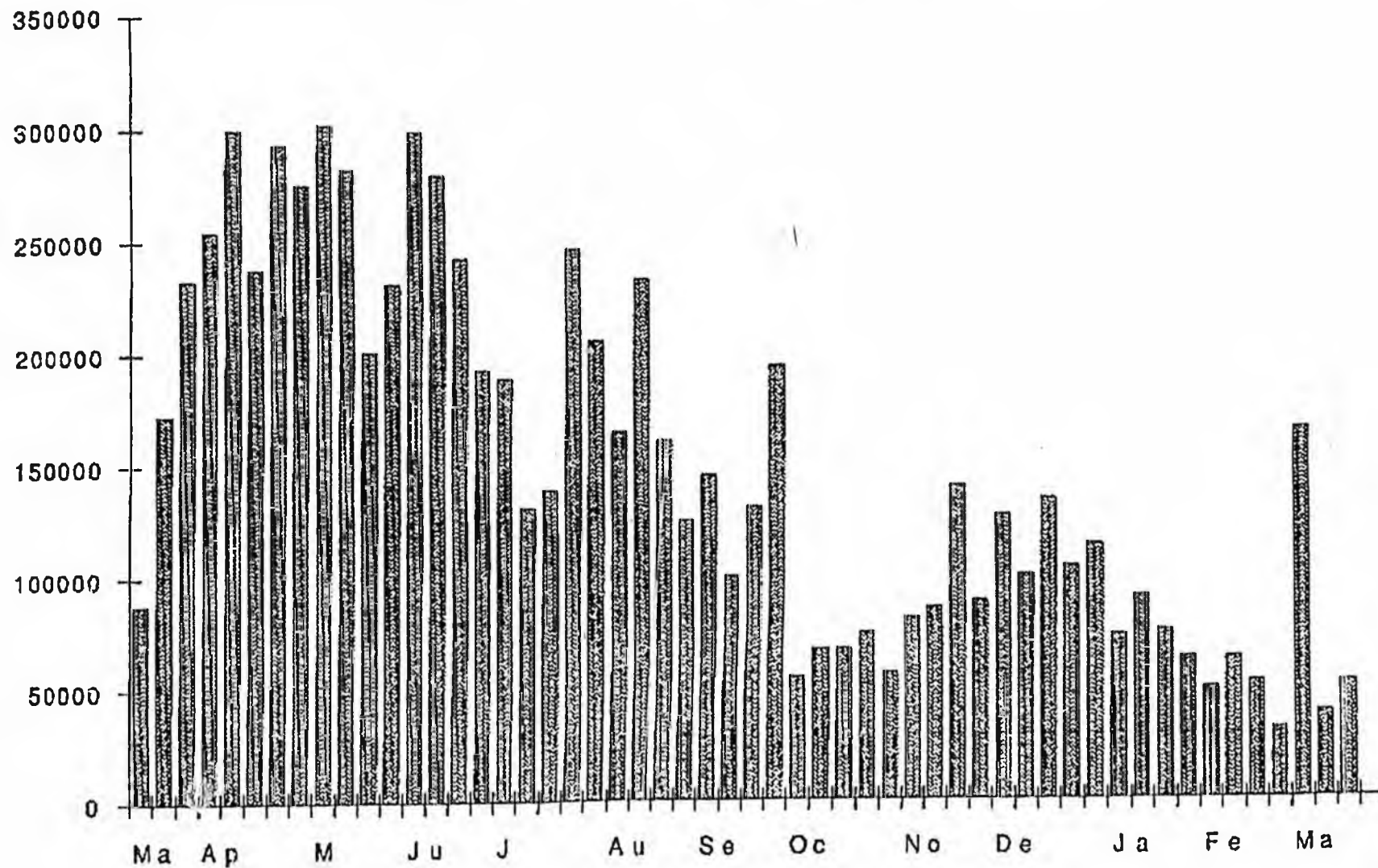
Sec. 05.15.195. CEASE AND DESIST ORDER. (a) If the commissioner of commerce and economic development determines that a person has engaged in or is about to engage in an act or practice in violation of a provision of this chapter or a regulation adopted under it, the commissioner may issue a cease and desist order prohibiting further action by the person. The cease and desist order remains in effect

until the person has submitted evidence acceptable to the commissioner showing that the violation has been corrected.

(b) A person affected by an order issued under (a) of this section may seek equitable relief preventing the commissioner of commerce and economic development from enforcing the order.

Chart3

Total Tickets Sold By Week



HB

520

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Econ. Dev.
 Title: Act relating to issuance of bonds and procurement for certain development projects Agency: Alaska Industrial Development and Export Authority
 Sponsor: Rep. Boyer, Merard, et al. Components: _____
 Requestor: House Labor & Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	122,000.0	0	0	0	0	0
---------	-----------	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS	92,000.0					
OTHER	30,000.0					
TOTAL	122,000.0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Analysis is attached as page 2.

Prepared by: Bertram L. Wagnon, Executive Director Phone: (907) 561-8050
 Division: Alaska Industrial Development & Export Authority

Approved by Commissioner: Larry Mercurieff Date: 3-5-90
 Agency: Department of Commerce & Economic Development

Distribution (by preparer):

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

ANALYSIS - FISCAL NOTE - HB 520

Section 1 of this bill would give AIDEA the authority to issue up to \$85 million in bonds for the Healy cogeneration project.

The estimated construction cost of the project is \$192 million. It is estimated that up to \$70 million in bonded debt will be required. The \$85 million figure contained in the bill provides a cushion for cost overruns that may exceed the current estimate. The actual amount of bonds will most likely be less. In addition to the AIDEA bond authorization, capital appropriations of \$92 million in federal funds and \$30 million in state funds will be required.

The state funds are shown under "other" in the fiscal note as the exact source is undetermined. The fiscal note shows all appropriations for the project in FY 91 since all appropriations will be required before AIDEA can issue bonds for the project. We anticipate that the project will be completed in FY 96 and that the expenditure by fiscal year will be as follows:

FY 91	\$ 8,000.0
FY 92	11,000.0
FY 93	46,000.0
FY 94	52,000.0
FY 95	58,000.0
FY 96	<u>17,000.0</u>
Total	\$192,000.0

H B

5 2 3

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 12, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: 3/6/90

The LABOR & COMMERCE Committee considered:

HB 523

HOUSE BILL NO. 523 BOARD OF REAL ESTATE APPRAISERS

"An Act relating to certification of real estate appraisers; and providing for an effective date."

RECOMMENDATIONS:

- [] be replaced with CS HB 523 (L+C) [] the same title
[] have attached amendment(s) [] a new title
[] do pass
[] do not pass
[] no recommendation
[] individual recommendations
[] additional referral to the finance Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [] fiscal impact _____
[] zero fiscal note DEC
[] zero with analysis _____

- [] fiscal note(s) _____
[] zero fiscal note(s) _____
[] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

SIGNING <u>DO</u> PASS:	SIGNING: (Check approp. column)	Do Not Pass	No Rec	Amend
<u>Dave Douley</u> Douley				
<u>Mark Boyer</u> Boyer				
<u>Paul Finkelstein</u> Finkelstein				
<u>Harold A. Leman</u> Leman				
<u>Bob Bowcher</u> Bowcher				
<u>W. J. Owensberg</u> Owensberg				

Dave Douley

Chairman's Signature

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to certification of real estate appraisers; . . .
Sponsor: Representative Navarre
Requestor: House Labor & Commerce

Agency Affected: Commerce & Economic Dev.
BRU: Occupational Licensing
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	17.5	17.5	17.5	17.5	17.5	17.5
TRAVEL	18.4	14.7	10.4	10.4	10.4	10.4
CONTRACTUAL	25.0	15.0	15.0	15.0	15.0	15.0
SUPPLIES	1.3	1.3	1.3	1.3	1.3	1.3
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAMS						
MISCELLANEOUS						
TOTAL OPERATING	62.2	48.5	44.2	44.2	44.2	44.2

CAPITAL	0	0	0	0	0	0
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REVENUE	60.0	0	60.0	0	60.0	0
---------	------	---	------	---	------	---

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER GF/PR	62.2	48.5	44.2	44.2	44.2	44.2
TOTAL	62.2	48.5	44.2	44.2	44.2	44.2

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	1	1	1	1	1	1
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary) The bill establishes a five-member Board of Real Estate Appraisers to establish examination and continuing education requirements for certification of general real estate appraisers and residential real estate appraisers. The division has received information that approximately 200 individuals may apply and seek certification upon passage of this legislation. (CONTINUED)

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144
Division: Occupational Licensing Date: 2/23/90

Approved by Commissioner: Larry Mercurieff Date: 2-23-90
Agency: Department of Commerce & Economic Development

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)

CONTINUATION OF FISCAL NOTE ANALYSIS - HB 523

This fiscal note represents the cost of certifying real estate appraisers with a three-member board and using an estimate of 200 individuals who may qualify for certification. Costs of the program are projected based on the number of individuals certified. Therefore, using 200 individuals as a base, the real estate appraiser certification program will be responsible to cover less than one percent (.076) of the division's operating costs, in addition to funds required to carry out specific mandates of the bill. A breakdown of these costs is as follows:

Personal Services:

One Seasonal Occupational Licensing Examiner I \$17.5
Six months, GGU, Range 12A

Travel: \$18.4

In FY 91, this funding will provide for four face-to-face meetings: two in Anchorage, one in Juneau, and one in Fairbanks; assuming two members are appointed from Anchorage, two from Juneau, and one from Fairbanks, and three division staff to attend each meeting. This funding will also provide travel to administer the examination in various locations throughout the state.

In FY 92, board meetings are reduced to three with travel provided to administer the examination in various locations.

FY 93 and forward, board meetings are reduced to two each year and travel funds to administer the examination in various locations throughout the state.

Contractual: \$25.0

This fiscal note provides \$10.0 for development of a professional certification examination in the first year. Currently, there are testing agencies with real estate appraiser examinations and, therefore, only those questions specific to Alaska will need to be developed. An additional \$15.0 will fund printing, advertising, postage and communication costs.

Supplies: \$ 1.3

Funding will provide standard office supplies.

TOTAL: \$62.2

REVENUE:

The revenues are based on 200 individuals paying a certification fee of \$150 per year. Because certifications are issued for a two-year period, revenues are doubled every other year. As indicated, certification fees of 200 certified individuals will not cover program costs and, therefore, the program will have to be covered by other licensing areas renewing in those years or supplemented with general funds.

program
impleme

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: HB 523
PUBLISH DATE: 2/12/90

REQUEST: FISCAL NOTE

Revision Date:
Title: An Act Relating to Certification of Real Estate Appraisers
Sponsor: Representatives Navarre & Swackhammer
Requestor: Labor & Commerce

Agency Affected: DOT&PF
BRU: Engineering & Operations Standards and D & C Divs.
Components: ROW Sections

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	42.6	0	0	0	0	0
TRAVEL	22.7	0	0	0	0	0
CONTRACTURAL	12.6	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	77.9	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	77.9	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS: This bill would require the DOT&PF to certify appraisers involved in the acquisition of private property for public purposes. Currently there are 14 staff who would need certification. Approximately one-half of these need most of the standards for certification. The other one-half would need to undergo the 150 hours of training required. Since the bill requires one year to certify, the department would be obligated to provide necessary training in order to maintain present staffing levels. A loss of appraisal staff could result in delays of federal-aid projects. The costs outlined above are for training 7 staff in the first year.

Prepared by: Jeffery C. Ottesen
Division: Engineering and Operations Standards

Phone: 465-2951
Date: February 27, 1990

Approved by Commissioner: Mark A. Hill
Agency: Department of Transportation and Public Facilities

Date: 3/5/90

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

Committee did not
adopt the DOTPF's
fiscal note on
HB 523.

Return to LHC

**Department of Transportation and Public Facilities
Fiscal Note Analysis**

There would be no fiscal impact in FY 1990.

Assumptions: 7 staff to be certified in 1991
 New staff would be expected to meet certification requirements

Course Costs:	\$600 for 50 hours of instruction x 3 courses	\$1,800.
Travel:	\$600 average x 3 courses	1,800.
Per Diem:	\$80 day x 6 days x 3 courses	1,440.
Salary*:	\$174 hours x \$35/hr. average	6,090.
	Total per Staff	\$11,130

For FY 1991: 7 staff * 11,130 = 77,910

* ROW Appraisal staff are CIP funded and as such would need funds to cover their salary costs when not performing on a capital project. Discussions with FHWA suggest they would not participate in the costs of this training, and as such all related costs, as depicted above, would require general funds to compensate.

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. NAVARRE

TO: HB 523

Page 1, line 27, following "appraiser;":

Insert a new paragraph to read:

"(2) adopt rules of professional conduct to establish and maintain a high standard of integrity in the real estate appraisal profession;"

Renumber following paragraph accordingly.

#2

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. NAVARRE

TO: HB 523

Page 7, lines 6 - 9:

Delete all material.

*makes it
mandatory*

6-2165E
Gaguine
3/5/90

Original sponsor(s): REP. NAVARRE, Swackhammer

1 IN THE HOUSE

BY THE LABOR & COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 523 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to certification of real estate
7 appraisers; and providing for an effective date."

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

9 * Section 1. AS 08 is amended by adding a new chapter to read:

10 CHAPTER 87. REAL ESTATE APPRAISERS.

11 ARTICLE 1. BOARD OF CERTIFIED REAL ESTATE APPRAISERS.

12 Sec. 08.87.010. BOARD CREATED. There is created in the Depart-
13 ment of Commerce and Economic Development the Board of Certified Real
14 Estate Appraisers. The board is composed of four members appointed by
15 the governor and of the executive director of the Alaska Housing
16 Finance Corporation or the director's designee. One appointed member
17 shall be a person licensed under this chapter as a general real estate
18 appraiser, one appointed member shall be a person licensed under this
19 chapter as a residential real estate appraiser, one appointed member
20 shall be an executive in a mortgage banking entity, and one appointed
21 member shall represent the public. The board shall elect a chair from
22 among its membership.

23 Sec. 08.87.020. POWERS AND DUTIES OF BOARD. In addition to the
24 powers and duties conferred on the board by AS 08.01, the board shall

25 (1) establish the examination specifications for certifica-
26 tion as a general real estate appraiser and as a residential real
27 estate appraiser;

28 (2) adopt rules of professional conduct to establish and
29 maintain a high standard of integrity in the real estate appraisal

1 profession; and

2 (3) adopt regulations necessary to carry out the purposes
3 of this chapter.

4 ARTICLE 2. CERTIFICATION.

5 Sec. 08.87.100. CERTIFICATE REQUIRED. A person is guilty of a
6 class B misdemeanor who

7 (1) does not hold a certificate issued by the board, whose
8 certificate is suspended or revoked, or whose certificate has lapsed,
9 and holds out as a certified real estate appraiser in any way, orally
10 or in writing, directly or by implication; or

11 (2) is certified as a residential real estate appraiser and
12 holds out as certified to appraise real estate other than

13 (A) residential real property of four or fewer units;

14 or

15 (B) residential real property of 12 or fewer units
16 when a net income capitalization analysis is not required by the
17 terms of the appraisal assignment and a secondary mortgage market
18 form is used.

19 Sec. 08.87.110. REAL ESTATE APPRAISER CERTIFICATE. (a) The
20 board shall issue a general real estate appraiser certificate to a
21 person who presents evidence satisfactory to the board that the person

22 (1) has successfully completed 150 or more classroom hours
23 of instruction in subjects related to real estate appraisal from an
24 appraisal organization or academic institution approved by the board;

25 (2) has successfully completed 15 classroom hours of in-
26 struction related to standards of professional practice as a real
27 estate appraiser;

28 (3) has within the seven years immediately preceding the
29 filing of the application for certification four years of experience

1 in real property appraisal or three years of experience as a regis-
2 tered trainee under AS 08.87.310;

3 (4) successfully completes an examination prescribed by the
4 board;

5 (5) has not been convicted of a crime involving moral
6 turpitude; and

7 (6) has paid the required fees.

8 (b) The board shall issue a residential real estate appraiser
9 certificate to a person who presents evidence satisfactory to the
10 board that the person

11 (1) meets the requirements of (a)(2) and (4) - (6) of this
12 section;

13 (2) has successfully completed 60 hours of classroom in-
14 struction in subjects related to residential real estate appraisal
15 from an appraisal organization or academic institution approved by the
16 board; and

17 (3) has within the five years immediately preceding the
18 filing of the application for certification three years of experience
19 in real property appraisal or two years of experience as a registered
20 trainee under AS 08.87.310.

21 (c) Notwithstanding (a) and (b) of this section, the board
22 shall, without requiring the examination specified in (a)(4) of this
23 section, issue a general real estate appraiser or residential real
24 estate appraiser certificate to a person who can, by evidence satis-
25 factory to the board, show that the person

26 (1) has been certified in another state that has certifica-
27 tion requirements substantially equivalent to the requirements estab-
28 lished by this chapter and by regulations issued by the board under
29 this chapter, and that provides for certification of nonresidents

1 under conditions similar to those set out in this subsection and
2 without discriminatory costs;

3 (2) is not the subject of an unresolved complaint or disci-
4 plinary action before an authority regulating real estate appraisers
5 or a professional real estate appraisers' association;

6 (3) has not failed the examination for certification as a
7 real estate appraiser in this state;

8 (4) has not had certification as a real estate appraiser
9 revoked or suspended in this state or in another jurisdiction;

10 (5) has submitted proof of continued competency satisfac-
11 tory to the board;

12 (6) successfully completes an examination that may be
13 prescribed by the board relating to appraisal matters unique to
14 Alaska; and

15 (7) has paid the required fees.

16 (d) A certificate may be issued to a natural person only. A
17 certified real estate appraiser may sign an appraisal report on behalf
18 of a corporation, partnership, firm, or group practice.

19 Sec. 08.87.120. CONTINUING EDUCATION REQUIREMENTS FOR RENEWAL OF
20 CERTIFICATE. (a) The board may not renew a certificate issued under
21 this chapter unless the person applying for renewal presents evidence
22 satisfactory to the board that the person has, within the two years
23 preceding the application for renewal, attended 40 classroom hours of
24 instruction in courses or seminars that have received the approval of
25 the board.

26 (b) The board may grant credit toward some or all of the re-
27 quirements of (a) of this section to a person who has

28 (1) successfully completed a program of study determined by
29 the board to be equivalent for continuing education purposes to a

1 course or seminar approved by the board for continuing education
2 credit; or

3 (2) participated, other than as a student, in educational
4 programs that related to real estate analysis or real property ap-
5 praisal theory, practice, or technique, including teaching, program
6 development, and preparation of textbooks, monographs, articles, and
7 other instructional materials.

8 (c) The board shall adopt regulations on continuing education to
9 ensure that persons applying for renewal of certificates have thorough
10 knowledge of current theories, practices, and techniques of real
11 estate analysis and appraisal. The regulations must provide for

12 (1) procedures for the sponsor of a course or seminar to
13 apply for board approval for continuing education credit; the regu-
14 lations must require the sponsor to show that claimed attendance at a
15 course or seminar can be verified; and

16 (2) procedures for evaluating equivalency claims for appli-
17 cants for certificate renewal under (b) of this section.

18 (d) In considering whether to approve courses and seminars under
19 this section, the board shall give special consideration to courses,
20 seminars, and other appraisal education programs developed by or under
21 the auspices of organizations or associations of professional real
22 estate appraisers that are utilized by those organizations or asso-
23 ciations for the purposes of awarding real estate appraisal desig-
24 nations or of indicating compliance with the continuing education
25 requirements of the organizations or associations.

26 (e) An amendment or repeal of a regulation adopted by the board
27 under this section shall not operate to deprive a person holding a
28 certificate under this chapter of credit toward renewal of the per-
29 son's certificate for a course of instruction or seminar that had been

1 completed by the person before the amendment or repeal of the regu-
2 lation.

3 ARTICLE 3. PROHIBITED PRACTICES AND
4 DISCIPLINARY PROCEEDINGS.

5 Sec. 08.87.200. PROHIBITED PRACTICES. A certified real estate
6 appraiser may not

7 (1) act negligently or incompetently or fail without good
8 cause to exercise reasonable diligence in developing an appraisal,
9 preparing an appraisal report, or communicating an appraisal;

10 (2) wilfully disregard or violate a provision of this
11 chapter or of a regulation adopted by the board under this chapter;

12 (3) fail to comply with the Uniform Standards of Profes-
13 sional Appraisal Practice adopted by the Appraisal Standards Board of
14 the Appraisal Foundation;

15 (4) accept a fee for an appraisal assignment that is con-
16 tingent upon the appraiser reporting a predetermined estimate, analy-
17 sis, or opinion or upon the opinion, conclusion, or valuation reached,
18 or upon the consequences resulting from the appraisal assignment;

19 (5) knowingly make a false statement, submit false informa-
20 tion, or fail to provide complete information in response to a ques-
21 tion in an application for certification or for renewal of a certifi-
22 cate; or

23 (6) violate the confidential nature of government records
24 to which the person gains access through retention as an appraiser by
25 the government agency.

26 Sec. 08.87.210. DISCIPLINARY PROCEEDINGS. The board may exer-
27 cise its disciplinary powers under AS 08.01.075 if, after hearing, the
28 board finds a certified real estate appraiser has

29 (1) violated a provision of this chapter or a regulation

1 adopted by the board under this chapter;

2 (2) been convicted of a crime that involves moral turpi-
3 tude; or

4 (3) committed, while acting as a real estate appraiser, an
5 act or omission involving dishonesty, fraud, or misrepresentation with
6 the intent to benefit the appraiser or another person or to injure
7 another person.

8 ARTICLE 4. GENERAL PROVISIONS.

9 Sec. 08.87.300. RETENTION OF RECORDS. (a) A certified real
10 estate appraiser shall retain for not less than three years copies of
11 all written contracts engaging the appraiser's services for real
12 property appraisal work, and all reports and supporting data assembled
13 and formulated by the appraiser in preparing the reports.

14 (b) The three-year period specified in (a) of this section for
15 retention of records is applicable to each engagement of the services
16 of the appraiser and commences upon the date of the submittal of the
17 appraisal reports to the client unless, within the three-year period,
18 the appraiser is notified that the appraisal report is involved in
19 litigation, in which case the three-year retention period commences
20 upon the date of the final disposition of the litigation.

21 (c) All records that a certified appraiser must maintain under
22 (a) of this section shall be made available to the board or department
23 for inspection and copying upon reasonable notice to the appraiser.

24 Sec. 08.87.310. REGISTERED TRAINEES. (a) A person engaged in
25 the practice of real estate appraisal who is employed by or under the
26 direct supervision of a certified real estate appraiser may become a
27 registered trainee by submitting proof to the board that the person
28 has successfully completed at least 30 classroom hours of courses in
29 subjects related to real estate appraisal from an appraisal

1 organization or academic institution approved by the board.

2 (b) A registered trainee may prepare or assist in the prepara-
3 tion of an appraisal report issued by a certified real estate apprais-
4 er if the report is also signed by the certified real estate appraiser
5 and if the certified real estate appraiser accepts full responsibility
6 for the report.

7 Sec. 08.87.320. ACTIONS BY UNCERTIFIED REAL ESTATE APPRAISERS
8 PROHIBITED. A person may not bring an action in a court of this state
9 for compensation for an act done or service rendered as a certified
10 real estate appraiser if the person did not hold a certificate under
11 this chapter at the time that the person performed the act or service
12 or offered to perform the act or service.

13 Sec. 08.87.330. EXEMPTIONS. This chapter does not apply to a
14 person who appraises real estate as part of the tax assessment process
15 of a municipality.

16 Sec. 08.87.900. DEFINITIONS. In this chapter

17 (1) "analysis assignment" means an analysis, opinion, or
18 conclusion prepared by a real estate appraiser that relates to the
19 nature, quality, or utility of certified real estate or real property;

20 (2) "appraisal" means an analysis, opinion, or conclusion
21 prepared by a real estate appraiser relating to the nature, quality,
22 value, or utility of specified interests in, or aspects of, identified
23 real estate, and includes a valuation appraisal, an analysis assign-
24 ment, and a review assignment;

25 (3) "appraisal assignment" means an engagement for which an
26 appraiser is employed or retained to act, or would be perceived by
27 third parties or the public as acting, as a disinterested person
28 rendering an unbiased analysis, opinion, or conclusion relating to the
29 nature, quality, value, or utility of specified interests in, or

1 aspects of, identified real estate;

2 (4) "appraisal report" means any communication, written or
3 oral, of an appraisal;

4 (5) "board" means the Board of Certified Real Estate Ap-
5 praisers;

6 (6) "department" means the Department of Commerce and
7 Economic Development;

8 (7) "general real estate appraiser" means a real estate
9 appraiser certified to appraise all types of real property;

10 (8) "real estate" means an identified parcel or tract of
11 land, including improvements, but excluding subsurface natural re-
12 source values;

13 (9) "real property" means one or more defined interests,
14 benefits, and rights inherent in the ownership of real estate;

15 (10) "residential real estate appraiser" means a real estate
16 appraiser certified to appraise residential real property, subject to
17 the limitations of AS 08.87.100(2);

18 (11) "review assignment" means an analysis, opinion, or
19 conclusion prepared by a real estate appraiser that forms an opinion
20 as to the adequacy and appropriateness of a valuation appraisal or an
21 analysis assignment;

22 (12) "valuation appraisal" means an analysis, opinion, or
23 conclusion prepared by a real estate appraiser that estimates the
24 value of an identified parcel of real estate, or identified real
25 property at a particular time.

26 * Sec. 2. AS 08.01.010 is amended by adding a new paragraph to read:

27 (31) Board of Certified Real Estate Appraisers (AS 08.87.-
28 010).

29 * Sec. 3. AS 08.03.010(c) is amended by adding a new paragraph to read:

1 (24) Board of Certified Real Estate Appraisers (AS 08.87.-
2 010) -- June 30, 1994.

3 * Sec. 4. AS 44.62.330(a) is amended by adding a new paragraph to read:
4 (55) Board of Certified Real Estate Appraisers.

5 * Sec. 5. INITIAL APPOINTMENTS TO THE BOARD OF CERTIFIED REAL ESTATE
6 APPRAISERS. Notwithstanding AS 08.87.010, as enacted by sec. 1 of this
7 Act, a person is eligible for an initial appointment as an appraiser member
8 of the Board of Certified Real Estate Appraisers if the person has at least
9 10 years of experience as a real estate appraiser or if the person is a
10 designated member in good standing of a real estate appraisal organization
11 that, as of January 1, 1989, required appraisal experience, appraisal
12 education, and testing to become a member, and required adherence to gen-
13 erally accepted standards of professional practice in order to retain
14 designated membership.

15 * Sec. 6. AS 08.87.100, enacted by sec. 1 of this Act, takes effect
16 July 1, 1991.

17 * Sec. 7. Except for AS 08.87.100, enacted by sec. 1 of this Act, this
18 Act takes effect July 1, 1990.

6-2165E ✓
Gaguine
3/5/90

Original sponsor(s): REP. NAVARRE, Swackhammer

1 IN THE HOUSE BY THE LABOR & COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 523 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to certification of real estate
7 appraisers; and providing for an effective date."

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

9 * Section 1. AS 08 is amended by adding a new chapter to read:

10 CHAPTER 87. REAL ESTATE APPRAISERS.

11 ARTICLE 1. BOARD OF CERTIFIED REAL ESTATE APPRAISERS.

12 Sec. 08.87.010. BOARD CREATED. There is created in the Depart-
13 ment of Commerce and Economic Development the Board of Certified Real
14 Estate Appraisers. The board is composed of four members appointed by
15 the governor and of the executive director of the Alaska Housing
16 Finance Corporation or the director's designee. One appointed member
17 shall be a person licensed under this chapter as a general real estate
18 appraiser, one appointed member shall be a person licensed under this
19 chapter as a residential real estate appraiser, one appointed member
20 shall be an executive in a mortgage banking entity, and one appointed
21 member shall represent the public. The board shall elect a chair from
22 among its membership.

23 Sec. 08.87.020. POWERS AND DUTIES OF BOARD. In addition to the
24 powers and duties conferred on the board by AS 08.01, the board shall

25 (1) establish the examination specifications for certifica-
26 tion as a general real estate appraiser and as a residential real
27 estate appraiser;

28 (2) adopt rules of professional conduct to establish and
29 maintain a high standard of integrity in the real estate appraisal

1 profession; and

2 (3) adopt regulations necessary to carry out the purposes
3 of this chapter.

4 ARTICLE 2. CERTIFICATION.

5 Sec. 08.87.100. CERTIFICATE REQUIRED. A person is guilty of a
6 class B misdemeanor who

7 (1) does not hold a certificate issued by the board, whose
8 certificate is suspended or revoked, or whose certificate has lapsed,
9 and holds out as a certified real estate appraiser in any way, orally
10 or in writing, directly or by implication; or

11 (2) is certified as a residential real estate appraiser and
12 holds out as certified to appraise real estate other than

13 (A) residential real property of four or fewer units;

14 or

15 (B) residential real property of 12 or fewer units
16 when a net income capitalization analysis is not required by the
17 terms of the appraisal assignment and a secondary mortgage market
18 form is used.

19 Sec. 08.87.110. REAL ESTATE APPRAISER CERTIFICATE. (a) The
20 board shall issue a general real estate appraiser certificate to a
21 person who presents evidence satisfactory to the board that the person

22 (1) has successfully completed 150 or more classroom hours
23 of instruction in subjects related to real estate appraisal from an
24 appraisal organization or academic institution approved by the board;

25 (2) has successfully completed 15 classroom hours of in-
26 struction related to standards of professional practice as a real
27 estate appraiser;

28 (3) has within the seven years immediately preceding the
29 filing of the application for certification four years of experience

1 in real property appraisal or three years of experience as a regis-
2 tered trainee under AS 08.87.310;

3 (4) successfully completes an examination prescribed by the
4 board;

5 (5) has not been convicted of a crime involving moral
6 turpitude; and

7 (6) has paid the required fees.

8 (b) The board shall issue a residential real estate appraiser
9 certificate to a person who presents evidence satisfactory to the
10 board that the person

11 (1) meets the requirements of (a)(2) and (4) - (6) of this
12 section;

13 (2) has successfully completed 60 hours of classroom in-
14 struction in subjects related to residential real estate appraisal
15 from an appraisal organization or academic institution approved by the
16 board; and

17 (3) has within the five years immediately preceding the
18 filing of the application for certification three years of experience
19 in real property appraisal or two years of experience as a registered
20 trainee under AS 08.87.310.

21 (c) Notwithstanding (a) and (b) of this section, the board
22 shall, without requiring the examination specified in (a)(4) of this
23 section, issue a general real estate appraiser or residential real
24 estate appraiser certificate to a person who can, by evidence satis-
25 factory to the board, show that the person

26 (1) has been certified in another state that has certifica-
27 tion requirements substantially equivalent to the requirements estab-
28 lished by this chapter and by regulations issued by the board under
29 this chapter, and that provides for certification of nonresidents

1 under conditions similar to those set out in this subsection and
2 without discriminatory costs;

3 (2) is not the subject of an unresolved complaint or disci-
4 plinary action before an authority regulating real estate appraisers
5 or a professional real estate appraisers' association;

6 (3) has not failed the examination for certification as a
7 real estate appraiser in this state;

8 (4) has not had certification as a real estate appraiser
9 revoked or suspended in this state or in another jurisdiction;

10 (5) has submitted proof of continued competency satisfac-
11 tory to the board;

12 (6) successfully completes an examination that may be
13 prescribed by the board relating to appraisal matters unique to
14 Alaska; and

15 (7) has paid the required fees.

16 (d) A certificate may be issued to a natural person only. A
17 certified real estate appraiser may sign an appraisal report on behalf
18 of a corporation, partnership, firm, or group practice.

19 Sec. 08.87.120. CONTINUING EDUCATION REQUIREMENTS FOR RENEWAL OF
20 CERTIFICATE. (a) The board may not renew a certificate issued under
21 this chapter unless the person applying for renewal presents evidence
22 satisfactory to the board that the person has, within the two years
23 preceding the application for renewal, attended 40 classroom hours of
24 instruction in courses or seminars that have received the approval of
25 the board.

26 (b) The board may grant credit toward some or all of the re-
27 quirements of (a) of this section to a person who has

28 (1) successfully completed a program of study determined by
29 the board to be equivalent for continuing education purposes to a

1 course or seminar approved by the board for continuing education
2 credit; or

3 (2) participated, other than as a student, in educational
4 programs that related to real estate analysis or real property ap-
5 praisal theory, practice, or technique, including teaching, program
6 development, and preparation of textbooks, monographs, articles, and
7 other instructional materials.

8 (c) The board shall adopt regulations on continuing education to
9 ensure that persons applying for renewal of certificates have thorough
10 knowledge of current theories, practices, and techniques of real
11 estate analysis and appraisal. The regulations must provide for

12 (1) procedures for the sponsor of a course or seminar to
13 apply for board approval for continuing education credit; the regu-
14 lations must require the sponsor to show that claimed attendance at a
15 course or seminar can be verified; and

16 (2) procedures for evaluating equivalency claims for appli-
17 cants for certificate renewal under (b) of this section.

18 (d) In considering whether to approve courses and seminars under
19 this section, the board shall give special consideration to courses,
20 seminars, and other appraisal education programs developed by or under
21 the auspices of organizations or associations of professional real
22 estate appraisers that are utilized by those organizations or asso-
23 ciations for the purposes of awarding real estate appraisal desig-
24 nations or of indicating compliance with the continuing education
25 requirements of the organizations or associations.

26 (e) An amendment or repeal of a regulation adopted by the board
27 under this section shall not operate to deprive a person holding a
28 certificate under this chapter of credit toward renewal of the per-
29 son's certificate for a course of instruction or seminar that had been

1 completed by the person before the amendment or repeal of the regu-
2 lation.

3 ARTICLE 3. PROHIBITED PRACTICES AND
4 DISCIPLINARY PROCEEDINGS.

5 Sec. 08.87.200. PROHIBITED PRACTICES. A certified real estate
6 appraiser may not

7 (1) act negligently or incompetently or fail without good
8 cause to exercise reasonable diligence in developing an appraisal,
9 preparing an appraisal report, or communicating an appraisal;

10 (2) wilfully disregard or violate a provision of this
11 chapter or of a regulation adopted by the board under this chapter;

12 (3) fail to comply with the Uniform Standards of Profes-
13 sional Appraisal Practice adopted by the Appraisal Standards Board of
14 the Appraisal Foundation;

15 (4) accept a fee for an appraisal assignment that is con-
16 tingent upon the appraiser reporting a predetermined estimate, analy-
17 sis, or opinion or upon the opinion, conclusion, or valuation reached,
18 or upon the consequences resulting from the appraisal assignment;

19 (5) knowingly make a false statement, submit false informa-
20 tion, or fail to provide complete information in response to a ques-
21 tion in an application for certification or for renewal of a certifi-
22 cate; or

23 (6) violate the confidential nature of government records
24 to which the person gains access through retention as an appraiser by
25 the government agency.

26 Sec. 08.87.210. DISCIPLINARY PROCEEDINGS. The board may exer-
27 cise its disciplinary powers under AS 08.01.075 if, after hearing, the
28 board finds a certified real estate appraiser has

29 (1) violated a provision of this chapter or a regulation

1 adopted by the board under this chapter;

2 (2) been convicted of a crime that involves moral turpi-
3 tude; or

4 (3) committed, while acting as a real estate appraiser, an
5 act or omission involving dishonesty, fraud, or misrepresentation with
6 the intent to benefit the appraiser or another person or to injure
7 another person.

8 ARTICLE 4. GENERAL PROVISIONS.

9 Sec. 08.87.300. RETENTION OF RECORDS. (a) A certified real
10 estate appraiser shall retain for not less than three years copies of
11 all written contracts engaging the appraiser's services for real
12 property appraisal work, and all reports and supporting data assembled
13 and formulated by the appraiser in preparing the reports.

14 (b) The three-year period specified in (a) of this section for
15 retention of records is applicable to each engagement of the services
16 of the appraiser and commences upon the date of the submittal of the
17 appraisal reports to the client unless, within the three-year period,
18 the appraiser is notified that the appraisal report is involved in
19 litigation, in which case the three-year retention period commences
20 upon the date of the final disposition of the litigation.

21 (c) All records that a certified appraiser must maintain under
22 (a) of this section shall be made available to the board or department
23 for inspection and copying upon reasonable notice to the appraiser.

24 Sec. 08.87.310. REGISTERED TRAINEES. (a) A person engaged in
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29 nature, quality, value, or utility of specified interests in, or

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3 oral, of an appraisal;

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7 Economic Development;

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9 appraiser certified to appraise all types of real property;

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11 land, including improvements, but excluding subsurface natural re-
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14 benefits, and rights inherent in the ownership of real estate;

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16 appraiser certified to appraise residential real property, subject to
17 the limitations of AS 08.87.100(2);

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19 conclusion prepared by a real estate appraiser that forms an opinion
20 as to the adequacy and appropriateness of a valuation appraisal or an
21 analysis assignment;

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23 conclusion prepared by a real estate appraiser that estimates the
24 value of an identified parcel of real estate, or identified real
25 property at a particular time.

26 * Sec. 2. AS 08.01.010 is amended by adding a new paragraph to read:

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 6 APPRAISERS. Notwithstanding AS 08.87.010, as enacted by sec. 1 of this
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 9 10 years of experience as a real estate appraiser or if the person is a
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 11 that, as of January 1, 1989, required appraisal experience, appraisal
 12 education, and testing to become a member, and required adherence to gen-
 13 erally accepted standards of professional practice in order to retain
 14 designated membership.

15 * Sec. 6. AS 08.87.100, enacted by sec. 1 of this Act, takes effect
 16 July 1, 1991.

17 * Sec. 7. Except for AS 08.87.100, enacted by sec. 1 of this Act, this
 18 Act takes effect July 1, 1990.

HB523

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Appraisal Subcommittee

1776 G Street, NW, Suite 701

Washington, DC 20006

FOR: Immediate Release

Contact: 202-447-1800

DATE: January 18, 1990

Guidelines for state certification and licensing of real estate appraisers were released today by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (FFIEC). The guidelines are intended to help states establish certification and licensing procedures for appraisers involved in federally related transactions.

States are authorized to establish such procedures under Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA). FIRREA also established the Appraisal Subcommittee and made it responsible for monitoring the appraiser certifying and licensing agencies that states may establish to carry out the purposes of Title XI.

The guidelines released today are designed to help states move quickly to implement provisions in Title XI, promote the independence of the appraisal regulatory function, reduce conflicts of interest, and address concerns about grandfathering and dual licensing requirements for appraisers.

In issuing today's guidelines, the Appraisal Subcommittee said it would review each state's compliance with the intent of Title XI in its entirety. Title XI instructs the Subcommittee not to recognize appraiser certifications and licenses from states whose appraisal policies, practices or procedures are found to be inconsistent with the purposes of Title XI.

In light of the important objectives of Title XI, the Subcommittee encourages public comments on the issues addressed by the guidelines, which will be published in the Federal Register. Comments should be sent to the Appraisal Subcommittee, FFIEC, 1776 G Street, N.W. Washington, D.C. 20006.

APPRAISAL SUBCOMMITTEE:
FEDERAL FINANCIAL INSTITUTIONS
EXAMINATION COUNCIL
Guidelines Regarding State Certification
and Licensing of Appraisers
Docket No. AS90-1

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council.

ACTION: Notice of guidelines.

SUMMARY: The Appraisal Subcommittee of the Federal Financial Institutions Examination Council ("Appraisal Subcommittee") is issuing this notice of guidelines to assist the states in establishing appropriate organizational structures for licensing and certifying appraisers.

These guidelines are intended to 1) facilitate timely implementation of the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, 2) promote the independence of the state appraisal regulatory function, 3) reduce conflicts of interest, and 4) address concerns regarding the issues of grandfathering and dual licensing.

This notice of guidelines provides states and interested persons with copies of the guidelines and affords them an opportunity to comment. The Appraisal Subcommittee will carefully review the comments received and may issue modified guidelines if necessary.

DATE: Comments must be received on or before (INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER).

ADDRESS: All comments should be sent to the Appraisal Subcommittee, ATTN: Keith Todd - Docket No. AS90-1, Federal Financial Institutions Examination Council, 1776 G Street, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Written inquiries regarding this notice can be sent ATTN: Keith Todd - APPRAISAL INQUIRY to the address listed above.

SUPPLEMENTARY INFORMATION:

Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("Title XI"), Pub. L. No. 101-73, 103 Stat. 183, 511 (1989), provides that states may establish a state appraiser certifying and licensing agency to assure availability of appraisers for federally related transactions, and to assure effective supervision of those appraisers. Title XI also established the Appraisal Subcommittee whose responsibilities, among other things, include monitoring the state appraiser certification and licensing systems.

In order to facilitate implementation of Title XI, the Appraisal Subcommittee is issuing these guidelines for use by the states in discharging their functions and responsibilities under the statute.

This notice of guidelines advises the states and interested persons of the content of the guidelines and affords an opportunity to comment on them. The Appraisal Subcommittee will carefully review the comments received and may issue modified guidelines if necessary.

1/18/90

DATED:

KEVIN BLAKELY

CHAIR, APPRAISAL SUBCOMMITTEE,

FEDERAL FINANCIAL INSTITUTIONS

EXAMINING COUNCIL

BILLING CODE: 6210-01-M

APPRAISAL SUBCOMMITTEE
GUIDELINES REGARDING
STATE CERTIFICATION AND LICENSING OF APPRAISERS

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) established an Appraisal Subcommittee of the Federal Financial Institutions Examination Council. The responsibilities of the Appraisal Subcommittee include, among other things, monitoring the appraiser certifying and licensing agencies, which states may establish to carry out the purposes of Title XI. Section 1116 (d) of this Title instructs the Subcommittee not to recognize appraiser certifications and licenses from states whose appraisal policies, practices or procedures are found to be inconsistent with Title XI.

The legislative history accompanying Title XI indicates that states should adopt an organizational structure for implementing their appraiser licensing, certification and supervision functions that avoids potential conflicts of interest. Recognizing that each state has fiscal constraints or other factors that could influence the structure and location of the agency charged with licensing and certifying appraisers, the legislative history also indicates a desire to avoid imposing any particular organizational structure upon the states. However, while this suggests that a state could choose to locate the appraisal regulatory function in the same department as the regulation of real estate licensing, promotion, development or financing functions (hereinafter "realty related activities"), the organizational structure of the department must provide adequate safeguards to ensure that the appraisal regulatory function is independent of realty related activities.

In response to numerous requests from states and other interested parties, the Subcommittee is issuing these guidelines to assist the states, territories and the District of Columbia in the establishment of appropriate organizational structures for licensing and certifying appraisers. The guidelines are intended to facilitate the implementation of Title XI, promote the independence of the appraisal regulatory function, reduce conflicts of interest, and address the grandfathering and dual licensing of appraisers. Given the importance of these objectives, the subcommittee will accept and consider public comments on the issues addressed by these guidelines.

GUIDELINES

LOCATION OF THE AGENCY

The Subcommittee believes it is preferable that the certification and licensing function be established as a totally independent regulatory agency answerable to the governor or a cabinet level officer who has no regulatory responsibility for realty related activities. (In these guidelines, the appraisal regulatory body will be referred to as the "agency", although it may also be a board, commission, or individual). Such a structure would provide maximum insulation for the agency from influences of any industry or organization whose members have a direct or indirect financial interest in the outcome of the agency's decisions (hereinafter "affected industry").

If, due to fiscal or other constraints, a separate agency is not feasible, the appraisal certification and licensing function should be located within a state

regulatory body which is structured to adequately eliminate the influences of an affected industry over the appraisal function.

APPOINTMENT OF THE AGENCY HEAD

The appointment of the agency head or members of the appraisal board should be made by an individual or committee not associated or affiliated with an affected industry. (An individual would be affiliated or associated with an affected industry if the individual had a direct or indirect pecuniary interest in the industry).

? what does this say

To illustrate:

An autonomous agency head, appointed by the governor and subject to confirmation by the legislature would generally be considered to be properly appointed.

An individual or board chosen by or answerable to a committee or commission comprised of a majority of real estate appraisers, real estate brokers, financial institution executives or other members of an affected industry would not meet the criteria for being independently appointed.

INDEPENDENCE FROM AFFECTED INDUSTRIES

If the agency is directed by an individual, that person should not be actively engaged in the appraisal business or any other affected industry for the term of appointment or employment, and for a reasonable period thereafter.