

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

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MONEY AND RATES OF INTEREST

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incidental to loan origination and normally taking place outside the office of the lender or performed by 3rd persons.

(d) "Person related to" has the meaning given under s. 421.301(32) and (33).

(2) (a) 1. A loan may be prepaid by the borrower at any time in whole or in part.

2. The parties may agree that if a prepayment is made within 5 years of the date of the loan, then the lender shall receive an amount not exceeding 60 days' interest at the contract rate on the amount by which the aggregate principal prepayments for a 12-month period exceeds 20% of the original amount of the loan.

3. If a prepayment is made 5 or more years from the date the loan is made, no premium or penalty may be received by the lender. This subdivision applies notwithstanding any refinancing, renewal, extension or modification of the loan.

(b) Upon prepayment of a loan in full by cash, renewal or refinancing, the borrower is entitled to a refund of unearned interest paid. Unearned interest is that portion of any prepaid charge, excluding amounts permitted under sub. (3), multiplied by the number of unexpired payment periods as of the date of prepayment and divided by the total number of payment periods, plus, at the option of the lender, either:

1. The portion of interest which is allocable to all unexpired payment periods as scheduled. Except as otherwise agreed by the parties under sub. (4), a payment period is unexpired if prepayment is made within 15 days after the payment's due date. The unearned interest is the interest which, assuming all payments are made as scheduled, would be earned for each unexpired payment period by applying to unpaid balances of principal, according to the actuarial method, the contract rate on the date of prepayment. The creditor may decrease the annual interest rate to the next multiple of 0.25%.

2. The total interest charge less all prepaid interest charges and the amount determined by applying the contract rate, according to the actuarial method, to the unpaid balances for the actual time those balances were unpaid up to the date of prepayment.

(3) For purposes of computing a refund under sub. (2)(b), interest does not include any of the following:

(a) Identifiable and separately itemized charges for services incident to the loan if they are bona fide and paid to 3rd parties.

(b) Fees, discounts or other sums actually imposed by the government national mortgage association, the federal national mortgage association, the federal home loan mortgage corporation or other governmentally sponsored secondary mortgage market purchaser of the loan or any private secondary mortgage market purchaser of the loan who is not a person related to the original lender.

(c) A loan administration fee charged by a lender, including fees paid to 3rd parties for loan administration services, not exceeding 2% of the principal amount of any construction loan and 2% of the principal amount of any other loan.

(d) The amount of any prepayment charge authorized under sub. (2)(a) 2 and received.

(e) Loan commitment fees.

(f) Amounts paid to the lender by any person other than the borrower.

(4) For the purpose of calculating the rate of interest under sub. (2)(b), the parties may agree that any instalment paid within 30 days prior to or after the scheduled due date is paid on the due date.

(5)(a) Except as provided in par. (b), a bank, credit union, savings bank, savings and loan association or mortgage banker which originates a loan after January 31, 1983, and which requires an escrow to assure the payment of taxes or insurance shall pay interest on the outstanding principal balance of the escrow of not less than 5.25% per year, unless the escrow funds are held by a 3rd party in a noninterest-bearing account.

(b) The parties may agree to waive payment of all or part of the interest required under par. (a) if more than 75% of the lender's interest in the loan is sold to a 3rd party who is not a person related to the lender and the escrow funds are held by the 3rd party.

(5m)(a) In this subsection, "escrow agent" means a person who receives escrow payments on behalf of itself or another person.

(b) 1. Except as provided in par. (e), if an escrow is required to assure the payment of property taxes, a bank, credit union, savings bank, savings and loan association or mortgage banker which originates a loan on or after July 1, 1988, shall, before the loan closing, provide the borrower with a written notice clearly stating that the borrower may require the escrow agent to make payments in any manner specified in subd. 3 from the amount escrowed to pay property taxes and the responsibilities of the borrower and escrow agent as provided in subds. 4 and 5.

2. Except as provided in par. (e), if an escrow is required to assure the payment of property taxes for a loan originated before July 1, 1988, the escrow agent shall send, by November 15, 1988, written notice to the borrower clearly stating that the borrower may require the escrow agent to make payments in any manner specified in subd. 3 from the amount escrowed to pay property taxes and the responsibilities of the borrower and escrow agent as provided in subds. 4 and 5.

3. Except as provided in par. (e), a borrower may require an escrow agent who receives escrow payments to assure the payment of the borrower's property taxes to do any of the following, if the borrower notifies the escrow agent as provided in subd. 4 and if the borrower is current in his or her loan payments:

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a. By December 18, send to the borrower a check in the amount of the funds held in escrow for the payment of property taxes, made payable to the borrower and the town, city or village treasurer authorized to collect the tax.

b. Pay the property taxes by December 31, if the escrow agent has received a tax statement for that property by December 20.

c. Pay the property taxes when due.

4. To require the escrow agent to make payments in any of the manners specified in subd. 3, the borrower shall send, by December 1, written notice to the escrow agent specifying the manner, from the 3 choices under subd. 3, that the borrower wants the escrow agent to make payments. Except as provided in subd. 5. b, once notified, the escrow agent shall annually make payments in that manner unless the borrower is not current in his or her loan payments or unless otherwise notified in writing by the borrower by December 1.

5. a. If the borrower chooses to receive payments as provided in subd. 3, the borrower shall annually, by March 31, send to the person to whom the borrower makes his or her loan payments a copy of the receipt for paid property taxes.

b. If the borrower fails to comply with subd. 5. a, the borrower loses the option of receiving payments that year in the manner specified in subd. 3. a. During the next year, the borrower may again receive payments under subd. 3. a if the borrower renotifies the escrow agent by sending written notice to the escrow agent by December 1 of the next year and if the borrower is current in his or her loan payments.

6. If the borrower sends the check received under subd. 3.a to the town, city or village treasurer after the county has assumed responsibility for collecting property taxes, the town, city or village treasurer shall accept the check and pay over to the county treasurer the amount of the check. If the amount of the check sent by the borrower to the town, city or village treasurer exceeds the amount of property taxes owed by the borrower, the town, city or village treasurer shall refund the excess amount to the borrower and, if the county has assumed responsibility for collecting property taxes, pay over to the county treasurer the remaining amount of the check.

(c) A borrower may establish an escrow account required for the payment of taxes and insurance in a financial institution, as defined in s. 710.05(1)(c), of the borrower's choice if the escrow agent fails to comply with par. (b) 3, unless the lender or person to whom the loan is sold or released demonstrates that the financial institution is incapable of servicing the escrow account.

(d) If a borrower establishes an escrow account under par. (c), the borrower shall annually, by March 31, send to the person to whom the borrower makes his or her loan payments verification of the amounts which the borrower deposited in the escrow account during the previous 12 months and copies of receipts for taxes and insurance paid during the previous 12 months.

**OVERCHARGING ON MORTGAGES:
VIOLATIONS OF ESCROW ACCOUNT LIMITS
BY THE MORTGAGE LENDING INDUSTRY**

**A REPORT
BY**

THE ATTORNEYS GENERAL OF

**CALIFORNIA
FLORIDA
IOWA
MASSACHUSETTS
MINNESOTA
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OVERCHARGING ON MORTGAGES:
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BY THE MORTGAGE LENDING INDUSTRY

Millions of homeowners throughout this country make monthly mortgage payments to banks and other mortgage lenders. The vast majority of these homeowners pay, as part of that monthly mortgage bill, a supplemental sum earmarked for what is known as a mortgage escrow or impound account. These mortgage escrow accounts are established by mortgage lenders to collect and hold money from homeowners so that the lenders can pay taxes and insurance on mortgaged properties when those payments fall due. This report, which documents the findings of a multi-state investigation into mortgage escrow practices, concludes that the mortgage lending industry has systematically violated federal law for more than a decade by extracting excessive escrow payments from the majority of mortgage-paying homeowners and presently holds several billion dollars of homeowners' money unlawfully.

I. Introduction

In 1974 Congress declared that "significant reforms in the real estate settlement process are needed to insure that consumers throughout the nation ... are protected from unnecessarily high settlement charges caused by certain abusive practices..." Based upon this finding, Congress enacted the Real Estate Settlement Procedures Act (RESPA), announcing that one of the central purposes of the new law was to achieve "a reduction in the amounts home buyers are required to place in escrow accounts established to insure the payment of real estate taxes and insurance." Sixteen years after this important federal consumer protection statute was enacted, Congress' promise to American

homeowners remains unfulfilled.

In passing RESPA, Congress sought to eliminate the prevalent practice of retaining in mortgage escrow accounts sums far in excess of the amounts actually necessary to pay tax and insurance premiums as they come due. While recognizing that a modest "cushion" in each escrow account is justified to protect lenders from having to pay the consumer's taxes or insurance out of the lender's own funds when the consumer is late in paying his or her mortgage bill, Congress was outraged that in many cases lenders were maintaining bloated escrow accounts with a year or more of excess escrow payments in them. Such exorbitant "cushions" could not be justified by the lenders' interests in not having to pay taxes and insurance out of their own funds. In response to this abusive practice, Congress enacted RESPA, which, in part, prohibits lenders and mortgage servicers from requiring consumers to maintain more than an extra two months' worth of the yearly amount necessary to pay taxes and insurance premiums. This cushion amounts to 1/6 of the total annual escrow payments.

In June 1988, after receiving consumer complaints in some states charging that mortgage lenders were requiring consumers to put into escrow considerably more money than was needed to pay taxes and insurance, the Attorneys General of the states of California, Iowa, Massachusetts, Minnesota, New York and Texas ("states") undertook a preliminary review of the mortgage escrow practices of mortgage lenders to determine if the limitations established by consumers' mortgage contracts and RESPA were followed. Florida later joined the group. As part of this process, the states analyzed individual consumer complaints, met with the Mortgage Bankers Association of America ("MBA") and

also met with and examined the escrow accounting systems of four of the largest lenders in the country.

The Attorneys General's central finding is extremely disturbing: lenders are holding in mortgage escrow accounts more funds of American homeowners than either federal law or the homeowners' mortgage contracts allow. On an industry-wide basis, mortgage lenders continually escrow excessive amounts in consumer mortgage escrow accounts in violation of the ceiling set by Congress in 1975 in RESPA. It appears that this over-escrowing affects approximately 2/3 of all home mortgages, and that each of the affected homeowners is required to maintain about \$150 more in an escrow account than RESPA permits. Nationwide, it is likely that at least several billion dollars of consumers' money is being illegally held in these accounts as a result of these over-escrowing practices. Furthermore, lenders are also ignoring the often stricter limits placed on the size of escrow accounts by their own mortgage contracts with consumers. Thus, the total dollar amount over-escrowed is likely to be even larger than the states' analysis under RESPA alone would suggest.

This report is intended to bring to public attention the widespread abuse of mortgage escrow accounts uncovered by the states' investigation. Specifically, this report explains what mortgage escrow accounts are and how they work (Part II); discusses the statutory and contractual limits on the amount which can be maintained in escrow accounts (Part III); describes the states' review of mortgage escrow practices and their findings that the mortgage industry appears to be ignoring both the statutory limits set out in RESPA and their own mortgage agreements (Part IV); describes what other actions the states have

taken to date (Part V); and concludes with recommendations for resolving this problem. Foremost is the recommendation that the Department of Housing and Urban Development ("HUD") put an end to these abuses by launching an enforcement program to ensure compliance with the RESPA limits on escrow accounts.

II. Mortgage Escrow Accounts

Most mortgage contracts for residential property are written on one of a handful of standard forms. These form mortgage contracts typically contain a clause requiring consumers to pay to the lender a supplemental monthly sum to be placed in an escrow account. Such mortgage escrow accounts are established by lenders¹ so that they can be assured that they will have received sufficient funds from consumers to pay taxes and hazard insurance on the mortgaged property when each payment is due. This protects the lenders' interest in the mortgaged property. In all but a few states, little or no interest is paid to the consumer by the lender on such escrow accounts.

A hypothetical escrow account, where all payments are made at one time in the year, would work as follows. If county taxes on a property were \$1200 per year, school taxes \$600 per year and hazard insurance \$600 per year, the lender would need to collect \$2400 per year from the consumer, or \$200 per month ($\$2400 \div 12$), in order to make these payments.

However, escrow accounts are generally more complicated than this example

¹ As used in this report, the term "lender" includes mortgage servicers, which are companies that specialize in collecting mortgage payments from consumers on loans originated or owned by some other company.

because tax and insurance payments are almost always required to be paid at different times of the year. Thus, if the lender simply required the consumer to pay \$200 per month into the escrow account, a shortage in the escrow account could result at some point during the year. For example, if there were only \$400 in the account in March and a \$1200 school tax must be paid that month, the lender would have to pay out \$800 of its own funds ($\$1200 - 400$), and the escrow account would be short by \$800.

To avoid such deficiencies in the escrow accounts, lenders perform an "escrow analysis", usually once a year, to determine if enough funds will be collected to avoid having to advance corporate funds to pay the consumer's taxes and insurance. These escrow analyses must be conducted to track yearly tax and insurance premium changes. However, most consumers are unfamiliar with these complicated escrow analyses and therefore do not check whether the lender is requiring more money to be held in these accounts than is needed to pay the taxes and insurance.

Obviously, the lenders' requirement that consumers pay funds into an escrow account for taxes and insurance combined with the substantial financial incentive lenders have to keep significantly more funds in the escrow accounts than are actually needed to pay the taxes and insurance premiums when they come due can lead to serious abuses. Indeed, as discussed below, the states estimate that the mortgage lender industry is holding several billion more dollars of homeowners' money in escrow accounts than is lawful under either state or federal law.

III. Statutory And Contractual Limits On Escrow Accounts:
RESPA And The Mortgage Contracts

In response to severe over-escrowing by some lenders --in some cases more than 12 months worth of escrow payments was maintained at all times during the year -- Congress in 1974 passed RESPA, 12 U.S.C. §2601 et seq., limiting escrow accounts to no more than a one-month surplus. This cushion was permitted because Congress recognized that consumers were sometimes a month late in paying their mortgages. A year later, in response to lenders' complaints that consumers were sometimes more than a month late in paying their mortgages, Congress amended RESPA to allow lenders to maintain up to a two-month cushion (1/6 of the annual escrow payments). 1974 U.S. Code Cong. & Ad. News 6546; 1975 U.S. Code Cong. & News 2448.

Section 10 of RESPA clearly establishes a ceiling for the so-called cushion in the escrow account. The cushion is to be "such amount as is necessary" so that one-sixth of the total escrow disbursements (two months of escrow payments) for the upcoming year will be "maintain[ed]" at all times during the year. In particular, section 10 of RESPA, 12 U.S.C. §2609(2), provides that a lender may not require a borrower:

to deposit in any such escrow account in any month beginning with the first full installment payment under the mortgage a sum [for the purpose of assuring payment of taxes, insurance premiums and charges with respect to the property] in excess of the sum of (A) one-twelfth of the total amount of estimated taxes, insurance premiums and other charges..., plus (B) such amount as is necessary to maintain an additional balance in such escrow account not to exceed one-sixth of the estimated total amount of such

taxes, insurance premiums and other charges...
(Emphasis supplied.)

Many mortgage lenders have continued to use underlying mortgage contracts that impose even more restrictive limitations on the amount which may be maintained in the escrow account than the RESPA 1/6 ceiling on escrow cushions. These mortgage contracts often provide for only a one-month cushion, or even no cushion at all. RESPA in and of itself does not authorize a 1/6 escrow cushion unless the underlying mortgage provides for such a cushion. RESPA merely imposes a ceiling, an upper amount, on any escrow cushion that may be permitted by the mortgage contract.

IV. The States' Review of Industry Escrow Practices

To determine whether and to what extent over-escrowing is taking place on an industry-wide basis, in late October, 1988 the states contacted four of the largest national mortgage lenders regarding their escrowing practices. Escrow data concerning individual homeowner mortgages was requested from each of the companies, and meetings were held with each company and with representatives of the Mortgage Bankers Association of America (MBA) in February, 1989. Based on escrow analysis data provided, the descriptions given by the companies at our meetings of how they perform escrow analyses, and the information from the MBA, the states verified that escrow administration methods that lead to excessive escrowing of consumers' funds is an industry-wide practice, although the extent of the excesses held varies from company to company.

The states found two major problems. First, there appear to be widespread violations of the RESPA two-month ceiling. The mortgage companies exceed the RESPA

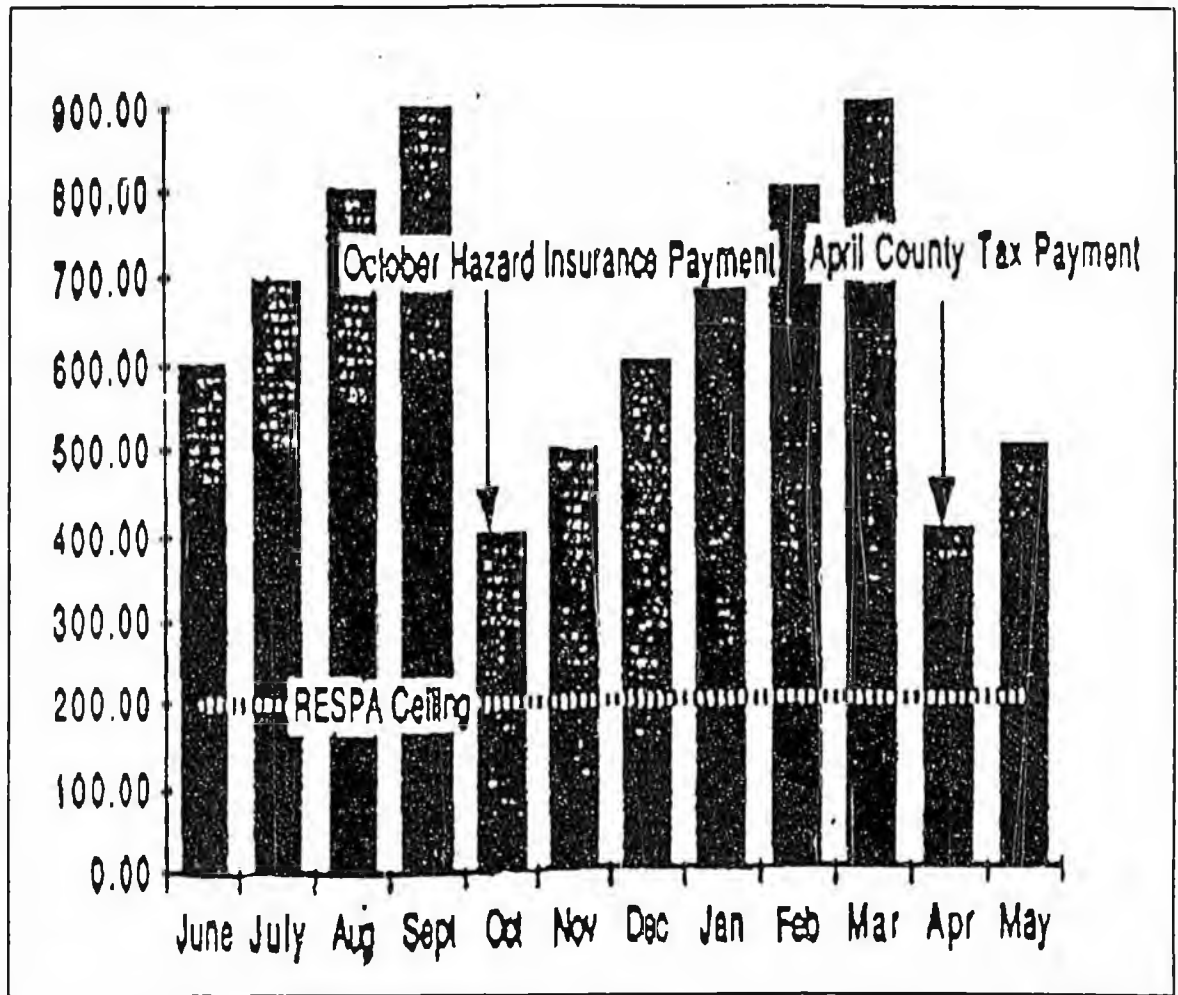
ceiling by utilizing an accounting technique called "individual item analysis." As described below, although this type of accounting analysis is permissible if properly used, it is invariably used in a manner that frequently results in unlawful escrow account balances. The problem with individual item analysis lies in the failure of the lenders to conduct checks on whether excessive balances have resulted and to take measures to restore appropriate balances as required by RESPA. Second, the states found that lenders routinely ignore the escrow account restrictions found in their underlying mortgage agreements (which typically provide for only a one month cushion or no cushion).

A. Violations of RESPA Limitation on Cushions

The Mortgage Bankers Association as well as each of the lenders we contacted readily acknowledged that the mortgage industry utilizes "individual item analysis" in establishing individual consumers' mortgage escrow accounts.

In individual item analysis, lenders, for accounting purposes, treat the single escrow account as if separate sub-accounts exist for each item which must be paid out of the escrow account. For example, each monthly escrow payment made by the consumer to the lender is apportioned to sub-accounts for such property-related expenses as school taxes, county taxes, sewage tax, and hazard insurance. Lenders then require that each of these hypothetical sub-accounts never dip below zero, regardless of how much money may be in the escrow account as a whole when each payment must be made. This method assumes, for example, that money in the school tax sub-account could not be used to pay a hazard insurance bill in a particular month. Unless lenders check and adjust for excesses, the use of individual item analysis in many cases results in three, four, or even

more months' worth of escrow payments being maintained at all times. An explanation of how individual item analysis is performed by lenders in a specific case is provided in Appendix I.



This chart illustrates a simple escrow account and shows why individual item analysis, without a subsequent check of the projected running escrow balance, fails to detect or prevent excess cushions. Two bills are paid out of the account each year, a \$600 hazard insurance payment in October and a \$600 county tax payment in April. The total annual payments to be made are therefore \$1200. The monthly escrow payment is \$100, or one-twelfth of the total of the bills. Each month, \$50 of the consumer's payment of

\$100 is allocated to hazard insurance and \$50 is allocated to the county tax. Each column represents the total amount of money that individual item analysis would require to be on hand in each month. The black area represents that portion of the required balance attributable to the hazard insurance and the grey area represents the amount attributable to the county tax. Thus, as the chart shows, the account is set up in such a way that the full \$600 necessary to pay each bill has been collected by the month prior to the month in which the bill will be paid.

The amount of cushion in this account, -- that is, the amount in excess of that necessary to pay the bills when they come due -- is \$400, or twice the amount of the RESPA ceiling, even though the cushion in each sub-account is only \$50, or half the amount of what the RESPA ceiling would be if the ceiling were based on each individual sub-account.

The reason for the discrepancy is that individual item analysis assumes that in our example the money in the county tax sub-account is not available to pay the hazard insurance bill when it comes due. There will clearly be enough money to pay the October bill if there is \$600 in the total account at the end of September. Since there are six collections of \$100 each between September and March, the month before the April bill is due, there will also be no shortage in April when it comes time to pay the second \$600 bill. Yet individual item analysis requires a balance of \$900 in the account at the end of September, far in excess of that necessary to pay either bill when due.

A review of the escrow analyses provided to us by the four lenders whose practices we examined demonstrates that, in a majority of cases, individual item analysis

has created excessive cushions that violate RESPA. Using these lenders' own analyses and assuming that their underlying mortgage contracts allowed for the full two-month cushion to be collected (which, as discussed below in IV. B. is often not the case), the states checked the amount of the cushions that resulted. Two of the companies provided detailed data and their escrow analyses for approximately 40 randomly selected mortgages during a three year period. The states found that the escrow payments collected in over two-thirds of the analyses resulted in excessive cushions. For one company, in 72% of the 41 mortgages reviewed, consumers were required to make excessive escrow payments during at least one of the three years. For the second company, 89% of 38 mortgages reviewed indicated excessive payments in at least one of the three years. In dollar terms, the average amount by which the projected cushions exceeded the RESPA ceiling was \$150 - \$115.84 for the first company and \$203.97 for the second. The material so far provided by the other two companies has not allowed for such detailed analysis, but preliminary review suggests that similar results will be found. An explanation of how these numbers were computed is found in Appendix II.

Extrapolating from the results for these lenders to the industry as a whole reveals a problem of staggering proportions. Since there are tens of millions of home mortgages in the United States which require escrow accounts, an average surplus of \$150 in 2/3 of these mortgages would add up to several billion dollars nationwide, an estimate confirmed in conversations with HUD officials.

Given the widespread use of the individual item analysis approach, it is not surprising to find so many violations, adding up to such large sums of money. Although

the division of the escrow account into individual items is certainly a simple way to ensure that there will always be sufficient money on hand to pay bills as they come due, it almost guarantees the retention of an excessive cushion. If all bills were paid at about the same time of the year, a very unusual occurrence, all of the balances in the individual sub-accounts would drop to near zero at about the same time, and the overall cushion in the account would drop to near zero as well. However, when bills are paid out of the account at different times during the year, as is the usual case, at any time when one account is near zero, even if the lender does not intentionally attempt to maintain any cushion, other sub-accounts typically have substantial funds in them. As a result, the cushion is likely never to drop to the amount permitted by RESPA, let alone to the usually smaller cushion, if any, allowed by the mortgage contract.

While RESPA does not prohibit individual item analysis per se, if the industry wants to use this kind of accounting fiction for its own convenience, it must do two things. First, it must treat all of the money in its hypothetical sub-accounts as available to meet all of the consumer's obligations. This would be consistent with RESPA's requirement that the deposit each month to the account be no more than the "sum" of all of the separate items -- various "taxes", various insurance "premiums" and other "charges" -- and would conform to Congress' intent, as reflected in the language of Section 10 of RESPA, that there be only one escrow account per mortgage, not multiple or sub-accounts.

Second, in order to avoid excessive escrow balances, mortgage companies using individual item analysis to administer their accounts must also use some means of projecting the amount of cushion that will result and, as indicated in the HUD Handbook.

Administration of Insured Home Mortgages, Doc. No. 433.01 ("HUD Handbook") p. 13, make such adjustments as are necessary to ensure that use of this method of escrow analysis does not "create excessive surpluses." The lender, for example, must perform a trial "running escrow balance" for the upcoming year to ensure that at least at some point during the upcoming year, the escrow balance will dip to no more than two months' worth of escrow payments, or whatever lesser cushion is authorized by the mortgage contract. If the escrow account does not dip to that low point sometime during the year, then under Section 10 of RESPA, an excess exists in the escrow account. See Leff v. Olympia Savings, 55 U.S.L.W. 2260 (Sept. 19, 1986. N.D. Ill.)

The legislative history of RESPA confirms that Congress, in passing and then amending RESPA, expected strict compliance from the industry, not "sophisticated" accounting methods that circumvent Section 10 requirements. The original RESPA, passed in 1974, placed the ceiling on cushions at one-twelfth of annual escrow payments. When, one year later, Congress expanded the permissible cushion to two months, it did so because it specifically found the one month cap on cushions insufficient to protect lenders forced to advance corporate funds to pay the taxes and insurance for consumers who paid their mortgages more than one month late. Yet Congress expressly limited the cushion to two months, expecting that at some time during the year the amount in the escrow account balance would drop to that amount. Certainly Congress did not intend to allow a loophole so that the industry could manipulate a two month cushion into three, four or more months of escrow funds. See 1975 U.S. Cong. & Ad. News, p. 2448.

B. Violations of Underlying Mortgage Agreements

In addition to violating the RESPA ceiling, mortgage lenders also routinely ignore the escrow limits expressly contained in their own mortgage contracts.

For example, in the FNMA (Federal National Mortgage Association) "Uniform Instrument" mortgage contract used by many lenders throughout the United States since 1983, borrowers are required to make monthly payments of

...a sum ("Funds") equal to one-twelfth of (a) yearly taxes and assessments which may attain priority over this Security Instrument; (b) yearly leasehold payments or ground rents on the Property, if any; (c) yearly hazard insurance premiums; and (d) yearly mortgage insurance premiums, if any. These items are called "escrow items." Lender may estimate the Funds due on the basis of current data and reasonable estimates of future escrow items. (emphasis supplied)

This contractual language clearly limits the lender to a monthly payment not greater than one-twelfth of the "reasonabl[y] estimate[d]" yearly taxes and premiums. Nonetheless, as a result of the individual item analysis described above, many lenders require borrowers who have FNMA contracts to maintain a cushion of more than two months' worth of escrow payments.

Lenders improperly rely on RESPA to justify maintaining a two-month payment cushion, even where the mortgage document itself permits only a one-month cushion or no cushion at all. Yet RESPA simply sets the lawful "ceiling" for escrow payments specified in a mortgage contract. It does not by its own terms authorize lenders

to maintain a two-month cushion, if a lesser amount is dictated by the mortgage instruments. In other words, if the mortgage contract provides for no cushion or a one-month cushion, then the lender is bound by that contractual limitation. If the mortgage contract calls for a cushion greater than two months, RESPA's 1/6 limitation supersedes the contractual provision.

In enacting and subsequently amending RESPA, Congress restricted the size of escrow cushions, and did not provide authority, as the industry contends, to establish a two month escrow account cushion on loans where the mortgage contract calls for a smaller cushion or no cushion at all. HUD has correctly interpreted this aspect of Section 10 of RESPA when it stated; "The mortgage instrument [not RESPA] provides the authority for the mortgagee to accumulate sufficient escrow funds with which to pay the mortgagor's tax and insurance bills..." HUD Handbook, p. 7. Section 10 of RESPA simply provides a ceiling which lenders may not exceed, notwithstanding the escrow provisions in the mortgage document.

V. State Action To Date

To address the problems identified during their investigation and review, the states have taken the following steps. In July 1988, the states contacted officials responsible for RESPA enforcement in the federal Department of Housing and Urban Development ("HUD"). Members of the multi-state group met with representatives of HUD to discuss these issues. Counsel for HUD did not dispute the states' reading of the limitations that RESPA places on the amounts that lenders may hold in mortgage escrow accounts. HUD counsel invited the states to submit a comment on the then pending

proposed regulation, 24 CFR 3500.17, dealing explicitly with the amounts which can be held in escrow accounts.

On July 20, 1988, California, Iowa, New York and Texas submitted a joint comment to HUD on its proposed rule. Massachusetts subsequently filed its own letter in support of the other states' comment. Concurring in the comments, Minnesota joined in the multi-state review of home mortgage escrow practices. The states' comment asked that HUD's proposed rule, which did little more than restate the statutory language of RESPA, be modified to clarify and make explicit how lenders should properly compute balances under RESPA so as to avoid excesses under the law. See Appendix III, comment of the states to HUD, dated July 20, 1988.

In October, 1988, HUD contacted the states and asked that we clarify our comment by providing illustrative examples. The states complied with this request by submitting clarifying language as well as examples to HUD. See Appendix IV. In April, 1989, representatives of the states met again with HUD officials to discuss our concerns on over-escrowing.

By September, 1989, more than a year after the states had submitted their comments to HUD on its proposed rule, HUD still had not even proposed a revised rule, let alone promulgated a final rule. This failure to act led the states of California, Florida, Iowa, Massachusetts, Minnesota, New York and Texas on September 19, 1989 to write to HUD Secretary Jack Kemp to urge HUD to adopt the states' proposed regulation, which would make unequivocally explicit the escrow limitations under RESPA. See Appendix V. The states have received no response from Secretary Kemp. As a result, this

important issue, involving billions of homeowners' dollars, remains in administrative limbo.

CONCLUSION

Our inquiry has revealed substantial continuing violations of law in the mortgage industry. None of the mortgage companies we contacted conforms its escrow account practices to the restrictions imposed by either RESPA or its own mortgage agreements. When we examined the individual escrow analyses of two mortgage companies in detail, we found that in 71% of the cases reviewed, lenders required homeowners to deposit excessive monthly escrow payments in violation of RESPA. In other words, in 71% of the randomly-selected files, homeowners were being required to maintain illegally large escrow balances. These illegal escrow excesses averaged at least \$150 per mortgage. From our discussions with lenders and representatives of the Mortgage Bankers Association of America, it appears that these unlawful escrow account practices are standard operating procedure within the industry. Nationwide these improper practices deprive consumers of billions of dollars.

Although individual states may take legal action against lenders doing business within their boundaries, HUD has it within its power to end these industry-wide violations once and for all by vigorously enforcing the escrow limits of RESPA and the underlying mortgage contracts. The first step in such an enforcement campaign would be the promulgation of a rule to reiterate and clarify lenders' responsibilities under RESPA with respect to mortgage escrow payments, and to explicitly prohibit lenders from using individual item analysis to retain more than a two-month escrow cushion or from retaining any other cushion not authorized by the mortgage instrument. The Attorneys General

proposed such a rule nearly two years ago. Unless HUD acts to correct these escrow practices and ensure compliance with RESPA, the protections enacted by Congress nearly 15 years ago will continue to be thwarted and millions of homeowners throughout this nation will be forced by lenders to continue paying billions of dollars in excessive escrow payments.

Dated: April 24, 1990

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State of New York

JIM MATTOX
Attorney General of the
State of Texas

APPENDIX I

Individual Item Analysis

To determine the amount of money required to fund their escrow accounts, the mortgage companies use, with variations, individual item analysis, as illustrated in the following table:

<u>Bill</u>	<u>Next Payment Date</u>	<u>Estimated Payment</u>	<u>Effective Date of Analysis 6/84 Estimated Payment ÷ 12</u>	<u>Months Since Last Payment</u>	<u>Required Balance on Hand</u>
		<u>\$438.99</u>			
Hazard Insurance	12/84	\$460.00	\$38.33	6	\$229.98
FHA Insurance	2/85	\$321.59	\$26.80	4	\$107.20
County Tax	12/84	\$329.22	\$27.43	6	\$164.58
County Tax	4/85	\$329.20	\$27.43	2	\$ 54.86
Totals		\$1440.01	\$119.99		\$556.62
Required Balance on Hand			\$556.62		
Balance on Hand			\$438.99		
Shortage			\$117.63		
Estimated Monthly Payment			\$119.99		
Shortage ÷ 12			\$ 9.80		
New Escrow Payment			\$129.79		

As this table demonstrates, under individual item analysis, companies divide their accounts into separate sub-accounts, one for each payment due in the coming year.

In this illustration, those sub-accounts are for hazard insurance, FHA insurance and two county tax payments. Lenders then divide the amount of each payment by the number of months between payments to determine the monthly contribution to the escrow account necessary to make the payment when it comes due. To determine whether a shortage or surplus will occur in the coming year, they multiply the monthly contribution required for each bill by the number of months since the time the bill was paid. Totaling these amounts for each sub-account gives the lenders an aggregate figure (here \$556.62) that they can compare to the balance on hand (here \$438.99). If, as is the case in this example, the balance on hand is smaller than the sum of the payments they "should" already have collected, the mortgage companies claim there is a shortage (here \$117.63) and require the consumer to make up the difference. If the balance on hand is larger than the sum that "should" already have been collected, the companies, in some cases, give the consumer the option of having the excess refunded or credited to the consumer's escrow account. This approach ignores RESPA limitations as well as the terms of the individual mortgage documents.

APPENDIX II

Methodology

Our method of sampling accounts was not intended to provide a statistically sound basis for predicting what the exact industry-wide incidence of excessive escrow cushions might be. However, because some of the industry's most prominent mortgage lenders and servicers provided us with escrow account data, and because we were assured by MBA that the industry generally does escrow analysis in the same way, we believe that if we were to conduct a more extensive study we would find similar levels of over-escrowing by most other companies.

To select the accounts we reviewed, we asked each company to designate the first loan to close in each calendar year from 1980 to 1987 as mortgage number one, then skipping any satisfied mortgages, to select the 30th, 40th, 50th, 60th, and 70th mortgages in the natural sequence of their own in-house numbering systems. This system provided approximately 40 mortgages per company. Since the companies generally provided three years of analyses per mortgage, we were able to review nearly 120 escrow analyses per company.

As illustrated in the table below, we calculated a running balance based upon the information contained in the analyses about the current balance, the escrow payment

Effective Date of Analysis	Beginning Balance	Required Escrow Payment			
Jun-84	438.99	129.79			
	Bill One	Bill Two	Bill Three	Bill Four	
Due Date ¹	Dec-84	Feb-85	Dec-84	Apr-85	
Amount	460.00	321.59	329.22	329.20	
Transaction	Date	Amount	Running Balance		
Escrow PMT	Jun-84	129.79	568.78		
Escrow PMT	Jul-84	129.79	698.57		
Escrow PMT	Aug-84	129.79	828.36		
Escrow PMT	Sep-84	129.79	958.15		
Escrow PMT	Oct-84	129.79	1,087.94		
Escrow PMT	Nov-84	129.79	1,217.73		
Escrow PMT	Dec-84	129.79	1,347.52		
Bill 3	Dec-84	(329.22)	1,018.30		
Bill 1	Dec-84	(460.00)	558.30		
Escrow PMT	Jan-85	129.79	688.09		
Escrow PMT	Feb-85	129.79	817.88		
Bill 2	Feb-85	(321.59)	496.29		
Escrow PMT	Mar-85	129.79	626.08		
Escrow PMT	Apr-85	129.79	755.87		
Bill 4	Apr-85	(329.20)	426.67		
Escrow PMT	May-85	129.79	556.46		
Total of Bills	RESPA ceiling	Projected Cushion	Excess Cushion		
1,440.01	240.00	426.67	\$186.67		

required and the bills to be paid during the analysis period. After calculating the running balance, we calculated the total of the bills to be paid during the analysis period and divided the figure by six to obtain the RESPA ceiling. We compared the lowest balance to the ceiling to identify analyses that resulted in excess cushions.



STATE OF NEW YORK
DEPARTMENT OF LAW
120 BROADWAY
NEW YORK, NY 10271

ROBERT ABRAMS
Attorney General

JOHN W. CORWIN
Assistant Attorney General in Charge
Consumer Frauds and Protection Bureau

July 20, 1988

Office of General Counsel
Attention: Grant E. Mitchell
Rules Docket Clerk, Room 10278
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Re: Comments of the States of
California, Iowa, New
York, and Texas in Docket
No. P-88-1256; FR-1942,
May 16, 1988, Real Estate
Settlement Procedures
Act; Controlled Business
Provisions and
Miscellaneous Changes

Dear Mr. Mitchell:

On behalf of the Attorneys General of the States of California, Iowa, New York, and Texas we are writing in response to your request for comments on a proposed rule to update Regulation X, 24 CFR Part 3500, which covers certain provisions of the Real Estate Settlement Procedures Act ("RESPA"), 26 U.S.C. 1200, *et seq.* While the proposed rule covers a wide array of RESPA-related issues, this letter addresses only one: the amount of money retained by lenders in mortgage escrow accounts. Any rule concerning RESPA would not be complete unless it included specific provisions to ensure that lenders do not accumulate excessive balances in mortgage escrow accounts in violation of RESPA.

Our comments are straightforward. In short, the regulation should clearly state that:

1. RESPA does not permit a lender to retain a two-month "cushion" or any other amount of cushion in the escrow account unless the mortgage instruments themselves so provide.

2. RESPA does not permit a lender, through use of individual item analysis or other clever accounting methods, to retain more than a two-month cushion in the total escrow account.

Mortgage escrow accounts are established so that lenders can be assured that they will have received sufficient funds from the consumer to be able to pay taxes and hazard insurance when each is due, thereby protecting the lenders' interest in the mortgaged property. Congress, in passing RESPA in 1974, was concerned, *inter alia*, with eliminating the practice of many lenders of retaining sums in mortgage escrow accounts far in excess of the amounts actually necessary to pay tax and insurance payments when due. Congress was outraged that in some cases lenders were maintaining escrow accounts which always had at least a year's worth of escrow payments in them. Such "cushions" served no legitimate purpose to protect lenders' interests; rather they merely provided more funds to lenders on which they could earn greater profits.

Congress responded by limiting escrow accounts to no more than is necessary to maintain a one month surplus or cushion at all times. A year later, in response to lenders' complaints that this cushion was insufficient because consumers were often somewhat late in paying their mortgages, thereby depleting the escrow account balance and forcing lenders, in essence, to lay out additional funds to pay consumers' taxes and insurance, Congress amended RESPA to allow lenders to maintain a two month cushion.

Unfortunately, since RESPA was amended in 1975, section 10 of RESPA, which established the two-month limit on the amount of cushion that could be maintained in escrow accounts, has been, to a large degree, ignored. As a result, it is not uncommon for lenders to use a method of escrow analysis by which amounts substantially in excess of those permitted by RESPA are maintained at all times. Obviously, it is in the lenders' interest to continue this practice because in most states they pay no interest at all to consumers on the balances in these accounts, and even where states require interest payments, the rate of interest to be paid to consumers is usually only 2%. Thus, the higher the average balance maintained in these accounts, the greater the profit to lenders in servicing mortgages. The lenders are thereby reaping unauthorized and illegal windfalls by these practices.

Commendably, HUD is proposing to establish a regulation, 24 CFR 3500.17, dealing explicitly with the amounts which can be held in escrow accounts. As stated in the preamble to this proposed rule, there is at present no federal regulation which provides guidance in complying with

section 10 of RESPA. Contrary to some of the comments, to which the preamble refers, there is a great need for this guidance because, as explained below, lenders generally do not abide by the requirements of RESPA, Section 10. We therefore urge HUD to adopt a regulation which specifically sets forth how Section 10 of RESPA is to be implemented.

While the proposal begins the task of clarifying how lenders should compute escrow balances, it falls short in two critical areas, and therefore should be modified in order to fully comport with the language and legislative purpose of RESPA.

1. RESPA limits the size of cushions permitted in mortgage instruments rather than expanding or creating such cushions.

First, the proposed regulation does not address a common misunderstanding or misreading of Section 10. That Section sets an upper limit or "ceiling" of two months of escrow payments that lenders may retain in federally-related mortgages. It does not require lenders to retain that much, nor does it authorize them to retain that much if the mortgage instruments themselves dictate that a lesser amount be maintained.

Thus, it is improper for lenders to rely on RESPA to justify maintaining a two-month payment cushion, where the mortgage document itself permits only a one-month cushion. HUD has correctly interpreted this aspect of Section 10 in the HUD Handbook, Administration Of Insured Home Mortgages, Doc. No. 4330.1 ("HUD Handbook"), p. 7, which states: "The mortgage instrument provides the authority for the mortgagee to accumulate sufficient escrow funds with which to pay the mortgagor's tax and insurance bills...." Nor does including in the mortgage document the boiler-plate language that it is "subject to all federal laws" rewrite the specific terms agreed to by lenders and consumers with regard to the amounts which can be maintained in escrow accounts unless those specific terms violate the ceiling found in Section 10. The point needs to be made clear in HUD's regulation, as it is in the HUD Handbook, that the source of authority for maintaining an escrow account and for determining the size of that account is the mortgage document itself. Section 10 simply provides a ceiling which lenders may not exceed.

2. RESPA does not permit more than a two-month cushion to be maintained in escrow accounts, regardless of the method of escrow analysis used.

The second point which needs to be clarified in the proposed rule concerns the use of an escrow analysis technique called individual item analysis. Use of this

accounting method without a secondary check to determine if the RESPA limits will be exceeded has resulted in lenders commonly retaining excessive escrow amounts. In many cases lenders are consistently maintaining four months or more of escrow payments, in direct contravention of the limitations established by Congress in Section 10 of RESPA. While we have no quarrel with using individual item analysis, the lender must, as indicated in the HUD Handbook, p. 13, make sure that use of this method of escrow analysis does not "create excessive surpluses." The lender can do this by running a trial "running escrow balance" for the upcoming year, and ensuring that at least at some point in the upcoming year, the escrow balance can be expected to dip down to two months' worth of escrow payments.

The point can be illustrated by a description of the current common practice in the industry and of how it needs to be corrected. Most lenders perform an annual escrow analysis. Lenders look at each tax and insurance premium which needs to be paid during the upcoming year, when each tax or premium is next due, and when the last payment on each was made. Lenders then calculate how much should be on deposit in the escrow account at the time of the escrow analysis in order for there to be sufficient funds available to pay each tax payment or premium when it becomes due. Lenders do this by assuming that each escrow item has, in essence, a "sub-account" set up for it. The sub-account for school taxes, for example, should, under the lenders' practice, have sufficient funds in it so that when a school tax is due, it can be paid, out of that sub-account, without "borrowing" from other sub-accounts set up for other escrow items such as county taxes or hazard insurance. While intuitively this methodology sounds reasonable and would not appear to result in retaining more than two months' worth of escrow payments, in fact, the technique often results, as HUD makes explicit in its Handbook, in excessive amounts being maintained at all times during the year.

The reason this is so is that when a payment is made from one sub-account, such as the school tax sub-account, the other sub-accounts are likely to contain substantial amounts, because payments from those sub-accounts will not be made for several months. As a result, the aggregate contained in all sub-accounts, i.e. the actual balance in the total escrow account, will, for most consumers, always stay well above the two-month limitation set forth in Section 10 of RESPA. Thus, if individual item analysis is used, a trial running-balance must be done as a part of the annual escrow analysis to ensure that at some point during the year the escrow balance, i.e. the aggregate of all sub-accounts, will drop to two months' worth of the escrow payments. If it does

not, then an excess exists in the escrow account, which must, under RESPA, be returned to the consumer. See Leff v. Olympic FS&L, 55 U.S.L.W. 2260, 1986 WL 10636, No. 86 C 3026 (Sept. 19, 1986, N.D. Ill.).

Certainly Congress did not intend to turn a two month cushion into a cushion of three, four or more months by a clever accounting technique. This is evidenced by the Congressional reports on RESPA in 1974 and its subsequent amendments in 1975. 1974 U.S. Code Cong. & Ad. News 6546; 1975 U.S. Code Cong. & Ad. News 2448.

We therefore urge you to modify the proposed regulation to incorporate the specific recommendations we have suggested. We believe this will serve to benefit consumers as well as to bring lenders' mortgage escrow practices into compliance with the requirements of RESPA.

Thank you for this opportunity to comment on your proposed RESPA regulations. We stand ready to assist HUD in helping to obtain compliance with the requirements of that law.

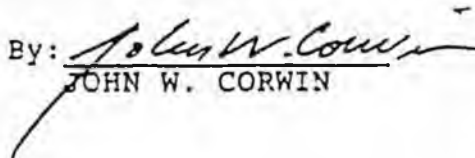
Sincerely yours,

ALBERT N. SHELDEN
Deputy Attorney General
for the State of California

RICHARD CLELAND
Assistant Attorney General
for the State of Iowa

JOHN W. CORWIN
Assistant Attorney General
for the State of New York

STEPHEN GARDNER
Assistant Attorney General
for the State of Texas

By: 
JOHN W. CORWIN



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DEPARTMENT OF LAW
120 BROADWAY
NEW YORK, NY 10271

JOHN W. ABRAHAM
Attorney General

JOHN W. CORWIN
Assistant Attorney General in Charge
Consumer Frauds and Protection Bureau

October 24, 1988

Office of General Counsel
Attention: Grant E. Mitchell
Room 10248
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Re: Proposed Language
For 24 CFR §3500.17
To Implement Section
10 Of RESPA

Dear Mr. Mitchell:

Pursuant to your request, on behalf of the Attorneys General of the States of California, Iowa, Massachusetts, Minnesota, New York and Texas we are submitting the attached proposed language for a rule that would, we believe, incorporate the requirements of Section 10 of the Real Estate Settlement Procedures Act ("RESPA"), 26 U.S.C. 1200, et seq. As indicated, we will be submitting tomorrow some examples of how mortgage escrow analyses would be carried out if this rule were promulgated.

Thank you for your consideration of this proposed language. Please call Mel Goldberg if there are any questions regarding this proposal.

Sincerely yours,

JOHN VAN DE KAMP
California Attorney General
ALBERT NORMAN SHILDEN
Deputy Attorney General

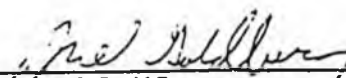
THOMAS J. MILLER
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Massachusetts Attorney General
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Assistant Attorney General

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Texas Attorney General
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Assistant Attorneys General

BY:


ROBERT ABRAMS
New York Attorney General
MEL GOLDBERG & SHIRLEY STARK
Assistant Attorneys General

§3500.17(b) Escrow Analysis

Regardless of the method of escrow analysis utilized or the terms of the underlying mortgage instruments, a lender shall collect and hold no more in an escrow account than is necessary to make the required tax and insurance payments when due plus, if provided for in the mortgage instrument, an amount sufficient to maintain at all times in the escrow account a cushion as provided in the mortgage instruments. In no case shall such cushion be greater than one-sixth of the annual escrow payments. For the purpose of determining whether the lender maintains an excessive escrow balance, the escrow payments by a borrower shall be treated as an aggregate amount, regardless of whether a lender establishes or maintains sub- or separate accounts for individual escrow items or payments. Accordingly, lenders, when performing an escrow analysis, must perform a trial running balance for the aggregate escrow account for the upcoming year or perform some other appropriate calculation to ensure that during the course of the upcoming year the aggregate escrow balance will fall to the level authorized in the mortgage instruments, or one-sixth of the annual escrow payments, whichever is less. If in performing such running balance or calculation, it is determined that the aggregate escrow balance during the upcoming year will not fall to that level, the lender shall: 1) notify the borrower that there is an excess in the escrow account; and 2) adjust the amount in the mortgage escrow account, by, for example, issuing a lump sum refund or reducing the monthly escrow payments, or otherwise adjusting the escrow amount pursuant to the terms of the mortgage instrument, in order to ensure that the aggregate escrow balance does fall to that level during the upcoming year.

An escrow analysis is performed in March 1989 for a mortgage which has three tax and insurance payments during the year: 1) Hazard Insurance due in June, estimated at \$240 for the upcoming year, 2) School Tax due in September, estimated at \$1200 for the upcoming year, and 3) Township Tax due February 1990 estimated at \$720 for the upcoming year. At the end of February 1989, before the escrow analysis, there was \$600 in the escrow account. The lender performs an individual item escrow analysis as follows:

Descript of Exp	Next Due	Est Amt Next Exp	Term Mos	Monthly Escrow	Months Elapse	Escrow Required
Hazard	06/89	\$240	12	\$20	9	\$180
School	09/89	\$1200	12	\$100	6	\$600
Town	02/90	\$720	12	\$60	1	\$60
Escrow Balance After 2/29/89		Escrow Required	Short- age	Total Monthly Escrow		Total Escrow Required
\$600		\$840	\$240-	\$180		\$840
Monthly Escrow Required			Shortage Amount Prorated Monthly			New Monthly Escrow Amount
\$180			\$20			\$200

Under a typical individual item escrow analysis, the consumer would be required to pay \$200 a month to the escrow account, beginning in March, 1989. The proposed rule would require that the lender perform a trial running balance as part of its escrow analysis to ensure that at some point during the upcoming year the aggregate escrow balance drops to the surplus authorized by the mortgage instruments or 1/6 of the total amount of escrow funds estimated to be paid out in the upcoming year, whichever is less. Assuming for the purposes of this example that the mortgage instruments authorize a 1/6 cushion, the balance would have to drop to \$360 at some point in the year ($(\$240 + \$1200 + \$720) / 6 = \360). The trial running balance would look as follows:

Month	Credits	Debits	Balance
			\$600 on 2/29
March	\$200		800
April	200		1,000
May	200		1,200
June	200	240	1,160
July	200		1,360
August	200		1,560
September	200	1,200	560
October	200		760
November	200		960

December	200		1,160
January, 1990	200		1,360
February	200	720	840

Collecting \$200 monthly for the escrow account, as calculated using individual item analysis results in a minimum balance during the upcoming year of \$560, in September. This is \$200 more than RESPA permits. By September there would have been seven \$20 payments, or \$140 towards the alleged shortage of \$240. Thus, even rejecting the shortage calculation completely and keeping the monthly escrow payment at \$180, there would still be \$420 in the escrow account at the end of September, \$60 more than RESPA allows. Thus, rather than a \$240 shortage as calculated using individual item analysis, there is in fact a \$60 excess in March 1989 when the escrow analysis is being done. Under the regulation, the lender would have to adjust the amount in the mortgage escrow account, by, for example, refunding \$60 and setting the monthly escrow payment at \$180, or reducing the monthly escrow payment below \$180, so that at the end of September the escrow balance drops to \$360.



STATE OF NEW YORK
DEPARTMENT OF LAW
120 BROADWAY
NEW YORK, N.Y. 10271

ROBERT ABRAMS
ATTORNEY GENERAL

September 19, 1989

The Honorable Jack F. Kemp
Secretary
The Department of Housing & Urban
Development
451 7th Street, S.W.
Washington, D.C. 20410

Dear Secretary Kemp:

We write to urge you to act decisively and swiftly to correct a serious problem that harms millions of homeowners in our states and throughout the nation. The problem is the widespread practice among mortgage lenders of compelling consumers to pay substantially more money into home mortgage escrow accounts than is permitted under the Real Estate Settlement Procedures Act ("RESPA"), 12 U.S.C. 2609. The corrective action needed is HUD adoption of a regulation, proposed to your office over a year ago, to make unequivocally explicit the escrow limitations under RESPA.

As you know, most mortgage contracts permit lenders to require each of their mortgagors to fund a mortgage escrow account to ensure payment of annual taxes and hazard insurance on the mortgaged property. In 1974, Congress enacted RESPA, in part to prohibit the practice of forcing homeowners to fund mortgage escrow accounts in amounts far in excess of what was actually necessary to pay tax and insurance payments when due. As originally enacted, RESPA limited this compulsory escrow account funding to the amount necessary to make tax and insurance payments when due, plus an additional "cushion" of no more than one-twelfth of the total amount of such payments. In 1975, after lenders complained that this did not provide adequate protection, Congress amended RESPA to raise the permissible cushion to one-sixth of the total annual tax and insurance payments.

Remarkably, during the course of an investigation into the escrow practices of several of the largest mortgage lenders in the country, we discovered that RESPA limitations have been largely ignored by the mortgage industry since 1975. More specifically, much of the mortgage industry uses creative accounting procedures which in many cases results in an escrow account cushion that is 50% to 100% higher than the permissible limit under RESPA. Moreover, despite the fact that RESPA merely sets a ceiling on any contractually authorized escrow account funding, many lenders have cited RESPA as authority for compelling a mortgagor to fund an escrow account up to the ceiling amount even where the mortgage contract does not authorize an escrow account or where the contract explicitly sets a lower ceiling.

As a result of these widespread practices, American homeowners collectively have been compelled to deposit several billion dollars of extra money into their escrow accounts, in violation of RESPA and the intent of Congress. In most cases, these accounts pay no interest to consumers. In those few states where interest is required to be paid on these accounts, it is almost always at submarket rates.

In formal comments to proposed regulations under section 10 of RESPA last year (copy enclosed), we urged your office to promulgate a regulation expressly reaffirming that the federal statutory limit on escrow accounts cannot be violated regardless of the creative accounting procedure used by mortgage lenders to circumvent that limit. While our proposal apparently was favorably received by your staff, and announcement in the Federal Register of a proposed regulation on the escrow account issue appeared to be near at hand in March, further progress on this issue now seems to be stalled. Because of the wide impact of the proposed regulation -- literally millions of homeowners would receive refunds or credits rightfully due them -- strong, swift action on our proposal could be an important step in building public confidence that the Department, under your leadership, will revitalize its resolve to protect the public interest.

We would be available to meet with you to more fully discuss this matter.

Sincerely,

JOHN VAN DE KAMP
Attorney General of the
State of California

ROBERT A. BUTTERWORTH
Attorney General of the
State of Florida

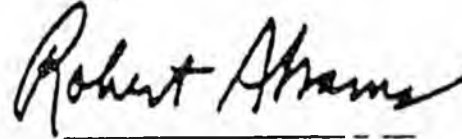
THOMAS J. MILLER
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JAMES M. SHANNON
Attorney General of the
Commonwealth of Massachusetts

HUBERT H. HUMPHREY, III
Attorney General of the
State of Minnesota

JIM MATTOX
Attorney General of the
State of Texas

BY:



ROBERT ABRAMS
Attorney General of the
State of New York

HB

369

FISCAL NOTE

No. 2

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Bill Version: HB 369
(H) Publish Date: 1/24/96

Revision Date: _____
Title: "An Act extending to certain partnerships and corporations the 10 percent procurement preference . . ."
Sponsor: Rep. James
Requestor: _____

Department Affected: Administration
BRU: General Services
Component: Purchasing
COMPONENT SERIAL NO. 60

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ _____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill extends the 10% bid evaluation preference for an Alaska bidder who is a sole proprietor with a disability to partnerships if each partner has a disability and to corporations if wholly owned by individuals with disabilities. The 10% evaluation preference is in addition to other preferences the bidders qualify for. Under this bill, agency personnel evaluating quotes, bids, or RFPs must calculate the 10% preference for the additional entities if they appear on the disabled vendor list maintained by the Department of Education, Division of Vocational Rehabilitation.

Prepared by: Duane Petty, Director *Duane Petty*
Division: General Services

Phone: 465-2250
Date: _____

Approved by Commissioner: Mark Bover *Mark Bover*
Agency: Department of Administration

Date: 1/23/96

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FISCAL NOTE

No. 1
 Bill Version: HB 369
 (H) Publish Date: 1/24/96

STATE OF ALASKA
 1996 LEGISLATIVE SESSION

Revision Date: _____
 Title: An act relating to procurement preferences for
corporations and partnerships owned by persons with
disabilities
 Sponsor: Representative James
 Requester: Representative James

Department Affected: Education
 BRU: Vocational Rehabilitation
 Component: Client Services

COMPONENT SERIAL NO. 1828

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

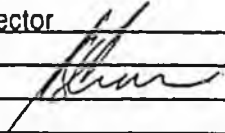
POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY96) impact: \$ 0.0

ANALYSIS: (Attach a separate page if necessary.)

HB 369 amends the definition of an "Alaska bidder" to clarify that the bidder has offered supplies, services, or construction of the general nature solicited by the agency for a period of six months immediately preceding the date of the bid. As written, this legislation will not have a fiscal impact on the department.

Prepared by: Stan Ridgeway, Deputy Director Phone: 465-6932
 Division: Vocational Rehabilitation Date: January 16, 1996
 Approved by Commissioner:  Shirley Holloway, Ph. D.
 Agency: Education Date: January 16, 1996

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(7)

HOUSE COMMITTEE REPORT

Date Referred to Committee: January 24, 1996

FURTHER REFERRALS:

Date of Committee Action: 2-14-96

The LABOR AND COMMERCE Committee considered:

HB 369

HOUSE BILL NO. 369

PROCUREMENT PREF FOR DISABLED

"An Act extending to certain partnerships and corporations the 10 percent procurement preference currently given to certain sole proprietorships who are Alaska bidders and owned by persons with disabilities."

recommends it be replaced with the following committee substitute [] the same title [] a new title

[] additional referral to _____ Committee [] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date) [] fiscal note(s) [] fiscal note(s)

[x] zero fiscal note(s) [x] zero fiscal note(s) Admin, Education

Table with 5 columns: SIGNING WITH RECOMMENDATIONS, DP, DNP, NR, AM. Rows include signatures: Pete Kott, Ann Kelly, Lane Kishena, Brian D. Porter, Beverly Masek, Jerry Sanders.

CHAIR'S SIGNATURE Pete Kott

Alaska State Legislature

REPRESENTATIVE
JEANNETTE JAMES

P.O. Box 56622
North Pole, Alaska 99705
(907) 488-1546
FAX (907) 488-9006



While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-3743
FAX (907) 465-2381

House of Representatives

House District 34

SPONSOR STATEMENT

HB 369 Procurement preferences for the disabled
January 17, 1996

This Bill will allow 100% disabled owned corporations and partnerships to be eligible for disabled bidder preferences.

Current law allows disabled owned sole proprietorships to take advantage of the disabled bidder preference.

Equal protection under the law requires all like situations to be treated fairly and equally. Current law discriminates against disabled owned corporations and partnerships, it does allow sole proprietorships

The Bill has a zero fiscal note.

The Bill is supported by the Departments of Education and Administration.

HB 369 is the same as HB 288 from last session. HB 288 passed both the House and the Senate and was subsequently vetoed by the Governor due to last minute riders tacked on in the Senate by the Governor's staff. The Governor's office apologized and said the bill will be supported this time.

The intent of this legislation is to create fairness.

SPONSOR

SUNSHINE GENERAL



1265 Norman, Suite #7
Anchorage, Alaska 99504
Ph/Fax: (907) 337-4657
An Alaskan Disability Company DE96-01



January 25, 1996

State Division of Rehabilitation
Juneau, Alaska
Mr. D. French - Director

Dear Mr. French;

It was nice to meet you at the Legislative Office the other day. I was there to testify in support of the bill allowing the use of Corporations, in addition to sole proprietorships, for the procurement needs of the State of Alaska, and in support of the people who help us, the disabled. For your information, I had a massive heart attack in 1983 and two strokes in the last year. This leaves me with very little tolerance, and testifying at the hearing was a major event for me. As the temperature was about minus 5 degrees, it was a major event and it took the rest of the day just to regain the strength I lost in that effort. To be blunt with you, I was very disappointed with you after I introduced myself and you told me that you had read the fax I sent you which was dated 1-17-96. In this fax, I requested your help as you, in your challenging position, should realize the effort I have put forth and your status could help protect my livelihood. You left me with the impression that you didn't even want to talk about it or assist in any way.

As you are aware, I am sole owner of SunShine General, registered with the Department of Vocational Rehabilitation. What you may not know is that I am a consumer with the Division of Vocational Rehabilitation. The Department of Vocational Rehabilitation purchased a computer for me and provided specialized training in my home. My wife, who is an Eskimo, was also provided training, as part of my individualized written rehabilitation program. I have set many precedencies and have the support of most State people, including a number of contracting officers I deal with. I have contracts with agencies from the Governor's Office on down, and do my best to supply our State procurement needs over and above the contracts requirements. I am also very thankful that finally, after all these years, I have a chance to support myself and my family. For this, I have written a letter of thanks to Mr. Stan Ridgeway. I have told him that he can use this letter of thanks in a manner he wishes, as I know that when you are seeking funds from Federal and State agencies, you need to show some success for your efforts.

Now on January 17, 1996 I faxed a letter to you, requesting help and support. I mentioned this to you the other day and told you that, behind the scenes some people are trying to change the laws I use to support myself and my family. I was told by a contracting officer that this disability preference law has been around for years but no one knew what for or how to use it.

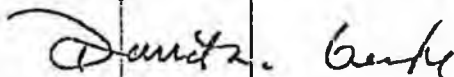
Background

pg. 2 of 2

Because of what I have don, they are trying to change the law by restricting my efforts. Both you and I realize, that because of what I have done others will follow, which is fine with me, and I will try my best to help them with my support and guidance.

As of yet, I have not received a phone call from Mr. Ridgeway or yourself. Are you supporting our efforts? If you will support my efforts and concerns, please call and inform me of how and to what extent and then keep me informed. Please realize that my health is not that good and I need efforts that you and your staff can address to the proper parties. This is being done not only for myself, but for other disabled parties who will follow my steps. We all realize that if we allow them to change the rules, it doesn't take long for the whole program to be changed or eliminated. This is what they are after. Without your assistance there is a very strong possibility that I will be out of business and back on Tax supported entitlement programs. I do not want this and this is not what I and my family has worked for in the last year and a half.

Sincerely,



David L. Gerke, Owner

CC: Governor Tony Knowles, Juneau
Pat Pourchot, Governor's Office
Shirley Halloway, Commissioner
Mary Rucker, Buy Alaska, Anchorage
Stan Ridgeway, Dept. of Voc. Rehab., Juneau

DLG/lg:

HB

372

Revision Date: _____ Dept. Affected: Revenue
 Title: Restaurant & Eating Place liquor license BRU: Alcoholic Beverage Control Board
Hb 372 Component: ABC Board
 Sponsor: Rep. Rokeberg
 Requestor: House Labor Commerce Committee COMPONENT SERIAL NO. 100

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1006 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost \$ _____

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Douglas B. Griffin
 Division: Alcoholic Beverage Control Board
 Approved by Commissioner: _____
 Agency: Department of Revenue

Phone: 907-277-8638
 Date: 1/16/96
 Date: 1/19/06

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CS FOR HOUSE BILL NO. 372()

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, B.Davis, Brown

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the authority of the Alcoholic Beverage Control Board to
 2 exempt certain restaurant or eating place licenses from requirements relating to
 3 operation of a restaurant and to food sales; and providing for an effective
 4 date."

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

6 * Section 1. AS 04.11.100(f) is amended to read:

7 (f) Notwithstanding the provisions of (b) and (e) of this section, upon written
 8 application and approval of the local governing body, the board may renew [ISSUE OR
 9 REISSUE] a restaurant or eating place license and exempt the licensee from the
 10 requirements of (b) and (e) of this section if the license was issued under the
 11 provisions of this subsection before July 1, 1996. [A LICENSEE EXEMPT
 12 AS PROVIDED IN THIS SUBSECTION SHALL PROVIDE FOOD ITEMS FOR SALE
 13 ON THE PREMISES AS SHOWN ON A MENU APPROVED BY THE BOARD AND
 14 AVAILABLE TO PATRONS.] The board may not

1 (1) renew [ISSUE OR REISSUE] a license as provided under this
2 subsection if

3 (A) the renewal [ISSUANCE OR REISSUANCE] would result
4 in more than one exempt restaurant or eating place license for every 10 restaurant
5 or eating place licenses allowed under the provisions of AS 04.11.400(a)(2) or
6 (3);

7 (B) the premises would be located in a building having a public
8 entrance within 200 feet of the boundary line of a school or a church building in
9 which religious services are being regularly conducted; for purposes of this
10 subparagraph, the 200-foot prohibition is measured from the outer boundary line
11 of the school or the public entrance of the church building by the shortest
12 pedestrian route to the nearest public entrance of the restaurant or eating place;
13 or

14 (2) [REISSUE A RESTAURANT OR EATING PLACE LICENSE
15 AS EXEMPT AS PROVIDED UNDER THE PROVISIONS OF THIS SUBSECTION
16 IF THE LICENSE WAS ISSUED UNDER THE PROVISIONS OF AS 04.11.400(g);
17 OR

18 (3)] transfer an exempt license issued under this subsection to another
19 person.

20 * Sec. 2. AS 04.11.100 is amended by adding a new subsection to read:

21 (g) A restaurant or eating place licensee operating under a license issued under
22 (f) of this section

23 (1) shall offer a full-service menu of food items available to the public
24 that includes at least two hot dinner entrees, a soup, and dinner salad; the menu must be
25 approved by the board;

26 (2) may only provide live performances or music on the licensed
27 premises between the hours of 6:00 p.m. and 9:00 p.m.

28 * Sec. 3. TRANSITION. Notwithstanding the provisions of AS 04.11.100(f), as amended
29 by sec. 1 of this Act, if this Act takes effect before July 1, 1996, then during the period between
30 the effective date of this Act and July 1, 1996, the Alcoholic Beverage Control Board may
31 renew an existing restaurant or eating place license under AS 04.11.100(f) but may not issue a
32 new restaurant or eating place license under AS 04.11.100(f).

1

* Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

(7)

HOUSE COMMITTEE REPORT

Date Referred to Committee: March 11, 1996

FURTHER REFERRALS:

Date of Committee Action: 3-20-96

The LABOR AND COMMERCE Committee considered:

HB 372

HOUSE BILL NO. 372

RESTAURANT LIQUOR LICENSES

"An Act relating to liquor licenses issued to a restaurant or eating place; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 372(L&C) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) Rev

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Jan Sanders</i>			✓	
<i>William D. Porter</i>	✓		<i>rev</i>	
<i>Ken V. [unclear]</i>			✓	
<i>Norm [unclear]</i>	✓			
<i>Pete Kost</i>			✓	

CHAIR'S SIGNATURE *Pete Kost*

STATE OF ALASKA, ABC BOARD
350 W. 7th Ave Suite 350
Anchorage, AK 99501
tel 1-907-277-8638
fax 1-907-272-9412

fax t r a n s m i t t a l

to: Karen McCarthy

fax #: 1-907-465-4822

from: Donna Johnson

date: March 19, 1996

re: Menus

pages: 6, including this cover sheet

NOTES: The following menus are from Chandalar Inn (Mat-Su Borough),
Legal Pizza and Railway Brewery Company (Mun. of Anchorage).
If you have any questions, please call. Thanks.

CHANDALAR INN

Fix your own steak and Hamburger on our indoor charcoal grill

16 oz New York steak

includes salad, baked potato and Ranch style beans

\$ 12.95

12 oz New York Steak

includes salad, baked potato and Ranch style beans

\$10.95

HAMBURGER (1/2 pound)

includes salad, baked potato and Ranch style beans

\$ 6.95

Pizza

Pick of 4 ingredient

***Hamb, sausage, pepperoni,
onion, green pepper, mushrooms***

\$ 14.95 each

PIZZA

Signature Sausages

Hot Wings	2.50
Hot Chicken Wings	3.50
Hot Meatballs	6.95
Meatballs topped with meat sauce, mozzarella and parmesan cheese and garlic bread	
Hot Sausage	6.95
Sliced sausage baked with meat sauce, mozzarella and parmesan cheese and garlic bread (Mild or Hot)	
Hot	5.75
South of Border Special: Crisp tortilla chips topped with melted mozzarella and cheddar cheese and refried beans. Served with sour cream and bone made salsa on the side	
Home Nachos	7.95
Nachos topped with meat, refried beans, diced tomatoes, sliced olives and jalapenos	
Mozzarella Sticks	5.95
With meat sauce on the side for dipping	
Hot Ice Alaskan Shrimp or Crab Cocktail	5.95
Hot	6.95

DRINKS

Hot Drinks	1.00
Hot Sodas	1.50
Hot Cream Sodas	1.75

Beer & Wine Available

"Hot Pursuit"

Hotpresso	1.50
Hotpuccino	2.50
HotLatté	2.25
HotMocha	2.50
HotBlend Coffee	1.00
Hot or Regular Tea	1.00
Hotciceno	1.25
Hot added Flavors	25 extra

NOODLES

Signature Soups

SAUTEED FRESH VEGETABLES

Onion, mushrooms, baby carrots, green onions and other seasonal vegetables sautéed with soy sauce, vegetable oil and garlic and ginger. Served with or without chili and served on Asian noodles

Chicken	7.95	Beef	8.95	Shrimp	8.95
Scallops	8.95	Salmon	9.95	Halibut	9.95

Sloppy Noodles AKA "Fred" 5.95

Noodle sauced with bean sprouts, mushrooms, green pepper and green onion with special sauce. Served with your choice of meat, chicken, turkey, spicy or mild

Seafood Market Place Sloppy Noodles ♥♥ 7.95

With special seafood

Gyoza Noodles 6.95

♥♥ Diner Only

SALADS

"Grass Action"

	Launch	Dinner
Caesar Salad	4.95	6.95
with Smoked Halibut	6.95	8.95
Chicken Sesame	6.25	8.95
Burst of chicken, chunky oriental noodles, roasted pine nuts & shredded lettuce or cabbage with special vinaigrette dressing or your choice of blue cheese, ranch or Italian salad dressing		
Chef's Salad	6.95	8.95
Greek Salad	6.95	8.95
Small Salads		2.50
Salad Bar - "All-You-Can-Eat"		4.00
Salad Bar with Dinner		1.50

Dinner salads come with your choice of garlic bread or garlic cheese bread

SOUPS

"Soups are made fresh daily"

Small Cup Soup	(S) 1.50	(L) 2.50
Soup & Salad Bar		5.50
Class Chowder	(S) 1.50	(L) 3.50

DELICIOUS SANDWICHES

Hot Sandwiches with your choice of meat, cheese, lettuce, tomato, onion, pickles, mayo and your choice of bread (French bread or roll)
(Please specify roll/loaf: 1, 2 or 3)

Ham with your choice of:	(1) Turkey, Swiss Cheese	
	(2) Cheddar Cheese	
Roast Beef with your choice of:	(1) Creamed Horseradish	
	(2) Swiss Cheese	
Turkey with your choice of:	(1) Swiss Cheese & Cranberry	
	(2) Cream Cheese	
	(3) Cream Cheese & Cranberry	
Tuna Salad with your choice of:	(1) Swiss Cheese	
	(2) Cheddar Cheese	

Vegetarian 5.50
cream cheese, avocado, tomato, onion, lettuce, cucumber and sprouts

Legal Pizza's Signature Subs

Cheese Steak - Pizza Sub - Italian Hoagie
Beef & Mozzarella Hoagie - Ham & Mozzarella Hoagie
Turkey & Mozzarella Hoagie

6' 5.00

SPECIALS

Daily Specials	6.95
Spaghetti & Salad	5.95
1 Slice Pizza & Salad or Soup	4.50
All You Can Eat Pizza (Everyday) until 1:30 (M-F)	6.95

Salad bar & Soup and your choice of soft drink



"I'm not quite ready to order.
My lawyers are still studying the menu."

LUNCH

APPETIZERS AND SNACKS

Chips and Salsa

Black Bean and Beef Nachos - Cheese layered with housemade blackbean and beef chili.

Calamari - Served with cracked pepper aioli.

Beer Wings - Tossed with Ale BBQ sauce.

Cheese Nachos - Cheddar, pepperjack, diced tomatoes, olives, jalapenos, sour cream, guacamole, green onions. Salsa served on the side

Onion Slivers - A mound of thin slivered onions, soaked in buttermilk, tossed in seasoned flour and deep fried.

Hot Beer Pretzels

Sausage Plate - Served with fresh garlic mashed potatoes, sauerkraut, beer mustard Bratwurst, or Chicken/Turkey Sausage.

French Fry Plate

SOUPS AND SALADS

Caesar Salad - Crisp romaine, fresh parmesan, seasoned croutons with classic Caesar dressing.

Chicken Cobb Salad - Mixed salad greens garnished with fresh chicken, crisp crumbled bacon, blue cheese bits, diced tomato, cucumbers, scallions, and black olives. Choice of dressings served on the side.

Railroad Salad - Tossed greens, fresh carrots, jicama, tomatoes and freshly baked croutons.

Clam Chowder - With smoked salmon

Black Bean and Beef Chili - Garnished with sour cream and green onions

Beer and Onion Soup

SANDWICHES

Brew Burger - Half-pound, grilled and served on multi-grain bun with steak sauce

Buffalo Burger - Grilled round buffalo served on multi-grain bun with lettuce, tomato, pickle and steak sauce.

Grilled Chicken Sandwich - Marinated grilled chicken breast served on an onion Kaiser roll. Served with red pepper mayonnaise.

Brakeman Steak Sandwich - A sirloin steak marinated in Ale, grilled and smothered with sauteed onion and mushrooms. Served open face on toasted sourdough.

Halibut and Chips - Dipped in Ale and tempura mix and served with cole slaw and fresh tartar sauce.

Gardenburger - Garnished with shredded iceberg lettuce, sliced red onion, reuben sauce, and pickle chips.

Turkey Reuben - Deli sliced turkey breast, Swiss cheese, sauerkraut, tangy reuben sauce on rye bread.

ENTREES

Alder Smoked Salmon - Fresh salmon, cold smoked and grilled, served on braised leeks with apple cider sauce.

Angel Hair Pasta with Sun Dried Tomatoes - Angel hair pasta tossed with sun dried tomatoes, basil, toasted with garlic and red onion.

Fresh Herb Chicken - Chicken breast marinated, grilled and served with apple, pear pineapple relish.

BEVERAGES

Ale and Lager Beer

Wine (list to be determined)

Draft Root Beer

Tea

Milk

Coffee

Expresso Coffee

DESSERTS

To be determined

DINNER

Mushroom Fettucine - With sauteed Swiss Chard, Roasted Garlic and Mussels in a light broth

Fresh Blackpepper Linguine - With prosciutto, sundried tomatoes, kalamata olives and juniper grove aged goat cheese.

Alder Smoked Fish and Chips - Lightly smoked fresh salmon, deep fried in Ale batter. Served with fries, remoulade and English malt vinegar.

Southwestern shrimp and Chicken - A spicy combination of sauteed shrimp, chicken and Anaheim peppers in a red pepper cream sauce. Tossed with sweet tomato fettuccine.

Chicken Pesto Genovese - Fresh basil, walnuts, olive oil, chicken and parmesan cheese tossed with egg linguine.

Top Sirloin - Grilled and served with marinated grilled shiitake mushrooms and Bordelaise sauce.

Catch of the Day

All lunch items included on Dinner Menu

STATE OF ALASKA

DEPARTMENT OF REVENUE ALCOHOLIC BEVERAGE CONTROL BOARD

TONY KNOWLES, GOVERNOR

550 W. 7TH AVENUE, STE. 350

Anchorage, Alaska 99501-6698

Phone: 907-277-8638

FAX: 907-272-9412

March 19, 1996

Representative Beverly Masek
Alaska State House of Representatives
State Capital
Juneau, Alaska 99801-1182
Attn: Karen McCarthy

RE: Food requirements for exempt restaurant and eating place licenses

Dear Representative Masek:

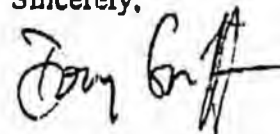
At your request, I am drafting this brief letter to reinforce what I told you on the telephone today.

The Alcoholic Beverage Control Board has historically been very careful in requiring that a business holding a restaurant/eating place license offer a "full course menu" of food and non-alcoholic beverages. I believe the present board is just as vigilant in making sure that those operating under the restaurant designation are, in fact, operating in a way that any reasonable person would consider to be a restaurant. I do not believe the Legislature should be concerned with the discretion the board has to consider various circumstances and make intelligent and informed decisions.

I have attached an ABC sponsored regulation, 15 AAC 104.305, which shows the level of detail and disclosure required to operate a restaurant or eating place license.

The ABC Board would oppose anyone attempting to operate a "tavern" under a restaurant or eating place license. Under "exempt" status these rules could be relaxed with regard to percentage of food sales and entertainment, but a substantial menu would still be required.

Sincerely,



Douglas B. Griffin
Director

3-19-96

Chandalar Inn
John and Becky Lirette
90.8 Parks Highway
Willow, Alaska 99688
907-495-6700 FAX 495-5240

To all members of Labor and Commerce Community

I am writing this on our behalf for Bill 372. We have been approved by the ABC Board and the Mat-Su Borough for a Beer, Wine, eating Exempt license

I understand what this is all about is to limit our hours for entertainment, first of all we didn't want a Beverage license, we only want a Beer, Wine, Food license and the reason we wanted the Exempt is for special occasions if we want live music we can. We will not have a big place when we get done putting our steak house together, We are putting in a fix your own steak, Hamburgers, pizza, other sandwiches.

We are not in Anchorage, we are on the Parks Highway and it can get pretty dead out here. I have bartended for 31 years and do not want the liquor, just beer and wine.

We may never have music but would like to have the licenses if we do. Lets face it music from 6-9pm only would be useless to us, and would be to anyone else.

For the record we also have build a Motel on our property so we are putting out alot of money with our business.

I think this bill should be left alone

Thank you,

Becky J Lirette

ARTICLE 3. LICENSES

15 AAC 104.306. RESTAURANT OR EATING PLACE LICENSE. (a) In AS 04.11.100 and this section, a "bona fide restaurant or eating place" is an establishment, or portion of an establishment, where, during all times that beer or wine is served or consumed,

- (1) the patron's principal activity is consumption of food;
- (2) a variety of types of food items appropriate for meals is available for sale as shown on a menu provided to patrons and filed with the board; and

(3) unless approved by the director after written request by the licensee for a specific occasion, entertainment may only be provided from 8:00 p.m. to 9:00 p.m.; for the purposes of this paragraph, "entertainment" includes dancing, karaoke, live performances, and other like activity but does not include recorded or broadcast performances with no live participation.

(b) In considering an application for issuance, transfer, or relocation of a restaurant or eating place license, the board will determine the portion of the premises or proposed premises which constitutes a bona fide restaurant or eating place, and will license only that portion for the sale and consumption of alcoholic beverages.

(c) In considering an application for renewal of a restaurant or eating place license, the board will, in its discretion, deny renewal, or reduce the licensed premises, if it determines that

- (1) the gross receipts test of AS 04.11.100 is not being met; or
- (2) the use of the premises has changed from that most recently approved by the board and the patrons' principal activity on the licensed premises is not consumption of food.

(d) The board will, in its discretion, require the licensed premises to be separated from the unlicensed portion of the business in a manner acceptable to the board. Changes in the structure, layout, or use of any portion of the licensed premises must have the prior approval of the board.

(e) Gross receipts generated from business conducted on unlicensed portions of a licensed business are excluded from the calculation of gross receipts for purposes of this section and AS 04.11.100.

(f) Notwithstanding (b) of this section, upon a licensee's written request accompanied by a detailed premises diagram, the board will, in its discretion, approve a portion of licensed restaurant or eating premises to alternate as licensed or unlicensed premises under the following conditions:

- (1) approval will be granted only if the board finds that use of the identified area as alternating premises will stimulate tourism or promote activities open to the general public;
- (2) a debt that is incurred during times when the identified area is unlicensed will be considered a debt incurred in the operation of the licensed business for purposes of transfer of the license under AS 04.11.360;
- (3) at any time with written notice to the licensee, the board has the discretion, for any reason, to withdraw its approval of use of the identified area as alternating premises;

(4) caterer's permits issued under AS 04.11.000 may be exercised in the alternating area during times the identified area is unlicensed premises; and

(5) during times the identified area is unlicensed premises, all alcoholic beverages must either be removed from the identified area or be stored in location approved by the board to be secure from the public. (EW. 11/29/81, Register 80; am 6/25/88, Register 106; 5/1/94, Register 130)

Authority: AS 04.06.090
AS 04.06.100
AS 04.11.100

15 AAC 104.318. BEVERAGE DISPENSARY LICENSE. The licensed premises of a beverage dispensary licensee may include the designated lane area of a bowling alley if that area is adjacent to the main bar area. The licensee must show that he or she has authority, and will exercise control over conduct of the licensed business in that area. Access to the lane area by persons under 21 years of age is permitted only during designated periods when no alcoholic beverages are served or consumed there. The periods during which persons under 21 years may be permitted access must be clearly posted on the premises. The licensee must apply for prior board approval of that access. (EW. 11/29/81, Register 80; am 3/31/85, Register 93)

Authority: AS 04.06.100
AS 04.11.000
AS 04.16.049

15 AAC 194.326. LICENSE ISSUED TO ENCOURAGE TOURISM. (a) The board will, in its discretion, approve the issuance or transfer of location of a beverage dispensary or restaurant or eating place license under AS 04.11.400(d) only upon a showing that

- (1) the approval will encourage the construction or improvement of a tourist facility which would not be financially feasible without a liquor license; and
- (2) construction or improvement of the tourist facility will encourage tourism, and tourist business will constitute a substantial portion of the business of the tourist facility.

(b) Repealed 10/24/87.

(c) The licensee must show, upon application for renewal, that issuance of the license encouraged tourism, that the facility was constructed or improved in accordance with the application, and that the facility continues to be operated by the licensee. If the licensee does not make the showings required by this subsection, renewal will be denied.

(d) A license issued or transferred under AS 04.11.400(d) may be transferred only to a person to whom the tourist facility is also being transferred. The license will not be renewed and will, in the board's discretion, be revoked if the tourist facility is transferred to a new owner without transfer of the license to the new

COPY



Alaska State Legislature

HOUSE OF REPRESENTATIVES

Beverly Masek

Official Business

907-465-2679

MEMORANDUM

DATE: March 20, 1996

TO: Representative Norman Rokeburg

FROM: Representative Beverly Masek

SUBJECT: HB 372

I have several concerns about your bill, HB 372, and wanted to let you know about them before the committee meeting.

You wrote in your sponsor statement that the exemption "creates a tavern industry." I would hardly say that it creates an industry when the most populated city in the state, Anchorage, is limited to a maximum of 15 such exemptions. Fairbanks and Juneau, the next two most populated areas, are limited to 2 each. And, since each exemption must be approved by the local governing body, there could conceivably be no exemptions issued.

Your second concern was that a "limited or token" menu would be permitted at the exempted restaurants. I, too was concerned about this, so I contacted ABC Board Director Douglas Griffin. His written response to me was that the Board "would oppose anyone attempting to operate a tavern under a restaurant license," and "a substantial menu would still be required." I have enclosed a copy of that letter, as well as menus from the three approved exempted restaurants. The menus are extensive, and certainly not what I feared -- chips on the bar.

I understand that you are also concerned that these exempted restaurants would create unfair competition with bars for much less money than bar owners paid for their liquor licenses. A bar, which holds a license to serve hard liquor, wine and beer and typically serves finger food, chips and fries, is not competing with a restaurant who wants to offer beer and wine, an extensive menu selection, and live entertainment past 9:00 p.m. They are offering a completely different product, and therefore, a well-run bar can compete. In addition, it is certainly the owner's choice to have paid a large sum (perhaps \$100,000 in Anchorage or \$25,000 in Mat-Su) for the liquor license.

While I understand that you will offer a CS to "grandfather" those three businesses who have already received exemptions, I hope you will keep in mind that the owners will not be able to sell them so that the buyer has any expectation of continuing that type of business. This lowers the value of the businesses and the investment in it. That is certainly not fair.

I enclose written testimony from the owners of the Mat-Su exempted restaurant. I will certainly be available to discuss these issues with you.

AMENDMENT #1

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CS for HB 372 () version G 3/18/96

Page 2, line 27, after "p.m."

Insert ", unless approved by the director after written request by the licensee for a specific occasion."

Page 2, line 27, insert a new subsection to read:

(3) the premises may not have a physical dance floor.

15 AAC 104.305. RESTAURANT OR EATING PLACE LICENSE. (a) In AS 04.11.100 and this section, a "bona fide restaurant or eating place" is an establishment, or portion of an establishment, where, during all times that beer or wine is served or consumed,

- (1) the patron's principal activity is consumption of food;
- (2) a variety of types of food items appropriate for meals is available for sale as shown on a menu provided to patrons and filed with the board; and
- (3) unless approved by the director after written request by the licensee for a specific occasion, entertainment may only be provided from 6:00 p.m. to 9:00 p.m.; for the purposes of this paragraph, "entertainment" includes dancing, karaoke, live performances, and other like activity but does not include recorded or broadcast performances with no live participation.

(b) In considering an application for issuance, transfer, or relocation of a restaurant or eating place license, the board will determine the portion of the premises or proposed premises which constitutes a bona fide restaurant or eating place, and will license only that portion for the sale and consumption of alcoholic beverages.

(c) In considering an application for renewal of a restaurant or eating place license, the board will, in its discretion, deny renewal, or reduce the licensed premises, if it determines that

- (1) the gross receipts test of AS 04.11.100 is not being met; or
- (2) the use of the premises has changed from that most recently approved by the board and the patrons' principal activity on the licensed premises is not consumption of food.

(d) The board will, in its discretion, require the licensed premises to be separated from the unlicensed portion of the business in a manner acceptable to the board. Changes in the structure, layout, or use of any portion of the licensed premises must have the prior approval of the board.

(e) Gross receipts generated from business conducted on unlicensed portions of a licensed business are excluded from the calculation of gross receipts for purposes of this section and AS 04.11.100.

(f) Notwithstanding (b) of this section, upon a licensee's written request accompanied by a detailed premises diagram, the board will, in its discretion, approve a portion of licensed restaurant or eating premises to alternate as licensed or unlicensed premises under the following conditions:

- (1) approval will be granted only if the board finds that use of the identified area as alternating premises will stimulate tourism or promote activities open to the general public;
- (2) a debt that is incurred during times when the identified area is unlicensed will be considered a debt incurred in the operation of the licensed business for purposes of transfer of the license under AS 04.11.360;
- (3) at any time with written notice to the licensee, the board has the discretion, for any reason, to withdraw its approval of use of the identified area as alternating premises;

alternating
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beverages
location at
Register 8:

Post-It brand fax transmittal memo 7671 # of pages 1

To	MIA CASTELLO
From	Doug Griffin
Co.	Rep. Rabeberg
Dept.	ABC Board
Phone	277-8638
Fax	465-2040
Fax	272-9412

15 AAC
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ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS

OIL & GAS CHAIR
LABOR & COMMERCE VICE CHAIR
ADMINISTRATIVE REGULATION REVIEW VICE CHAIR
HEALTH, EDUCATION & SOCIAL SERVICES MEMBER
ECONOMIC DEVELOPMENT MEMBER



INTERIM
716 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, AK 99501
PHONE (907) 258-6191

SESSION
STATE CAPITOL
JUNEAU, AK 99801-1182
PHONE (907) 465-4968
FAX (907) 465-2040

Representative Norman Rokeberg

Sponsor Statement HB 372

"An Act relating to liquor licenses issued to a restaurant or eating place; and providing for an effective date"

A bill passed last session allows for ten percent of restaurant or eating place licenses to be exempt from the fifty percent food provision of license requirements. This bill creates a tavern industry in Alaska. HB 372 repeals that section of the law authorizing such establishments.

In Alaska, the statutory authority to sell beer and wine in restaurants has historically been limited, allowing eating establishments the ability to complement their food menu with alcohol, but not provide a full bar service. The provision was inserted to allow a book store in Anchorage to sell beer and wine at special events.

This provision created a tavern industry in Alaska, where beer and wine can be sold with a limited or token food menu. This is a policy call with far-reaching impacts that I believe was not intended by many of the supporters of the legislation.

I urge your support on HB 372.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

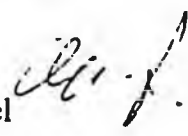
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 15, 1996

SUBJECT: Sectional Summary of HB 372 (Work Order No. 9-LS1358\A)

TO: Representative Norman Rokeberg
Attn: Mia

FROM: Michael F. Ford 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Technical amendment.

Section 2. Repeals AS 04.11.100(f), which allows the issuance of certain restaurant or eating place liquor licenses.

Section 3. Transition section for existing restaurant or eating place licenses issued under AS 04.11.100(f).

Section 4. Effective date.

MFF:pl
96-022.plm

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

OIL & GAS, CHAIRMAN
LABOR & COMMERCE, VICE CHAIRMAN
ADMINISTRATIVE REGULATION REVIEW, VICE CHAIRMAN
HEALTH, EDUCATION & SOCIAL SERVICES, MEMBER
ECONOMIC DEVELOPMENT, MEMBER



INTERIM:
716 WEST 4TH AVENUE, SUITE 640
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FAX: (907) 258-2916

SESSION:
STATE CAPITOL
JUNEAU, AK 99801-1182
PHONE: (907) 465-4968
FAX: (907) 465-2040

Representative Norman Rokeberg

MEMORANDUM

To: Representative Pete Kott, Chairman
House Labor and Commerce Committee

From: Representative Norman Rokeberg, Co-Chairman
House Labor and Commerce Committee 

Re: HB 372 "An Act relating to liquor licenses issued to a restaurant or eating place; and providing for an effective date."

Date: March 9, 1996

I respectfully request that the House Labor and Commerce Committee schedule a hearing on HB 372. I introduced this bill to repeal a law passed last year that creates a tavern industry in Alaska.

HB 372 repeals AS 04.11.100 (f) which allows ten percent of restaurant or eating place licenses to be exempt from the fifty percent food provision of license requirements. Last year in SB 87, Section 5 (f) was inadvertently put in the bill allowing the transfer of some restaurant licenses to a new type of license that has a significantly lower food requirement. The provision was inserted to allow one book store in Anchorage to serve beer and wine during special events.

Without repeal of AS 04.11.100(f) we will be creating a tavern industry in Alaska. If you have any questions, please let me know.



Anchorage, Alaska
Subsidiary of Hectoliters, Inc.

FEB 24 1996

1964 Loussac Drive • Anchorage, Alaska 99517 • Telephone 907-243-7778 • Fax 907-243-7778

February 24, 1996

Representative Norm Rokeberg
Alaska State Legislature

RE : House Bill No. 372 (Repeal of AS 04.11.100(f))

Dear Representative Rokeberg,

I would like to voice my objection to House Bill No. 372 which is being introduced by Rep. Bettye Davis and yourself.

This bill as written would effect our business in a very negative way. We have made business decisions, leased property from the State of Alaska, purchased equipment and designed our establishment with this license in mind. We currently hold one of the licenses you are advocating to have repealed.

We have been working with the Alaska Railroad in their effort to develop the Ship Creek drainage into less of an industrial area and more into upscale business oriented area. We are not an establishment that is either a nuance or eyesore to the community.

The repeal of our licence would effect us financially in excess of \$800,000 based upon our current investment. If this were a renewable natural resource issue such as commercial fishing or timber, where the revocation of the licence would result in the potential of a resource continuing or increasing, then I may be persuaded. But to repeal a licence that, has been approved by the State of Alaska Alcohol, Beverage and Control Board, the local Community Council, the Municipality of Anchorage twice (police dept. included) and has been the focus of four separate public forums along with being not transferable to another site, is not defensible.

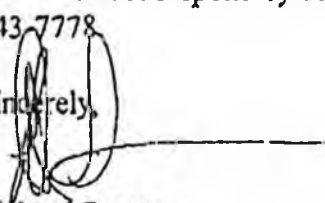
If the legislature wishes to repeal a licensing law, while grandfathering in the businesses that have licences, while I don't agree, at least that would follow a more common practice on licenses.

I would very much appreciate a copy of the Bill No. 372's summary papers so I could better understand your position and the precedent for repealing licences on

approved operations with no community documented problems. In addition, I want to know when this bill will be presented to the committee, whether you or the committee intend to attach this bill to other legislation or the bill will be part of group of bills to be voted upon as a group

Please respond by contacting me at (907) 243-7775 or fax a response to (907) 243-7778

Sincerely,



Richard Sassara

cc: Rep. Bettye Davis
Rep Cynthia Toohey
Rep. Con Bundy
Committee on State Affairs Members
Committee on Labor and Commerce Members



MAR 08 1996

1964 Lousac Drive • Anchorage, Alaska 99517 • Telephone 907-243-7778 • Fax 907-243-7778

March 8, 1996

Representative Norman Rokeburg
State Capital
Juneau, Alaska 99801-1182

RE : Bill #372

Dear Rep. Rokeburg:

Thank you very much for responding to my letter of February 24, 1996 regarding my concern on HB #372. There are a couple items of interest I would like to bring to your attention that you may not be familiar with in regards to the Exempt Restaurant Licence.

You indicate that the passage of this bill (repeal of our licence) would require us to serve food. On the contrary, if you read the statute, an Exempt Restaurant Licence requires you to have a full menu like any restaurant. The menu itself, requires review and approval by the Alcohol, Beverage and Control Board (ABC). This bill does not establish another "bar"/"tavern", but allows a true full service restaurant to have entertainment past 9:00pm. It should also be noted the entertainment style and type are reviewed by the ABC Board as well.

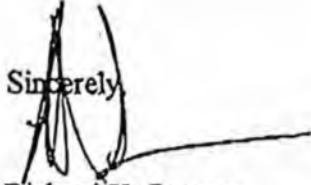
In addition, you stated that the Anchorage Municipal Assembly and the Spenard Community Council support HB #372. I find this interesting due to the fact that my licence and two others that I am familiar with were unanimously approved by the Municipal Assembly during four separate public hearings. I can not speak for the Spenard Community Council but the Downtown Community Council has gone on record supporting my licence and others. I made a public presentation to that body, which is a requirement of the Municipal Assembly and the ABC Board. My point being, if the local government and public oppose this licence, then why did the Government entities approve unanimously and they be no public opposition. As the statute reads, this licence requires approval not just a non-objection like every other type of liquor licence. This licence gets more scrutiny then even a full Liquor Dispensary Licence.

To clear up a misconception, please also be aware that this licence does not generate additional licences. These licences are re-issuing of restaurant licences and they do not exceed the number allowed by population count.

I did not receive the sponsor statement and other materials indicated to be with your correspondence.

Thank you once again for your attention to my concerns on HB #372 and should you have any question please do not hesitate to contact me at (907) 243-7775.

Sincerely,



Richard K. Sassara

cc: House State Affairs Committee Members
House Judiciary Members
Representative Cynthia Toohey
Representative Con Bunde
Representative Betty Davis

MAR 12 1996

STATE OF ALASKA

Tony Knowles, Governor

ADVISORY BOARD
ON
ALCOHOLISM AND DRUG ABUSE

P.O. Box 110608
Juneau, Alaska 99811-0608
Phone: (907) 465-8920
Fax: (907) 465-4410

March 11, 1996

Representative Norman Rokeberg
Alaska State House of Representatives
Room 110
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Rokeberg:

The Advisory Board on Alcoholism and Drug Abuse, Legislative Committee supports the provisions of House Bill 372 which you introduced this session. We recognize that without repeal of AS 04.11.100(f), a Tavern industry is formed that increases consumption of alcohol and subverts the intent of the statute that created limited sales of alcoholic beverages in food establishments. Passage of this legislation will result in the reduction of per capita consumption of alcoholic beverages in our state which is among the highest in the nation. Reducing per capita consumption of alcohol especially in two target groups, younger Alaskans and problem drinkers is a goal described in Alaska's Strategic Plan, "Meeting the Challenge".

House Bill 372, if enacted, helps us in this effort. Please call on us for any assistance that we may offer in passage of this legislation.

Sincerely,


Don Dapceovich
Executive Director

Cross references. — For legislative findings and purpose in connection with the 1995 enactment of subsection (g), see § 1, ch. 3, SLA 1995 in the Temporary and Special Acts.

Effect of amendments. — The first

1995 amendment, effective July 9, 1995, added subsection (g).

The second 1995 amendment, effective July 1, 1995, repealed subsection (c), relating to filing of a \$2,500 cash bond or surety bond with the application.

Sec. 04.11.100. Restaurant or eating place license. (a) A restaurant or eating place license authorizes a restaurant or eating place to sell beer and wine for consumption only on the licensed premises.

(b) A license may be issued under this section only if the board determines that the premises to be licensed are a bona fide restaurant or eating place.

(c) A license may be issued under this section only if the sale and service of food and alcoholic beverages and any other business conducted on the licensed premises of the restaurant or eating place is under the sole control of the licensee.

(d) The biennial fee for a restaurant or eating place license is \$600.

(e) A license may be renewed under this section only if the licensee provides evidence to the board's satisfaction that gross receipts from the sale of food upon the licensed premises constitute no less than 50 percent of the gross receipts of the licensed premises for each of the two preceding calendar years.

(f) Notwithstanding the provisions of (b) and (e) of this section, upon written application and approval of the local governing body, the board may issue or reissue a restaurant or eating place license and exempt the licensee from the requirements of (b) and (e) of this section. A licensee exempt as provided in this subsection shall provide food items for sale on the premises as shown on a menu approved by the board and available to patrons. The board may not

(1) issue or reissue a license as provided under this subsection if

(A) the issuance or reissuance would result in more than one exempt restaurant or eating place license for every 10 restaurant or eating place licenses allowed under the provisions of AS 04.11.400(a)(2) or (3);

(B) the premises would be located in a building having a public entrance within 200 feet of the boundary line of a school or a church building in which religious services are being regularly conducted; for purposes of this subparagraph, the 200-foot prohibition is measured from the outer boundary line of the school or the public entrance of the church building by the shortest pedestrian route to the nearest public entrance of the restaurant or eating place;

(2) reissue a restaurant or eating place license as exempt as provided under the provisions of this subsection if the license was issued under the provisions of AS 04.11.400(g); or

(3) transfer an exempt license issued under this subsection to another person. (§ 2 ch 131 SLA 1980; am § 4 ch 93 SLA 1985; am §§ 2, 3 ch 63 SLA 1993; am § 5 ch 101 SLA 1995)

BILL: SB 87 SHORT TITLE: ALCOHOLIC BEVERAGES: LOCAL OPTION & MISC.
BILL VERSION: HCS CSSB 87(JUD)
SPONSOR(S): JUDICIARY

CURRENT STATUS: CHAPTER 101 SLA 95 STATUS DATE: 06/29/95
EFFECTIVE DATE OF LAW SEE CHAPTER

TITLE: "An Act relating to the membership of the Alcoholic Beverage Control Board; relating to community local options for control of alcoholic beverages; relating to the control of alcoholic beverages; prohibiting persons from being on premises involving alcoholic beverages under certain circumstances; relating to the definition of 'alcoholic beverage'; relating to purchase and sale of alcoholic beverages; relating to alcohol server education courses; and providing for an effective date."

02/14/95	270	(S)	READ THE FIRST TIME - REFERRAL(S)
02/14/95	270	(S)	CRA, JUD, FIN
03/20/95	696	(S)	CRA RPT CS 4DP SAME TITLE
03/20/95	697	(S)	FISCAL NOTE (REV)
03/28/95	808	(S)	JUD RPT CS 1DP 4NR SAME TITLE
03/28/95	808	(S)	PREVIOUS FN (REV)
04/11/95	977	(S)	FIN RPT CS 3DP 3NR NEW TITLE
04/11/95	977	(S)	PREVIOUS FN (REV)
04/18/95	1058	(S)	RULES TO CALENDAR 4/18/95
04/18/95	1059	(S)	READ THE SECOND TIME
04/18/95	1059	(S)	FIN CS ADOPTED UNAN CONSENT
04/18/95	1060	(S)	AM NO 1 ADOPTED Y12 N7 E1
04/18/95	1060	(S)	AM NO 2 WITHDRAWN
04/18/95	1061	(S)	AM NO 3 ADOPTED Y10 N9 E1
04/18/95	1063	(S)	RESCINDED ACTION WITHDRAWING AM 2 UN CON
04/18/95	1063	(S)	AM NO 2 ADOPTED Y10 N9 E1
04/18/95	1064	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/18/95	1064	(S)	READ THE THIRD TIME CSSB 87(FIN) AM
04/18/95	1064	(S)	PASSED Y12 N7 E1
04/18/95	1065	(S)	EFFECTIVE DATE PASSED Y19 N- E1
04/18/95	1065	(S)	PEARCE NOTICE OF RECONSIDERATION
04/19/95	1089	(S)	HELD ON RECONSIDERATION TO 4/20
04/20/95	1114	(S)	RECON TAKEN UP - IN THIRD READING
04/20/95	1115	(S)	RETURN TO 2ND RESCIND ACTION AM 1 Y18 N2
04/20/95	1115	(S)	RESCINDED ACTION IN ADOPTING AM 1 Y11 N9
04/20/95	1116	(S)	AM NO 1 FAILED Y10 N10
04/20/95	1116	(S)	AUTOMATICALLY IN THIRD READING
04/20/95	1116	(S)	RETURN TO 2ND RESCIND ACTION AM 2 Y17 N3
04/20/95	1117	(S)	RESCINDED ACTION IN ADOPTING AM 2 Y11 N9
04/20/95	1117	(S)	AM NO 2 FAILED Y7 N13
04/20/95	1117	(S)	AUTOMATICALLY IN THIRD READING
04/20/95	1118	(S)	RETURN TO 2ND RESCIND ACTION AM 3 Y17 N3
04/20/95	1118	(S)	RESCINDED ACTION IN ADOPTING AM 3 Y11 N9
04/20/95	1119	(S)	AM NO 3 FAILED Y8 N12
04/20/95	1119	(S)	AUTOMATICALLY IN THIRD READING
04/20/95	1119	(S)	PASSED ON RECONSIDERATION Y13 N7
04/20/95	1120	(S)	EFFECTIVE DATE PASSED Y17 N3
04/20/95	1127	(S)	TRANSMITTED TO (H) CSSB 87(FIN)
04/21/95	1417	(H)	READ THE FIRST TIME - REFERRAL(S)
04/21/95	1418	(H)	CRA, JUDICIARY
04/29/95	1663	(H)	CRA RPT HCS(CRA) 1DP 3NR
04/29/95	1663	(H)	DP: VEZEY

SENATE
VOTE
SB 87

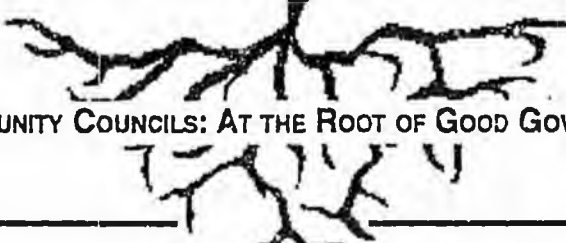
04/29/95	1663	(H)	NR: AUSTERMAN, IVAN, KOTT
04/29/95	1663	(H)	SENATE FISCAL NOTE (REV) 3/20/95
05/08/95	1973	(H)	JUD RPT HCS(JUD) SDP 1NR 1AM
05/08/95	1974	(H)	DP: PORTER, VEZEY, FINKELSTEIN, BUNDE
05/08/95	1974	(H)	DP: TOOHEY
05/08/95	1974	(H)	NR: GREEN
05/08/95	1974	(H)	AM: E.DAVIS
05/08/95	1974	(H)	SENATE FISCAL NOTE (REV) 3/20/95
05/09/95	1974	(H)	RULES TO CALENDAR 5/09/95
05/09/95	2051	(H)	READ THE SECOND TIME
05/09/95	2051	(H)	JUD HCS ADOPTED UNAN CONSENT
05/09/95	2052	(H)	AM NO 1 FAILED Y9 N30 A1
05/09/95	2054	(H)	ADVANCED TO THIRD READING 5/10 CALENDAR
05/10/95	2091	(H)	READ THE THIRD TIME HCS CSSB 87(JUD)
05/10/95	2091	(H)	PASSED Y39 A1
05/10/95	2092	(H)	EFFECTIVE DATE(S) SAME AS PASSAGE
05/10/95	2108	(H)	TRANSMITTED TO (S) AS AMENDED
05/12/95	1775	(S)	FAILED CONCUR (H) AM Y10 N10
05/13/95	1797	(S)	RESCINDED ACTION FLG TO CONCUR Y15 N5
05/13/95	1798	(S)	CONCUR AM OF (H) Y15 N5
05/13/95	1799	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
06/26/95	1941	(S)	8:36 AM 6/13/95 TRANSMITTED TO GOVERNOR
09/27/95	2008	(S)	CLERICAL ERRORS CORRECTED IN ENROLLING
09/27/95	1988	(S)	SIGNED INTO LAW 6/29 CHAPTER 101 SLA 95
09/27/95	1988	(S)	EFFECTIVE DATE OF LAW SEE CHAPTER

HOUSE
VOTE
SB 87

AUG 30 1995



neighbor to neighbor



COMMUNITY COUNCILS: AT THE ROOT OF GOOD GOVERNMENT

ANCHORAGE, ALASKA

SEPTEMBER 1995

From the Chair

Headaches, hangovers: New liquor licenses

From time to time a liquor license issue comes up that necessitates a trip to the Alcoholic Beverage Control Board. The person I usually deal with is Donna who is extremely knowledgeable of Title 4 of Alaska Statutes, which is entitled Alcoholic Beverage Control. Liquor licenses are controlled and the legislature has even decided how many of each type of license can exist. They did grandfather all existing licenses upon establishment of the Act.

There are 20 types of licenses but we generally only deal with four. They are package store, restaurant or eating place, beverage dispensary and club licenses. From time to time we see a brewpub license request appear, but they are the new kid on the block. Several beverage dispensary licenses also have duplicate beverage dispensary license for additional rooms.

In Anchorage we are allowed by law 77 package, 77 dispensary and 77 club licenses and 154 restaurant or eating place licenses. That works out to one restaurant or eating place license for 1,500 residents and one each of package, dispensary or club

See Liquor, Page 2

Awards will cite beautification

The Mayor's Beautification Task Force and the Urban Design Commission will present the newly dubbed "Celebration of Anchorage Awards" for Beautification and Urban Design at a special awards luncheon at the Egan Center on Dec. 6.

Award categories will recognize excellence in building design, northern design principles, landscape design, maintenance, flowers, lighting, and contribution to the quality of life in Anchorage. Nominations are requested for private, commercial, residential, military and public projects.

Submission deadline is Oct. 6. Four color slides must accompany the Award entry form.

Contact: Panteha Redwood, Community Planning and Development, 343-4288 or Kathy Kingston, 343-4527.



See Related Article,
Pages 7-8

FCC bylaws reviewed again; in mail soon

A conflict between the Federation of Community Councils Articles of Incorporation and the bylaws forced the Board of Directors to ramp up its plans to send the changed governing rules out to the 37 Community Councils for ratification.

At the August meeting, the FCC Board made the two documents compatible. The key change is that the Board of Directors has been changed to a Board of Delegates.

And under the new rules, five at-large delegates can be selected to the FCC Board, but each Community Council will be limited to one vote. George Gaguzis, representative from the Northeast Area Community Council, proposed the limitation.

The bylaws now will be distributed to the 37 Community Councils, which are being urged to address the FCC bylaw changes during their September or October meetings. All responses need to be in the Community Councils Center by Oct. 18, the day the FCC Board holds its regular monthly meeting. Two-thirds approval of the changes must come from those Councils who consider the proposals.

Liquor licenses

Continued from Page 1

of package, dispensary or club license for 3,000 residents. Anchorage currently has 108 package licenses, 147 dispensary licenses and 24 club licenses. We have 146 restaurant or eating place licenses with six licenses applied for. Very close to the limit.

Anchorage also has a whole host of rules for alcoholic beverages control. These are contained in Title 10 of the Anchorage Municipal Code. Where alcoholic beverages may be sold from is a land-use question and the rules are contained in Title 21 of the Code. The land use part of the code was substantially revised starting in 1993 and finished in 1994. These changes tightened up the application for condition use process and caused a significant awareness.

HCS CSSB 87(JUD) or Senate Bill 87 was approved by the governor on June 29, changing some of the rules we have previously dealt with. This act allows 10 percent of restaurant licenses to be exempt from the 50 percent rule for food. In the past 50 percent of gross receipts had to be from food and this stipulation had to be proven to the ABC Board. Although an exempt license can not be transferred it does allow a new kind of establishment. What is envisioned by me is a tavern like business which potentially makes these ten licenses substantially more valuable than the usual restaurant licenses. —

At the present time two businesses in Spenard and one business in Campbell Park are applying for exempt licenses. Two of the three have recently been denied conditional uses by the Anchorage Assembly. They have reapplied even though one year has not elapsed as has been the requirement in the past after a denial.

It will be interesting to see how the Anchorage Assembly deals with this exempt license provision and whether they allow any at all.

The law says no more than 10 percent but it does not mandate the first one. I am of the opinion that we currently have enough liquor being served in Anchorage and issuance of even one more license where the principle business is serving alcohol would be a mistake. No, I am not asking that any current business be closed. I am saying, however, that since in gross numbers we are way over what lawmakers deemed adequate, we should not enable any more.

Tom McGrath
Chair

Federation of Community Councils

Federation of Community Councils



Chair: Tom McGrath
Vice-Chair: Seth Eames
Secretary: Deanna Murray
Treasurer: Eileen Zaiser
Past Chair: Jim Putman

Councils Center Manager:
Harry McFarland

Community Councils

Community Councils in Anchorage are neighborhood associations authorized by Municipal Charter. They provide local citizens with a voice that is heard and usually heeded by members of boards and commissions, agency staff, Assembly members and state legislators.

Contact the Community Councils Center to learn how to join your neighborhood's Community Council.

Councils Center

The Federation of Community Councils is an organization made up of the 37 Community Councils within the Municipality of Anchorage. The Federation operates the Community Councils Center at 301 E. Fireweed Lane, Suite 101.

The Center provides a work area for Councils and other non-profit groups to produce informational flyers and newsletters to communicate with their members and the public. If you have any questions about the Federation or the Councils Center, call 277-1977.

Neighbor to Neighbor

"Neighbor to Neighbor" is a monthly newsletter written and published by the Federation of Community Councils staff to help provide communication within Community Councils and within the community as a whole.

If you would like to receive "Neighbor to Neighbor" free each month, call the Center at 277-1977.

**Deadline
for October
is Sept. 20**

RESOLUTION
OF THE
SPENARD COMMUNITY COUNCIL
SCCR ___-95

A RESOLUTION ESTABLISHING SUPPORT FOR REPEAL OF A PORTION OF HCS CSSB 87(JUD) RELATING TO ALCOHOLIC BEVERAGE CONTROL.

WHEREAS, the Anchorage Municipal Charter Article VIII grants unto a duly recognized Community Council the basic right of self-determination, and

WHEREAS, the Spenard Community Council being a duly organized community council under Section 2.40.010 of the Municipal Code, and

WHEREAS, the Spenard Community Council area has one hundred and seventeen liquor licences within it's boundaries, and

WHEREAS, Spenard has twenty seven percent of all Anchorage liquor licenses within it's boundaries, and

WHEREAS, Spenard has only six percent of the population of Anchorage within it's boundaries, and

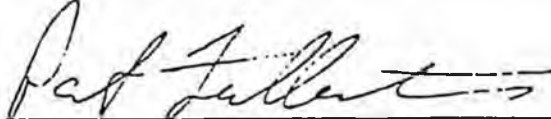
WHEREAS, the Spenard Community Council has experienced a long and ongoing negative effect from the ravages of alcohol, and

WHEREAS, because of our ongoing experiences with the alcohol industry, and

WHEREAS, alcohol influences eighty percent of all convicted criminals in the state of Alaska, and

WHEREAS, the availability of alcohol increases consumption, and

BE IT THEREFORE RESOLVED, that the Spenard Community Council requests and supports the repeal of that section of HCS CSSB 87(JUD) which allows ten percent of Restuarant or eating place licenses to be exempt from the fifty percent food provision of license requirements. We further ask that no exempt licenses approved subsequent to this act be given grandfather rights.



Chairman, Pat Fullerton

Submitted by: Assemblymember Bell
Prepared by: Assembly Policy and Budget Office
For reading: February 27, 1996

CLERK'S OFFICE

APPROVED

Date: 2-27-96

ANCHORAGE, ALASKA

AR NO. 96-45

**A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY SUPPORTING
STATE HOUSE BILL 372 RELATING TO LIQUOR LICENSES ISSUED TO A
RESTAURANT OR EATING PLACE**

WHEREAS, Senate Bill 87, passed during the last legislative session, allows for ten (10) percent of restaurant or eating place licenses to be exempt from the fifty (50) percent food provision of license requirements; and

WHEREAS, in Alaska, the statutory authority to sell beer and wine in restaurants has historically been limited, allowing eating establishments the ability to compliment their food menu with alcohol, but not provide a full bar service; and

WHEREAS, Senate Bill 87 creates a tavern industry in Alaska, where beer and wine can be sold with a limited or token food menu; and

WHEREAS, House Bill 372, introduced this session and sponsored by State Representative Norman Rokeberg, repeals the specific section [AS 04.11.100(F)] allowing such a tavern industry (see attached copy of bill and current statute language); and

WHEREAS, House Bill 372 is scheduled to be heard by the State Affairs Committee, possibly next week.

NOW, THEREFORE, the Anchorage Municipal Assembly resolves:

Section 1: That the Assembly supports House Bill 372 and encourages the State Legislature to pass this legislation.

Section 2: That this resolution is effective upon passage and approval.

PASSED AND APPROVED by the Anchorage Municipal Assembly this
_____ day of _____, 1996.

ATTEST:

Chair

Municipal Clerk



*Alaska Cabaret, Hotel,
Restaurant & Retailers Association*

201 E. 24th, Suite 200 - Anchorage, Alaska 99518
(907) 503-8199 - Fax (907) 503-8190
Toll Free in Alaska (800) 478-7477

February 2, 1996

Representative Norman Rokeberg
Alaska State Legislature
Juneau, Alaska

Dear Representative Rokeberg,

At the January 30, 1996 CHARR Board of Directors meeting, House Bill No. 372 which you have sponsored was discussed at great length. The Board has directed me to communicate our position to you. CHARR supported the adoption of Senate Bill 87 last year which was introduced to correct problems in existing ABC statutes. The original version of Senate Bill 87 did not include any mention of the subject of restaurant or eating place licenses which was subsequently included at the request of the Senate President. CHARR historically has opposed the concept of increasing the number of any type of retail beverage alcohol licenses available and we continue to oppose any expansion of this number. We support this intent of your legislation but we do feel that the title of House Bill No. 372 is unnecessarily broad.

We appreciate the opportunity to comment on the legislation and the consideration you have shown us.

Yours truly,

Carol Wilson
Executive Director

---END---

STATE OF ALASKA

DEPARTMENT OF REVENUE

ALCOHOLIC BEVERAGE CONTROL BOARD

TONY KNOWLES, GOVERNOR

550 W 7TH AVE.
ANCHORAGE, ALASKA 99501-5698

February 9, 1996

Representative Norman Rokeberg
Alaska State House of Representatives
State Capitol
Juneau, Alaska 99801-1182
FAX: 907-465-2040

RE: HB 372 - Liquor licenses issued to a restaurant or eating place

Dear Representative Rokeberg,

This letter is drafted in response to our telephone conversation on February 8, 1996. We discussed HB 372, a bill you have introduced to repeal AS 04.11.100(f). This provision, passed last year as part of SB 87, allows a restaurant or eating place licensee (commonly referred to as a beer and wine license) to become "exempt" from some requirements normally placed on a bona fide restaurant.

An exempt licensee would need to provide food items, but would not need to necessarily meet the requirement of AS 04.11.100(e) that 50 percent of gross receipts of a licensed premises come from the sale of food. Under the "exempt" status the establishment could also be exempt from the constraint of 15 AAC 104.305 that live entertainment be provided only from 6 p.m. to 9 p.m.

Based on my research of the history of SB 87, the "exempt" provision was a compromise designed to address a request from some restaurant owners that wished to provide entertainment later into the evening and entertainment purveyors who wanted the ability to serve beer and wine. There was discussion of creating a new type of license or additional licenses like those allowed for the promotion of tourism (AS 04.11.400(d)) or public convenience (AS 04.11.400(g)). However, this alternative would have created additional licenses in a market that is already saturated based on population quotas contained in the statute.

The "exempt" approach to restaurant and eating place licenses was decided to best meet the expressed need because it would:

- 1) not create additional licenses, but merely allow existing licensees within the population quota to expand entertainment offerings;
- 2) require approval of the local governing body to exempt the licensee;
- 3) limit the number of exempt licensees to 10% of the restaurant or eating place licenses (the calculation based on general population limitations of one restaurant license for each 1,500 population or fraction of the adjusted population would be as follows for the Municipality of Anchorage: $229,775 \text{ divided by } 1,500 = 154 \times 10\% = 15$; Based on the same formula the City of Fairbanks: 2 exempt licenses and the City and Borough of Juneau: 2 exempt license;
- 4) require the sale of food items as shown on a menu approved by the ABC Board;
- 5) prohibit issuance of an eating place exemption to establishments licensed under public convenience provisions (AS 04.11.400(g)) and (15 AAC 104.335); and
- 6) prohibit transfer of an exempt license to another person.

These controls are important and valuable. However, it is clear, as noted in the testimony before the Senate Finance Committee last year (see enclosed minutes), the intent and result of the exempt provision is to allow the application of a beer and wine license beyond a setting where dining is the preeminent activity. This allows for a limited number of beer and wine licensees to operate, at times, as a tavern or, to use the words of Mr. Sharrock in explaining Section 4 of SB 87 to the Senate Finance Committee, a "semi-tavern."

To date, the ABC Board has approved "exempt" status for Legal Pizza and Railway Brewing Company in Anchorage and the ABC Board will consider the request from Chandalar Inn in the Matanuska-Susitna Borough at its board meeting of February 14 to 16. China Express, Ichiban Japanese Restaurant, Sushi Gardens, and Fiori D'Italia of Anchorage are in the process of requesting exempt designations and will be considered at a subsequent ABC Board meeting.

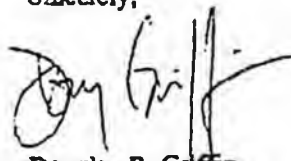
SB 87 contained a number of provisions important to the hospitality industry. The ABC Board and its staff acted to assist the Legislature and the industry in drafting legislation that would strike the proper balance between adequately regulating the alcoholic beverage trade and allowing freedom for entrepreneurs to meet public demand for expanded entertainment and recreation options.

I stand by the considered and informed consent demonstrated by the Nineteenth Legislature during its first session last year and Governor Knowles' general agreement with SB 87 when he signed it into law as Chapter 3, SLA 1995. The ABC Board is proceeding in implementing the provisions of this new law. I and the Board stand ready to work with you on HB 372 or any other legislation you wish to offer to find the proper balance in regulation of the alcoholic beverage industry for the welfare of all Alaskans.

The ABC board will be in Juneau February 15 and 16 and will be available to discuss your bill further. The Board meetings will be held at the Juneau Assembly Chambers and the board is staying at the Westmark the evening of February 15, 1996.

Feel free to contact me further regarding HB 372 or any other matter related to alcoholic beverage regulations.

Sincerely,



Douglas B. Griffin
Director

Enclosures: Senate Finance Committee Minutes

cc: ABC Board Members
Bob Bartholomew, Legislative Liaison

BASIS 12 PAGES SELECTED Committee Minutes

Mr. Scharrock responded that there was nothing in the legislation that would detract from the Board's ability to pursue enforcement activity. He stated that he was in disagreement because he is the one to enforce the law and initiating enforcement actions against licensees. Mr. Scharrock said that the budget is part of the problem. In response to Senator Donley's inquiry to page 4, line 4, he stated that 75,000 gallons is what is needed to establish a brew pub.

Co-chair Halford requested a section by section explanation of the legislation.

Mr. Scharrock began with Section 1. He stated that a current licensee could not solicit or have someone in the area receive orders on his or her behalf. He said that this bill removes the name community license. Discussion was had on this section.

Section 3, eliminates the name of the community liquor

Selection=>	PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP			EXIT	MENU		PRINT	BWD	FWD		FIRST	LAST	QUIT
SNA 02 A01CI17							NUM LPT1					A

*Sen F:W
4/6/95*

BASIS 12 PAGES SELECTED Committee Minutes

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HELP			EXIT	MENU		PRINT	BWD	FWD		FIRST	LAST	QUIT
SNA 02 A01CI17							NUM LPT1					A

BASIS 12 PAGES SELECTED Committee Minutes

license because that has been changed in the local option provisions.

Section 4 is a suggestion by the Board itself. It is new, and a result of restaurants holding a beer and wine license instituting entertainment on their premises, where at times

the primary activity of patrons is not dining, but rather entertainment. The law and the class of license did not intend for that to happen. Even the regulations by the Board, state that primary activity must be dining. The Board tried to address it through regulation saying that restaurants could have entertainment between the hours of 6 and 9 p.m. That was unsatisfactory to most licensees. What this amendment does is allow one license for each 10, to come under this exempt provision that says all they have to have is food available. It addresses the issue of either changing times or the desire of licensees to do different things. The Board has referred to it at times as a semi-tavern license. It does not create an additional class of license. The Board did not want to do that. In essence,

Selection=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU		PRINT	BWD	FWD		FIRST	LAST	QUIT
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BASIS 24 PACES SELECTED Committee Minutes
language would prohibit those purchases.

*See AN
4/7/95*

Mr. Farleigh next directed attention to Sec. 4 and advised that it poses a more immediate concern. He advised that while he was generally in support of the language, he did not need provisions (b) and (e). He explained that the problem is that he cannot have live music in his pizza parlor after 10:00 p.m.

Mr. Farleigh further objected to prohibitions within subsection (3) of Sec. 4, which would disallow transfer of an exempt license to another person. He asked what would happen in the event of the death or retirement of the license holder. Noting that it is difficult to sell pizza without beer, Mr. Farleigh stressed his desire to maintain the value of his business and pass it along to his heirs.

Mr. Farleigh reiterated his wish to provide entertainment beyond the 9:00 p.m. deadline and asked if there could be another way to achieve that goal.

Selection=>											
PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU		PRINT	BWD	FWD		FIRST	LAST	QUIT
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