

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9361 HOUSE LABOR & COMMERCE

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF LABOR
OFFICE OF THE COMMISSIONER

P.O. BOX 21149
JUNEAU, ALASKA 99802-1149
PHONE: (907) 465-2700
FAX: (907) 465-2784

April 14, 1997

APR 14 1997

The Honorable Norman Rokeberg
Chair, Labor and Commerce Committee
Alaska State Legislature
Capitol Building, Room 24
Juneau, AK 99801-1182

Dear Representative Rokeberg:

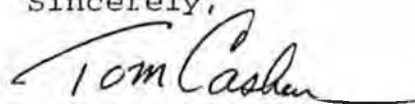
Re: Senate Bill No. 137

This legislation will clear up a longstanding problem that has hindered the ability of small private volunteer ambulance and firefighting operations. The handful of rural and remote volunteer firefighters and ambulance departments that exist across the state have not been able to utilize pure volunteer labor. They have had to provide minimum wage for these individuals which devastated their already thin budgets. SB 137 will grant the private operations the same exempt status as that given to the public sector.

The total number of employees affected by this legislation is small, and the benefits to the public far outweigh the potential for abuse. As a general rule, volunteers for these small private non-profit fire and rescue operations are all members of the community that the organization is created to protect. This self-sufficiency is hindered by SB 137 as it will enable small rural communities in Alaska to better care for themselves. The Department of Labor supports this legislation.

I appreciate your attention to this bill and for allowing us the opportunity to comment. Should you have any questions, don't hesitate to contact my Legislative Liaison, Dwight Perkins, at 465-2702.

Sincerely,



Tom Cashen
Commissioner

cc: Senator Loren Leman
Dwight Perkins, Legislative Liaison

TOK AREA EMS
Box 811
Tok, Ak. 99780
Ph.(907) 983-5873/5855/Fax 5245
April 11, 1997

Rep. Norman Rokeberg
Alaska Legislature

Rep. Rokeberg,

This is a letter in SUPPORT of Senate Bill 137 that exempts volunteer EMT's and Fire Fighters from the Alaska Wage and Hour Act.

This legislation is important to us in our endeavor to provide emergency medical service to the residence and visitors of our 20,000 square mile area and to fairly treat the volunteers that provide this service.

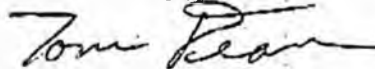
In 1996, the 22 members of this service volunteered 1,889 individual hours on 161 ambulance calls and 1,209 hours of training.

When people are willing to provide this much of their time, I feel it is important that it is not costing them money also.

It is important to this service that we do not violate labor laws yet to be sure our members are adequately reimburse for expenses they may incur.

Our community can not afford to lose the training and experience invested in these people.

Sincerely,


Tom Dean, Chief

TOK CLINIC

P.O. BOX 289
TOK, AK 99780
(907) 883-5855

FACSIMILE TRANSMISSION SHEET

DATE: 4-11-97

TO: Rep. Norman Rokeberg

COMPANY: Alc. Legislature

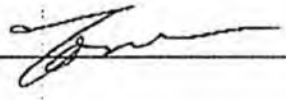
FAX NUMBER: 465-2040

FROM: Tom Dean, Chief, Tok Area EMS

FAX NUMBER: (907) 883-5245

NUMBER OF PAGES INCLUDING COVER SHEET: 2

MESSAGE: Support SB 137 - letter as
requested during Te conference
This AFTERnoon



*Consider
moved
adopted
no objection*

0-LS0727E
Cramer
4/10/97

CS FOR SENATE BILL NO. 137()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS LEMAN, Miller, Taylor, Pearce, Mackie

A BILL

FOR AN ACT ENTITLED

1 "An Act exempting certain volunteer emergency medical technicians and volunteer
2 fire fighters from state wage and hour laws; and providing for an effective date."

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

4 * Section 1. AS 23.10.055 is amended by adding a new paragraph to read:

5 (16) an individual who provides emergency medical services only on
6 a voluntary basis or an individual who serves with a full-time fire department only on
7 a voluntary basis.

8 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).



SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Suite 520, Anchorage, AK 99501 (907) 258-8189 Session: State Capitol, Juneau, AK 99801 (907) 465-2095

SPONSOR STATEMENT

SENATE BILL 137: EXEMPT VOL. EMT/FIRE FGTR WAGE & HOUR LAW

Alaska is fortunate to have an army of volunteers serving as emergency medical technicians and fire fighters. It is unfortunate that labor law and regulation have become so convoluted that to reimburse these volunteers for out-of-pocket expenses places them over the wage and hour line as "employees".

Some volunteer organizations have gone to extraordinary organizational lengths to avoid this problem, while others continue to reimburse unaware that they may possibly be violating state wage and hour law.

The exemption for volunteer EMTs and fire fighters needs to be made, so that Alaska can continue to receive the benefit of their services without the heavy hand of government over-regulation.



SENATOR LOREN LEMAN

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716 W 4th Ave, Suite 520, Anchorage, AK 99501 (907) 258-8189 Session: State Capitol, Juneau, AK 99801 (907) 465-2095

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0-LS0727AE
Cramer
4/10/97

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IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY

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2 **fire fighters from state wage and hour laws; and providing for an effective date."**

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6 **a voluntary basis or an individual who serves with a full-time fire department only on**
7 **a voluntary basis.**

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SB

158

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

NO. 2
BILL NO: Bill Version: CS SB 158 (L+C)
(S) Publish Date: 2/20/98

Revision Date: _____ Dept. Affected: Administration
Title: "An Act relating to motor vehicle liability Insurance..." BRU: Motor Vehicles
Sponsor: Senate Judiciary Component: Driver Services
Requester: (S) L&C COMPONENT SERIAL NO. 2150

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

CHANGE IN REVENUES ()						
Revenue Code						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 98) impact: \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill will not fiscally impact the Division of Motor Vehicles

Prepared By: Juanita M. Hensley Phone: 465-5648
Division: Motor Vehicles Date: 2/4/98
Approved by Commissioner: Mark Boyer Date: 2/4/98
Agency: Department of Administration

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SB 158

Revision Date (Note if correction) _____ Dept. Affected Commerce & Economic Development
 Title Insurance Changes For Driver's License BRU Insurance
 Revocation _____ Component Insurance
 Sponsor Senate Judiciary Committee
 Requester Senate Labor & Commerce Component Serial No. 354

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
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 (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 Section 1 amends the existing statute to prohibit canceling a personal automobile insurance policy when a minor's license is revoked for possession of alcohol.

 Section 2 adds a new section that prohibits an insurer from canceling, nonrenewing, denying a claim, or increasing the premium on a motor vehicle liability insurance policy when a minor's license has been revoked for possession or consumption of alcohol.

Prepared by Marianne K. Burke, Director *M. Burke* Phone 465-2515
 Division Insurance Date 2/2/98
 Approved by Commissioner Deborah B. Sedwick *D. Sedwick* Date 2.2.98
 Agency Commerce and Economic Development

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For further distribution information, call the Governor's Legislative Office

HOUSE COMMITTEE REPORT

(7)
 Date Referred to Committee: March 6, 1998 FURTHER REFERRALS: Judiciary

Date of Committee Action: 4/3/98

The LABOR AND COMMERCE Committee considered: CSSB 158(L&C)

CS FOR SENATE BILL NO. 158(L&C) INSURANCE CHANGES FOR DR. LIC REVOC.

“An Act relating to motor vehicle liability insurance covering a person who has had the person's driver's license revoked for possession or consumption of alcohol while under 21 years of age.”

recommends it be replaced with the following committee substitute HCS CSSB 158(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) DOA, DCED

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>John J. Conduff</i>	✓			
<i>Robert D. Hill</i>	⓪		✓	
<i>Paul Kubera</i>	✓			
<i>Joe Ryan</i>	✓			
<i>Norm Kelly</i>	✓			

CHAIR'S SIGNATURE *Norm Kelly* 4.3.98

*Revision
Adopted*

0-LS0839R
Ford
4/3/98

HOUSE CS FOR CS FOR SENATE BILL NO. 158()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE JUDICIARY COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to motor vehicle liability insurance covering a person who has
2 had the person's driver's license revoked for possession or consumption of alcohol
3 while under 21 years of age."

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

5 * Section 1. AS 21.36.210(a) is amended to read:

6 (a) An insurer may not exercise its right to cancel a policy of personal
7 automobile insurance except for the following reasons:

8 (1) nonpayment of premium; or

9 (2) the driver's license or motor vehicle registration of either the named
10 insured or of an operator who resides in the same household as the named insured or
11 who customarily operates a motor vehicle insured under the policy has been under
12 suspension or revocation during the policy period or, if the policy is a renewal, during
13 its policy period or the 180 days immediately preceding its effective date; this
14 paragraph does not apply to administrative revocation as described under

1
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AS 21.89.027.

* Sec. 2. AS 21.89 is amended by adding a new section to read:

Sec. 21.89.027. Motor vehicle insurance following driver's license revocation. (a) Notwithstanding AS 21.36.210, an insurer offering insurance in this state may not (1) refuse to issue or renew motor vehicle liability insurance coverage; (2) cancel an existing policy of motor vehicle liability insurance; (3) deny a covered claim; or (4) increase the premium on a motor vehicle liability insurance policy if the refusal, cancellation, denial, or increase results only from the fact that the person's driver's license was revoked under AS 28.15.183 or 28.15.185 for possession or consumption of alcohol in a situation where the person was not driving and was in violation of AS 04.16.050 or a municipal ordinance with substantially similar elements.

(b) The provisions of (a) of this section may not prevent an insurer from underwriting or rating based upon loss experience in the same manner as it would for a person who has not had the person's driver's license revoked under AS 28.15.183 or 28.15.185.

* Sec. 3. This Act applies to a policy of insurance that is entered into or renewed on or after the effective date of this Act.

90 days

Burden of drinking law for minors falls on parents

By TERRIL L. SMITH

The "Use it, lose it" law on its face sounds like a good law to get a message across to minors not to drink. You drink, you are fined and lose your driver's license for 90 days (first offense). But until you as a parent are in a situation that involves this issue, you cannot imagine the real repercussions of this law.

Criminal — minors are fined \$100 (first offense). They have a juvenile record until 18. This is a fair consequence for minors consuming alcohol.

Civil — DMV, minors lose their permits, driver's license or upon the age of 18, losing a license, have it suspended for a period of 90 days. Sounds like a fair consequence. But the reality of this side of the law has con-



stitutional issues. The minor's possession/consuming citation is on their driving record, even if no vehicle was involved. This citation stays on their record for five years. If caught at 16, they are punished until age 21. The insurance companies rate these citations as DWI offenses and the minors have to obtain SR 22 insurance, again, no motor vehicle has to be involved. For males, insurance can be as much as \$4,000 per year for five years. That is two years' college tuition. Even if the criminal charge is dismissed, the DMV suspension still stands. This is like being found not guilty, but ordered to pay

restitution. For a first offense, the punishment does not fit the crime, especially if no vehicle was involved. If an adult was in a park and cited for public drunkenness, his license is not affected.

Tell me what minor/college student can afford SR 22. The punishment ends up on the shoulders of the parents. This is more like a \$20,000 fine for drinking and not driving.

Minors are not supposed to drink, but it is a fact of life that they do. If alcohol and a vehicle are involved, by all means, the punishment fits. The message that is being sent to minors is "it makes no difference if you get behind the wheel of a car or not, the consequence is the same." Teens do not want adults to know that they have consumed alcohol. If they must

Teens do not want adults to know that they have consumed alcohol. If they must walk a mile to get home and have to make the choice to drive or walk, what decision do you think they will choose? If they walk and a police officer sees them, all the officer has to have is "probable cause" to cite them. We all know what decision the minor will make when the consequence is the same.

walk a mile to get home and have to make the choice to drive or walk, what decision do you think they will choose? If they walk and a police officer sees them, all the officer has to have is "probable cause" to cite them. We all know what decision the minor will make when the consequence is the same. This is a very bad message to send.

There should definitely be consequences for underage drinking, but the burden should be put on the minors, not the parents. There are parents, teachers, students and members of the public with positive ideas to develop fair consequences for the first offense, ideas that do not make the consequence the same for making the right decision not to get be-

hind the wheel or get in a car with someone else who has been drinking.

This law needs to be amended. Please write to your senators and representatives and maybe the life you save will be your own child's.

Terril L. Smith is founder of Parents Against Use It-Lose It.

4/1/98 SB158-

Ralph - Senator Taylor -

Cowden - How does it work with someone who gets a speeding ticket and someone who 4 cars does the rate go up for all policies -

Mr. George Abiel ^{passed} which required that you specifically exclude from your policy and

Michael Lessner - Primary focus is State Farm for not driving situation - but it

Quanita Hensley - DMV - people with

AS 28.15 - would not require SR22 - if not 28.15.183 (e) not driving incident

28.15.185(d)

28.20.240 This bill comes back and restates it for

28.20.250 SR22 insurance it already is in

SR22 insurance title 28

to try to remedy situation a parent has to give consent if under 18 to get drivers license

and also

(2)

Hudson - the conceptual amendment by the State for - how do you feel about

Hamley objects to lines 16-20 Page 2

refers back to Page 2 line 6(3) and the insurance company

Ralph Bennett - go back to 1 version - will go back and start with a non during incident -

May Ann Burk - would propose deletion of for a a line 13 Page 2 -

it is a very important fix - not so many complaints about non-renewal and cancellation of policy - supports the 2 - proposed amendments

Ryan - to take advantage of a loophole

Wait
21.36 - unfair trade practices

- Rates used by an insurance company have to be approved by the dept.

(3)

Cowley - you approve all rates?
are all rates approximately
the same -

Burke - they are very much the same - not
exactly the same - the company rates
establishes

28.30 280, > zero tolerance for drinking
295 > under the age 21 - any
level or odor

1996 - Ice Free
legislation (federal
requirement) >
it is an infraction rather
than misdemeanor -

Ralph
- Mr. Bennett - Do not propose to come back
before you without a bill that HHC can
support -

This is from Ralphen Taylor's
office.

This is what they'd like

4-2-98
2:30PM

Janet
Berke likes this
DMV OK

0-LS0839\Q
Ford
4/2/98

HOUSE CS FOR CS FOR SENATE BILL NO. 158()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATE JUDICIARY COMMITTEE BY REQUEST

A BILL

FOR AN ACT ENTITLED

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2 had the person's driver's license revoked for possession or consumption of alcohol
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9 (2) the driver's license or motor vehicle registration of either the named
10 insured or of an operator who resides in the same household as the named insured or
11 who customarily operates a motor vehicle insured under the policy has been under
12 suspension or revocation during the policy period or, if the policy is a renewal, during
13 its policy period or the 180 days immediately preceding its effective date; this
14 paragraph does not apply to administrative revocation as described under

1 AS 21.89.027.

2 * Sec. 2. AS 21.89 is amended by adding a new section to read:

3 Sec. 21.89.027. Motor vehicle insurance following driver's license
4 revocation. (a) Notwithstanding AS 21.36.210, an insurer offering insurance in this
5 state may not (1) refuse to issue or renew motor vehicle liability insurance coverage;
6 (2) cancel an existing policy of motor vehicle liability insurance; (3) deny a covered
7 claim; or (4) increase the premium on a motor vehicle liability insurance policy if the
8 refusal, cancellation, denial, or increase results only from the fact that the person's
9 driver's license was revoked under AS 28.15.183 or 28.15.185 for possession or
10 consumption of alcohol in a situation where the person was not driving and was in
11 violation of AS 04.16.050 or a municipal ordinance with substantially similar elements.

12 (b) The provisions of (a) of this section may not prevent an insurer from
13 underwriting or rating based on a loss experience in the same manner as it would for
14 a person who has not had the person's driver's license revoked under AS 28.15.183
15 or 28.15.185.

16 * Sec. 3. This Act applies to a policy of insurance that is entered into or renewed on or
17 after the effective date of this Act.

0-LS0839\P
Ford
4/1/98

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10 insured or of an operator who resides in the same household as the named insured or
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10 consumption of alcohol in violation of AS 04.16.050 or a municipal ordinance with
11 substantially similar elements.

12 (b) The provisions of (a) of this section

13 (1) may not prevent an insurer from underwriting or rating for a loss
14 experience in the same manner as it would for a person who has not had the person's
15 driver's license revoked under AS 28.15.183 or 28.15.185; and

16 (2) do not apply to a liability insurance policy covering a motor vehicle
17 if the motor vehicle is operated by a person during a period of driver's license
18 revocation imposed on the person under AS 28.15.183 or 28.15.185 for possession or
19 consumption of alcohol in violation of AS 04.16.050 or a municipal ordinance with
20 substantially similar elements.

21 * Sec. 3. This Act applies to a policy of insurance that is entered into or renewed or, or
22 after the effective date of this Act.

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

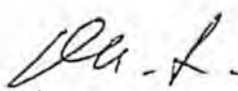
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 31, 1998

SUBJECT: Motor vehicle liability insurance - (CSSB 158(L&C))

TO: Senator Robin Taylor
Attn: Ralph

FROM: Michael F. Ford 
Legislative Counsel

You have asked me to review and comment on suggested language for sec. 2 of CSSB 158(L&C). Subsection (a) of the suggested language appears to change the existing protection given in CSSB 158(L&C) from the person whose driver's license was revoked, to a person who has a minor child in their household whose license is revoked for possession of alcohol in a non-driving incident. I say it appears to do this, because subsection (b) seems to remove the protection granted under subsection (a) if the minor is not licensed. In short, the suggested language does not protect a person who loses their driver's license or the person's parents, for a nondriving alcohol offense. I am unable to say exactly what the suggested language does accomplish, but it does not provide the protection given under CSSB 158(L&C) to a person whose license is revoked under AS 28.15.183 or 28.15.185 for possession or consumption of alcohol in violation of AS 04.16.050.

Please contact me if you have further questions.

MFF:jdr
98-212.jdr

Substitute for SB 158

Sec. 21.89.027 Motor vehicle insurance following driver's license revocation. (a) Notwithstanding AS 21.36.210, an insurer offering insurance in this state may not (1) refuse to issue or renew motor vehicle liability insurance coverage; (2) cancel an existing policy of motor vehicle liability insurance; (3) deny a covered claim; or (4) increase the premium on a motor vehicle liability policy, solely because an unlicensed minor child in the insured's house-hold is convicted of illegally possessing or consuming alcohol in a non-driving related incident.

(b) Nothing in this section (a) shall prohibit an insurer from (1) refusing to issue or renew motor vehicle liability insurance coverage; (2) cancel an existing policy of motor vehicle liability insurance; (3) deny a covered claim; ; or (4) increase the premium on a motor vehicle liability policy if the minor child drives a motor vehicle covered by the policy, without a valid drivers license.

Alaska State Legislature

Chairman,
Judiciary Committee

Member,
Resources Committee
Rules Committee
Committee on Committees



State Capitol
Juneau, Alaska 99801-1182
(907) 465-3873
Fax: (907) 465-3922

352 Front Street
Ketchikan, Alaska 99901
(907) 225-8088
Fax: (907) 225-0713

Senator Robin L. Taylor
Senate Majority Leader

MEMORANDUM

To: Representative Norm Rokeberg, Chairman
House Labor and Commerce Committee

From: Senator Robin Taylor *R.L.T.*

Date: 3/9/98

Ref: Hearing Request - Senate Bill 158

Please consider this as my formal request for a hearing on Senate Bill 158 at your earliest convenience.

SB 158 corrects an unintended consequence of the "Use It and Lose It" minor consuming law. Most of our offices have received calls about this issue.

SB 158 would prohibit an insurance company from increasing rates or canceling a policy solely because of a license suspension for minor consuming. This would not include offenses involving an automobile, use of false ID or possession of controlled substances.

SB 158 has the support of the Division of Insurance and the Division of Motor Vehicles.

Thank you for your consideration.

District A:

Hyder • Ketchikan • Kupreanof • Meyers Chuck • Petersburg • Saxman • Sitka • Wrangell

ALASKA STATE LEGISLATURE



Sen. Robin Taylor, Chair
Sen. Drue Pearce, Vice Chair
Sen. Mike Miller
Sen. Sean Parnell
Sen. Johnny Ellis

State Capitol
Juneau, AK 99801-1182
(907) 465-3717
Fax: (907) 465-3922

Senate Judiciary Committee

SPONSOR STATEMENT FOR

CS FOR SENATE BILL 158 () "An Act relating to motor vehicle liability insurance covering a person who has had the person's driver's license revoked."

The "use it or lose it" provisions of current statute have had an unintended consequence. Minors who lose their drivers licenses for minor consuming offenses often find themselves and their families with increased insurance premiums and occasionally a policy cancellation.

Senate Bill 158 would correct this situation by prohibiting an insurer from raising rates and/or cancelling existing policies solely for suspension of a minor's drivers license as a result of minor consuming (where not involving driving).

This narrowly focused version of SB 158 does not address other offenses such as DWI, using false ID, or possession of controlled substances.

Sectional Analysis

CSSB 158

Section 1 adds language to the existing statute stating that AS 21.36.210 (a) (2) does not apply to an administrative revocation as described in AS 21.89.027, the new section which begins on page 2 of the bill.

AS 21.36.210 (a) specifies why an insurer may cancel a policy: nonpayment of premium or suspension or revocation of a drivers license.

Section 2 is the operative section of the bill and adds a new provision to state law. (a) says an insurer may not refuse to issue or renew motor vehicle liability insurance, cancel an existing policy, deny a covered claim, or increase the premium only because of an administrative or court ordered suspension for minor consuming. (b) says that (a) does not prevent an insurer from underwriting or rating a loss in the same manner as it would have had the suspension not occurred.

Section 3 says the bill would apply to policies issued or renewed on or after the effective date. This would mean that policies currently being charged a higher rate would have to be adjusted at the next renewal

prepared 1/29/98 by Joe Ambrose

ALASKA STATE LEGISLATURE



Sen. Robin Taylor, Chair
Sen. Drue Pearce, Vice Chair
Sen. Mike Miller
Sen. Sean Parnell
Sen. Johnny Ellis

State Capitol
Juneau, AK 99801-1182
(907) 465-3717
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Senate Judiciary Committee

MEMORANDUM

DATE: MARCH 26, 1998

TO: Representative Norman Rokeberg, Chairman, House Labor & Commerce Committee

FROM: Senator Robin L. Taylor, Chairman, Senate Judiciary Committee *R.L.T.*

RE: SB158--"An Act relating to motor vehicle liability insurance"

CC: N/A

CS-26-0210120 DVE

=====
Please schedule SB158, "An Act relating to motor vehicle liability insurance" at your earliest convenience.

rob

SB

195

FISCAL NOTE

No. 2
 Bill Version: SB 195
 (S) Publish Date: 1-28-98

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Revision Date (Note if correction) _____	Dept. Affected <u>Law</u>	_____
Title <u>An Act relating to common law liens, to remedies, costs, and fees imposed for the registration, filing or recording ...</u>	BRU <u>Criminal Division/Civil Division</u>	_____
Sponsor <u>Senate Rules Committee</u>	Component <u>1st-4th Jud Dist., OSPA; Collections & Support, Gov't Affairs, Special Lit.</u>	_____
Requester <u>Senate Labor and Commerce Committee</u>	Component Serial No. <u>2198-99, 2261, 79, 01, 03;</u>	_____

Expenditures/Revenues	(Thousands of Dollars)						2210, 2207, 2213
OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04	
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	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 (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

SB 195 makes it easier, and faster, to remove a nonconsensual common law lien against the personal property of a public servant that was not filed accompanied by a specific court order. In addition, a person filing such a lien would be liable for actual and punitive damages, as well as cost and reasonable attorneys fees. Criminal penalties for offering a false instrument for recording are created by this bill.

If the nonconsensual lien was filed against the property of a public servant employed by the Executive or Judicial Branch based on their performance or nonperformance of their duties, the Department of Law would represent them. Unless someone were to file wholesale liens against many public servants at once, as has happened in Montana and Texas, the department believes the effect of the bill to be minimal and is not submitting a fiscal note with costs.

Prepared by <u>Joan M. Kasson</u>	Phone <u>465-5370</u>
Division <u>Attorney General's Office</u>	Date <u>1/26/98</u>
Approved by Commissioner <u>Bruce M. Botelho, Attorney General</u>	Date <u>1/26/98</u>
Agency <u>Department of Law</u>	

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FISCAL NOTE

No. 1

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL # Bill Version: SB 195
 (S) Publish Date: 1-28-98

Revision Date: 01/23/98
 Title: Common Law Liens
 Sponsor: Senate Rules by Request
 Requestor: Senate L&C

Dept. Affected: Alaska Court System
 BRU: Trial Courts
 Component: _____
 COMPONENT SERIAL NO. 768

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						

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						

Estimate of any current year (FY 98) cost: \$ None

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Doug Wooliver, Administrative Attorney
 Agency: Alaska Court System
 Approved by: Stephanie J. Cole, Administrative Director
 Agency: Alaska Court System

Phone: 264-8265
 Date: 01/23/98
 Date: 01/23/98

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06.45 AM

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 25, 1998

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 3/2/98

The LABOR AND COMMERCE Committee considered:

SB 195

SENATE BILL NO. 195

COMMON LAW LIENS

"An Act relating to common law liens, to remedies, costs, and fees imposed for the registration, filing, or recording of certain nonconsensual common law liens, and to penalties for recording common law liens."

recommends it be replaced the same title
 with the following committee substitute _____ 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) LAW, COURT

zero fiscal note(s) LAW, COURT

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>John J. Baudrey</i>	✓			
<i>James Sander</i>	✓			
<i>Joe Ryan</i>			✓	
<i>Alan Kelly</i>	✓			

CHAIR'S SIGNATURE

Alan Kelly

3/2/98



ALASKA COURT SYSTEM
State of Alaska
Office Of The Administrative Director

820 West 4th Avenue
Anchorage, Alaska 99501
(907) 264-8265
FAX (907) 264-8291

Doug Wooliver
Administrative Attorney

February 26, 1998

Representative Norman Rokeberg, Chair
House Labor and Commerce Committee
Alaska State Legislature
State Capitol
Juneau, Alaska 99801

Dear Representative Rokeberg:

The Alaska Court System respectfully requests that SB 195 be scheduled for a Labor and Commerce Committee hearing at your earliest convenience.

This bill seeks to address the growing problem of bogus common law liens being filed against the real and personal property of Alaskans. It has become common in recent years for patriot groups to record such liens against the property of public officials and private citizens with whom they disagree. The person generally finds out about the lien when he or she attempts to borrow against or sell property and discovers that he or she cannot do so until the lien has been released. This may take several months.

Until recently, this activity has not been of major concern in Alaska. Last year, however, a number of employees and elected officials of the Municipality of Anchorage discovered that nonconsensual common law liens had been recorded against their property. The long list of persons targeted by these liens included Mayor Rick Mystrom and the members of the Anchorage Assembly.

SB 195 amends the law to make nonconsensual common law liens invalid and makes it a misdemeanor to record or file them without specific authorization from a court. It streamlines the judicial process for releasing a lien and authorizes the attorney for a public servant to record a "notice of invalid lien" if such a lien is recorded against the property of a public servant. Finally, it provides for civil penalties against a person who records or benefits from a nonconsensual common law lien.

Thank you for your consideration of this bill. If I can be of any assistance or provide you with any additional information please let me know.

Very truly yours,

A handwritten signature in black ink, appearing to read 'D. Wooliver', with a long, sweeping underline that extends to the left.

Doug Wooliver
Administrative Attorney

Alaska Court System

Doug Wooliver
Administrative Attorney

Telephone: (907) 264-8265
Facsimile: (907) 264-8291

SECTIONAL ANALYSIS OF SB 195

Section 1 is a conforming amendment to AS 09.38.500(9) (the definition section of the Alaska Exemptions Act) that adds a reference to common law liens within the definition of "lien." The new reference states that, to be valid, a common law lien must either be consented to by the owner or accompanied by a court order.

Section 2 adds article 2A to AS 9.45 (Actions Relating to Real Property). The new article is entitled "Actions Relating to Nonconsensual Common Law Liens" and contains 4 sections.

- A) Section 09.45.161 states that if a nonconsensual common law lien is recorded or filed against the property of a public servant and is not accompanied by a court order, an attorney representing the public servant may submit for recording or filing a notice of invalid lien. A copy of the notice is sent to the person who recorded or filed the common law lien.
- B) Section 09.45.164 provides for an expedited court proceeding to have an invalid nonconsensual common law lien released. Under the provisions of this section, a person submits a request to the court containing an affidavit setting out the facts upon which the request is based. If the facts support the need for an expedited hearing, the court can order the person who recorded or filed the lien to appear at a hearing within 20 days. If the court finds that the lien is invalid, or if the person who recorded or filed the lien does not appear, the court can grant the order releasing the lien and order the lien claimant to pay the costs and actual reasonable attorney fees incurred by the party making the request.
- C) Section 09.45.167 states that a person who records or files an invalid nonconsensual common law lien is liable to the owner for actual and punitive damages as well as actual reasonable attorney fees. This section also provides for the liability of a person who is a grantee of an invalid nonconsensual common law lien if he or she refuses to release the lien when requested by the owner of the property affected.

- D) Section 09.45.169 provides definitions for "filed," "nonconsensual common law lien," "public servant," "record," and "recorder."

Section 3 amends AS 11.46.550 (offering a false instrument for recording) by making this current crime the crime of offering a false instrument for recording in the first degree. This section is a conforming amendment that is necessary for the creation of the new crime of "offering a false instrument for recording in the second degree" added by section 4 of the bill. Section 3 does not make any substantive changes.

Section 4 amends AS 11.46.550 by creating the new crime of offering a false instrument for recording in the second degree. This section makes it a class A misdemeanor to record or file an invalid common law lien against real or personal property.

Section 5 amends AS 34.35 (the liens chapter in title 34) by adding a new section entitled "Nonconsensual common law liens." This section prohibits the recording or filing of nonconsensual common law liens against real or personal property without an accompanying court order. This section also provides definitions for the terms "filed," "nonconsensual common law liens," "record," and "recorder."

HIGHLIGHTS - SB 195

The bill provides a way to prevent the recording or filing of nonconsensual common law liens as a form of harassment against public officials. Common law liens are the most legally nebulous form of lien, in that our courts have never specifically recognized their existence, and there is no precedent for the manner in which they are being used.

SB 195 does not eliminate this type of lien, but insists on a court order or the consent of the owner of affected property, should a party want to record or file one.

The bill does the following:

- + calls for owner consent or a court order prior to recording or filing against real or personal property
- + makes it a Class A misdemeanor to file an invalid non-consensual common law lien, punishable by up to a \$5,000 fine
- + allows an attorney for a public official to record or file a NOTICE OF INVALID LIEN
- + establishes an expedited court proceeding to have an invalid nonconsensual common law lien released
- + gives court authority to release an invalid lien
- + provides for recovery of court costs and attorney fees from wrongful filers, and establishes liability for actual and punitive damages

General backup on SB 195

Although common law liens are mentioned in statute, no Alaskan court has ever specifically recognized their existence. According to a 1980 Attorney General Opinion, the extensive statutory scheme that governs the recording of liens almost certainly preempts any common law rights that may have existed historically. 1980 Formal Op. Att'y Gen. 5.

(This bill does allow the recording of a common law lien that is either accompanied by a court order or consented to by the owner of the property. This option is left open to safeguard against inadvertently foreclosing a right to record a legitimate lien that is not otherwise specifically authorized by statute.)

It should be stressed that there is no historical precedent for the current manner in which common law liens are being used. According to the above referenced Attorney General Opinion, "[a] common law lien was simply a right to retain possession of personal property until a debt due on or secured by the property was paid, and the debt must have been incurred for services or work performed by the claimant on the property to which the lien attached." Id. At 2. Common law liens recorded as harassment tools, which are the focus of SB 195, are not connected in any way to the property recorded against and are not security for a debt owed. These liens were never historically recognized as "common law liens"; they are, and always have been, without any legal effect whatsoever.

Nevertheless, even bogus liens can cloud title because banks, title companies, and others are reluctant to ignore them without some specific authority to do so. SB 195 provides that authority by putting in statute a provision clearly stating that such liens are invalid unless accompanied by a court order or consented to by the owner of the property.

In addition to making it clear that common law liens are invalid, the bill contains expedited means for having a common law lien released if one is recorded. This will ensure that anyone reviewing the record will have notice that the lien is invalid without having to rely on his or her own judgement as to its legal status.

As a final tool to discourage the recording of these bogus liens, the bill subjects anyone who records them to criminal penalties and civil liability.

The reason the words "file" and "filed" are included in the bill is because people "record" liens on real property but "file" them on personal property through UCC filings. The language is intended to close a potential loophole that has become a problem in other states.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

MR. JIMMIE DREW LOCKHART, SR.)
)
 Plaintiff,)
)
 v.)
)
 THE MUNICIPALITY OF ANCHORAGE,)
 ET AL.)
)
 Defendants.)

FILED in the Trial Courts
STATE OF ALASKA, THIRD DISTRICT
JAN 14, 1997
Clerk of the Trial Courts
Der

Case No. 3AN 96-852 CI

CORRECTED ORDER AND RELEASE OF "REAL ESTATE LIENS"

Having held a hearing on the Motion for Preliminary Injunction, the Court hereby makes the following findings of fact:

1. Jimmie Drew Lockhart, Sr. has recorded multiple unjustified documents denominated "real estate liens." Some of these "real estate liens" have been filed against defendants in this action, and some have been filed against non-parties. These so-called "real estate liens" affect the real property described below.

2. These so-called "real estate liens" are not indicative of any debt.

The Court hereby makes the following conclusions of law:

1. The so-called "real estate liens" filed by Jimmie Drew Lockhart, Sr. against the real property described below are legally invalid.

2. These so-called "real estate liens" are causing irreparable harm to those persons whose properties are affected by the "real estate liens."

3. The potential injury to Jimmie Drew Lockhart, Sr. from ordering these so-called "real estate liens" released and declared null, void, invalid, and of no legal effect is slight in comparison

JAN 2

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1102

to the harm suffered by those whose properties are affected by the so-called "real estate liens."

4. The Municipality of Anchorage has raised serious and substantial questions going to the merits of the case.

Having made these findings of fact and conclusions of law, **IT IS HEREBY ORDERED** that the "real estate liens" recorded in the Anchorage Recording District by Jimmie Drew Lockhart, Sr. affecting the following described real property are **NULL, VOID, INVALID, AND OF NO LEGAL EFFECT** and are **RELEASED**:

PROPERTY OWNER	LEGAL DESCRIPTION
Mary K. Hughes	Parcel No. 076-015-99-029-97 - Telequana Heights, Lot 1A. 2240 Kissee Ct., Book 2318, Page 0072. Date: 09/21/92. 2240 Kissee Ct., Anchorage, Alaska 99517-1003, filed in Book 02988, Page 806.
Mary K. Hughes	Parcel No. 005-014-53-000-97 - Alyeska North #1, Block 3, Lot 3B. Alyeska North 610, Book 2305, Page 0453. Date: 08/17/92. Plat 730010. 2240 Kissee Ct., Anchorage, Alaska 99517-1003, filed in Book 02988, Book 806.
Craig Campbell Anne Marie Campbell	Parcel No. 050-904-03-000-97 - Parkview Terrace, Block 2, Lot 3.18324 N. Parkview Terrace Loop, Eagle River, Alaska 99577-8525. Book 0946, Page 0109. Plat 820448, filed in Book 02986, Page 806.
Michael W. Kerr Barbara Kerr	Parcel No. 007-234-75-000-97 - Comm. Council Turnagain Homes, Block G 14, 2425 Saint Elias Drive, Anchorage, Alaska 99517-1250, filed in Book 02973, Page 201.
Michael W. Kerr Barbara Kerr	Parcel No. 012-203-28-000-97 - Comm. Council Scenic Park, Block 3, Lot 30, Chugach Foothills #5, 4324 Butte Circle, Anchorage, Alaska 99504-4701, filed in Book 02973, Book 201.

Mary Ann Moseley

Parcel No. 005-111-68-024-97 - Colleege Alps, Tr. 2 Colleege Alps Phase 3, P.O. Box 2111044, Anchorage, Alaska 99521-1044, Site #74. filed in Book 02973, Page 204.

Charles Jackson

Parcel No. 003-251-41-000-97 - Green Acres Subdivision, Block 8, Lots 5 and 6, P. 152, Grid 1733, 3722 Young Street, Anchorage, Alaska 99508-4528, filed in Book 02973, Page 197.

[DAVE] David L. Brennen

Parcel No. 006-282-46-000-97 - Colleegegate East #3, Block 8, Lot 11, 5938 Glenkerry Dr., Anchorage Alaska 99504-3243, Book 2678, Page 0690. Date: 07/11/94, Plat 720049, filed in Book 02986, Page 802.

Kevin G. Meyer
Mary Ann Meyer

Parcel No. 014-141-66-000-97 - Bulen Heights, Lot 5, Book 1088, Page 0645, Plat 830230, 7240 Bulen Drive, Anchorage, Alaska 99507-2879, filed in Book 02986, Page 808.

George P. [WURECH] (Wuerch)
Brenda B. [WURECH] (Wuerch)

Parcel No. 003-246-31-000-97 - Geneva Woods, Block 3, Lot 6, 1332 Crescent Dr., Anchorage, Alaska 99504, Book 1178, Page 0062. Date: 10/24/84, Plat 670065, filed in Book 02986, Page 796.

Mark P. Begich
Margaret J. Begich

Parcel No. 006-323-25-000-97 - Commercial Apartment Garden, T13N R3W, Sec. 22, Lot 46. W70' of S117'. 5205 E. 26th Ave., Anchorage, Alaska. Book 2016, Page 0149. Date: 04/03/90. P.O. Box 201627, Anchorage, Alaska 99520-1627, filed in Book 02986, Page 798.

Mark P. Begich
Margaret J. Begich

Parcel No. 006-323-24-000-97 - Commercial Apartment Garden, T13N Sec. 22, Lot 46 W85' of E260' of S117. 5215 (5211) E. 26th Ave., Book 2016, Page 0149. Date: 04/03/90. Russian Jack PA, filed in Book 02986, Page 798.

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Mark P. Begich
Margaret J. Begich

Parcel No. 006-313-25-000-97 - Commercial Apartment Garden, T13N R3W, Sec. 22, Lot 30, E2E2. 5233 E. 21st Ave., Anchorage, Alaska 99520-1627. P.O. Box 201627, Anchorage, Alaska 99520-1627. Book 2246, Page 0474. Date: 03/06/92, filed in Book 02986, Page 798.

Patrick E. Von Gemmingen
Fay I. Von Gemmingen

Parcel No. 001-224-04-000-97 - Hunnington (Huntington) Park #2, Lot 13, Block 4, Plat 68-12. 2132 Arlington Dr., Site 1305 W. 27th Anchorage, Alaska 99517-1367. Date 04/15/91 filed in Book 02986, Page 0800.

Charles P. [WHOLFORTH]
(Wohlforth)
Barbara E. [WHOLFORTH]
(Wohlforth)

Parcel No. 002-041-18-000-97 - North Addition, Lot 1, Block N, Plat NA4, 828 Erickson Street, Anchorage, Alaska 99502-1138, Book 02986, Page 0804.

Timothy G. Middleton
Joyce F. Middleton

Parcel No. 001-052-55-000-97 - Site 717 "M" Street, Anchorage, Alaska 99501-3307 Lot 10A, Block 85, Plat Nos. 80-45 and 67-30, Book 02986, Page 0810.

Timothy G. Middleton
Joyce F. Middleton

Parcel No. 001-161-45-034-97 - Petersons, Blk. 3, Lt 3 B. Woronzof # 700. 717 "M" Street, Anchorage, Alaska 99501-3307, Book 2539, Page 0721.

Rick Mystrom
Mary Mystrom

Lot 4, Block 32B, Plat C-78B
Lot 3B, Block 13, Plat 73-229
Lot 14, Block 1, Plat 72-69
Lot 3, Block 32B, Plat C-78AB
Lot 4, Block 32B, Plat C-78AB
Lot 12, Block 21, Plat 66-167
Lot 23, Block 3, Plat 83-419
Lot 22, Block 3, Plat 83-419
Lot 12, Block 21, Plat 66-167
Lot 2, Block 6, Plat P-580
Lot 6, Block 4, Plat 83-235

Lot 6, Block 4, Plat 83-235
Lot 24, Block 3, Plat 83-419
Lot 14A, Plat P-67G
Lot 2, Block 29A, Plat C-76
Lot 8A, Block 1, Plat 69-90

All filed in Book 02987, Page 0361.

Daniel W. Kendall
Dittbrender
Robert Dyal
Ellen Dyal

Parcel No. 851-383-83-889-97 - SE 30 T15N R1W, Wilbur NE4SW4SW4, filed in Book 02973, Page 0199. Located in Eagle River, Alaska 99577.

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John W. Groh, Jr.
John W. Groh, Jr.
(Cliff John Groh)

Parcel No. 011-101-43-000-97 - Brentwood, Lot 9, Block 4.
Plat 65-44, Site: 7908 Brentwood Dr., P.O. Box 100734,
Anchorage, Alaska 99510-0734. Book 02988, Page 0808.

DATED at Anchorage, Alaska, this 14th day of ~~January~~ ^{February}, 1997.

Arthur A. Michalski
JUDGE OF THE SUPERIOR COURT

Certificate of Service

I hereby certify that I mailed a true and correct copy of the foregoing to: Jimmie Drew Lockhart, 3727 Randolph St., Anchorage, AK 99508 on this 2nd day of January, 1997.

Marilyn Bennett
Marilyn Bennett

I certify that on 2-19-97
a copy of the above was mailed to each
of the following at their addresses of
record:

J. Newby MA - Groh
Secretary/Deputy Clerk J. Lockhart, pro per

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

MR. JIMMIE DREW LOCKHART, SR.,)
)
 Plaintiff,)
)
 v.)
)
 THE MUNICIPALITY OF ANCHORAGE,)
 et al.)
 Defendants.)
)

Case No. 3AN 96-852 CI

MEMORANDUM IN SUPPORT OF TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION

Plaintiff Jimmie Drew Lockhart, Sr. (Lockhart) is engaged in a calculated campaign to injure officials and employees of the Municipality of Anchorage by filing liens against real estate owned by those individual officials and employees. Preliminary injunctions are made to stop abuses like those perpetuated by Lockhart, and defendants meet the three-part test for preliminary injunctions. Defendants ask that the court: order the liens expunged; order Lockhart to stop filing liens; and order the Recorder to refuse to record any liens by Lockhart without a court order authorizing such liens.

A party is entitled to a preliminary injunction if: (1) the moving party is faced with irreparable harm; (2) the opposing party is adequately protected; and (3) the moving party raises serious and substantial questions going to the merits of the case. State v. Kluti Kaah Native Village, 831 P.2d 1270, 1273 (Alaska 1992). Defendants meet all three prongs.

The increasing number of liens on the real property of Municipal officials and employees puts the Municipality in an intolerable position. These officials and employees may find it difficult to sell their homes and may find their credit ratings damaged merely for doing their jobs. Others

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may suffer similar harm merely because they hold posts which Lockhart imagines gives them the power to conspire against him. This injury is irreparable. See id. at 1273 n. 5.

Expunging these unjustified liens and ordering Lockhart to stop filing such liens will in no way remove any legitimate protections from Lockhart. He would remain completely free to litigate his positions in accordance with the law.

Michael Kerr's affidavit establishes there are serious and substantial questions going to the merits of the case. Indeed, the Municipality has prevailed entirely in the current code enforcement case. Moreover, Lockhart's liens are defective on their face because they do not fit in any of the categories for pre-judgment liens on real property set out in AS 34.35.

Lockhart's liens are an abuse of process. The Municipality respectfully requests that the court remove them forthwith and stop him from filing any more.

DATED this 23rd day of October, 1996.

MARY K. HUGHES
Municipal Attorney

By: CO Groh
Cliff John Groh
Assistant Municipal Attorney

Certificate of Service

I hereby certify that I mailed a true and correct copy of the foregoing to:
Jimmy Lockhart, 3727 Randolph St.,
Anchorage, AK 99508 on the 23rd
day of October, 1996.

Maig Bennett

**MUNICIPALITY
OF
ANCHORAGE**
OFFICE OF THE
MUNICIPAL ATTORNEY
P.O. Box 196650
Anchorage, Alaska
99519-6650
Telephone: 343-4545
Facsimile: 343-4550

BK 179860808

*Certified MAIL
P. 449 360 263*

REAL ESTATE LIEN

Mr. Jimmie Drew Lockhart Sr.,
Et Al,

Claimant,

vs.

Kevin G. and Mary Ann Meyer,
Respondant(s).

Please take notice, That the above CLAIMANT, Mr. Jimmie Drew Lockhart Sr., et al, Hereby attaches a claim of lien against the real property more particulary described as follows:

ANCHORAGE RECORDING DISTRICT

1. Parcial: 014-141-66-000-97. Card 01 of 01. Bulen Heights, LT 5. Book: 1088. Page: 0645. Date: 00/00/00. Plat: 830230. Plat: 830230. 7240 Bulen Dr., Anchorage, Alaska 99507-2879. Site: 7240 Bulen Dr.

This lien is placed against the Municipality of Anchorage, Kevin G. and Mary Ann Meyer, et al. Whom jointly conspired with labors, office staff, lawyers, and servants to obstruct the administration of justice, By alleging false jurisdiction and allegations, while other employees trespassed upon Lockharts' real property without prior written or verbal consented notice(s) making photo pictures of said real prorerty, also including streets and alley photos as well to be used as their evidence of their un-constitutional kangaroo styled court hearings against the Lockharts' more particular Mr. Jimmie Drew Lockhart Sr., et al., without a trial by jury of his peers. The SUPRA, named respondant parties used their ingenious malversation doctrine acts without the show of recipocity or (treaty) treaise agreements between the parties, furthermore, such M.O.A, doings are proof of it's personal ignoring the Alaska Superior Court jurisdiction, See case No: 3AN 96-852 Civil, by continuance harrassing, and stalking the Lockharts' said real properties where the black parties resides there upon the inquestioned real property.

Page -1-

Exhibit E

Page 11 of 16 Pages

Case # 3AN 96-853 CI

This lien is for monetary damages in the amount of Two hundred fifty (\$ 250,000.00) thousand dollars per above set out piece of real property for punitive damages and causing the Lockharts,' et al., mental anguish and suffering, fearing the police, and brutally in the episode intra alia.

Moreover, the M.O.A. and parties doings reflects practicing racial prejudice against blacks as a whole and especially against the Lockharts', by making false un-reliable, liable and slanderous statements against the said real properties, etc.

I Mr. Jimmie Drew Lockhart Sr., being duly sworn, depose and state; I am personally aware of the facts, and the said facts are true and correct to the best of my ability, belief and aknowledgement.

By Jimmie D. Lockhart Sr.
CLAIMANT

SUBSCRIBED AND SWORN to before me the undersigned on this 15th day of October 1996, at Anchorage, Alaska.



Victoria Valerant
NOTARY PUBLIC in and for the state of Alaska

My commission expires 6/22/99

Please return to:
Mr. Jimmie Drew Lockhart Sr.
3723 Randolph street
Anchorage, Alaska 99508
Phone (907) 563-1807 (message)

96 050402
ANCHORAGE REC. 18CC
DISTRICT
REQUESTED BY J. D. Lockhart Sr.
'96 OCT 15 PM 12 08.

RESULT OF CLEAN SWEEP THE RIGGERS

Alaska State Legislature

Sen. Tim Kelly, Chairman
Anchorage
Sen. Loren Leman, Vice-Chair
Anchorage
Sen. Robin Taylor
Wrangell
Sen. John Torgerson
Kasilof
Sen. Jim Duncan
Juneau



Official Business

Senate Rules Committee

State Capitol
Juneau, AK 99801-1182
(907) 465-3822
Fax: (907) 465-3756
1-800-770-3822
(JANUARY - MAY)
INTERNET: //http://www.state.ak.us

710 West 4th, Suite 400
Anchorage, AK 99501
(907) 258-8180
Fax: (907) 258-4524

MEMORANDUM

DATE: February 25, 1998

TO: Rp. Norman Rokeberg, Chairman
House Labor & Commerce Committee

FROM: Senator Tim Kelly, Chairman
Senate Rules Committee *TDK*
(TB)

SUBJ: Hearing On Senate Bill 195

Please consider scheduling a committee hearing on SB 195, the bill to address the emerging problem of invalid nonconsensual common law liens, the so-called nuisance liens, being filed against public officials and others as a means of political retribution.

This measure passed the senate yesterday with a unanimous vote, and carries two zero fiscal notes.

Support material is attached. If there are further questions, please contact Tim Benintendi of my office at 3770.

Alaska State Legislature

Sen. Tim Kelly, Chairman
Anchorage
Sen. Loren Leman, Vice-Chair
Anchorage
Sen. Robin Taylor
Wrangell
Sen. John Torgerson
Kasilof
Sen. Jim Duncan
Juneau



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INTERNET: <http://www.state.ak.us>

716 West 4th, Suite 400
Anchorage, AK 99501
(907) 258-8180
Fax: (907) 258-4524

SPONSOR STATEMENT SB 195 - Common Law Liens

Senate Bill 195 addresses the emerging problem of misuse of nonconsensual common law liens, the so-called nuisance liens, being placed against public officials and others as a means of retribution. Some groups and individuals have been able to file or record such liens against the property of officials and citizens with whom they disagree, without the affected party realizing it until they attempt to sell the property or take out loans. Often, the release of these unwarranted liens costs considerable time and money.

Nonconsensual common law liens differ from mechanics' liens, material liens, and the like, in that they can be vague, have questionable legal standing, and are not connected to the property filed against. Mechanics' liens and the like are very specific to a piece of property, and directly relate to improvements on that property by virtue of the materials, labor or service provided. Common law liens are much less specific claims, and have the effect of clouding title to property, and can make financial and title companies reluctant to ignore them, even though they are rarely valid.

Last year, several employees and elected officials of the Municipality of Anchorage had nuisance liens filed against their properties, resulting in considerable, unanticipated work and expense in the municipal attorney's office. In these cases, the public officials and employees were simply doing their jobs.

SB 195 has had no opposition during the public hearing process, and carries two zero fiscal notes. It has been introduced at the request of the Alaska Court System.

Section 1 of the bill makes it a misdemeanor offense to record a nonconsensual common law lien without the specific authorization of a court, or when not consented to by the owner of affected property.

Section 2 allows for an attorney of an affected official or person to submit a "notice of invalid lien," with a copy going to the person who recorded or filed the common law lien.

It also provides for an expedited court proceeding to have the invalid, nonconsensual common law lien released. If grounds are not demonstrated, or if the lien filer fails to appear, a release of the lien is done, and court and attorney fees ordered paid by the lien filer.

Section 2 also establishes liability on the part of those who file an invalid nonconsensual common law lien. It also provides for actual and punitive damages, and reasonable attorney fees to be paid by the filer.

Definitions are made for "filed," "nonconsensual common law lien," "public servant," "record," and "recorder."

Section 3 makes a compatibility amendment to allow for establishing a new crime as spelled out in Section 4.

Section 4 establishes a new crime in the second degree of offering a false instrument for recording. This is now a Class A misdemeanor.

Section 5 amends the liens chapter in Title 34 to conform to the above.

S B

2 3 5

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

No. 1
Bill Version: SB 235
(S) Publish Date: 7-11-98

Revision Date: _____
Title: An Act extending the termination date of the Board
of Certified Real Estate Appraisers
Sponsor: Senate Labor and Commerce
Requestor: Senate Labor and Commerce

Department: Commerce and Economic Development
BRU: Occupational Licensing
Component: Operations
COMPONENT SERIAL NO. 1844

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
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 General Fund						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 98) cost: \$ 35.5

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

SB 235 extends the Board of Certified Real Estate Appraisers to June 30, 2002. Funding for continuation of the board in the amount of \$35.5 is included in the department's FY 99 operating budget request; therefore, new funds are not needed. The program is required to cover its costs with licensing fees under AS 08.01.065, and revenue generated by board fees are anticipated to cover its full operating costs.

Prepared by: Jennifer Strickler, Administrative Manager
Division: Occupational Licensing
Approved by Commissioner: Deborah B. Sedwick
Agency: Commerce and Economic Development

Phone: 465-2144
Date: 1/23/98
Date: 1-26-98

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SB 235

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LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES						
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(Thousands of Dollars)

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TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 20, 1998

FURTHER REFERRALS:

Finance

Date of Committee Action: 4/8/98

The LABOR AND COMMERCE Committee considered:

CSSB 235(FIN)

CS FOR SENATE BILL NO. 235(FIN)

BOARD OF CERTIFIED REAL ESTATE APPRAISERS

"An Act extending the termination date of the Board of Certified Real Estate Appraisers."

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) _____

zero fiscal note(s) _____ zero fiscal note(s) DCEI

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>John J. Condeery</i>			<input checked="" type="checkbox"/>	
<i>John Sander</i>			<input checked="" type="checkbox"/>	
<i>John Brice</i>	<input checked="" type="checkbox"/>			
<i>Joe Ryan</i>			<input checked="" type="checkbox"/>	
<i>Norm Kelly</i>	<input checked="" type="checkbox"/>			

CHAIR'S SIGNATURE

Norm Kelly 4/8/98

Report Date: December 2, 1997

Page: 1

 Board or
 Commission

Term

PAIGE R HODSON
 APR - BOARD OF CERTIFIED REAL ESTATE APPRAISERS
 RESIDENTIAL REAL ESTATE APPRAISER
 903 W NORTHERN LIGHTS
 SUITE 220
 ANCHORAGE, AK 99503
 (Work) 274-8258
 (FAX) 274-8259

June 30, 1998

SUSAN K CROSSON
 APR - BOARD OF CERTIFIED REAL ESTATE APPRAISERS
 VICE-CHAIRPERSON; GENERAL REAL ESTATE APPRAISER
 CROSSON & KOROPP
 2600 DENALI ST SUITE 101
 ANCHORAGE, AK 99503
 (Home) 243-3003
 (Work) 274-2270
 (FAX) 274-2272

June 30, 1998

JON B WOLFE
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 CHAIRPERSON; AT-LARGE
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 DOUGLAS, AK 99824-0365
 (Home) 364-4624
 (Work) 789-2536
 (FAX) 789-4856

June 30, 2000

EILEEN R BECHTOL
 APR - BOARD OF CERTIFIED REAL ESTATE APPRAISERS
 PUBLIC MEMBER
 PO BOX 3426
 HOMER, AK 99603
 (Home) 235-6713
 (Work) 235-8121
 (FAX) 235-3140

June 30, 1999

Audit Report

DEPARTMENT OF COMMERCE AND
ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
BOARD OF CERTIFIED
REAL ESTATE APPRAISERS

January 7, 1998

Audit Control Number:

08-1453-98



Division of Legislative Audit

P.O. Box 113300, Juneau, Alaska 99811-3300

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

DIVISION OF LEGISLATIVE AUDIT

The Legislative Budget and Audit Committee is a permanent interim committee of the Alaska Legislature. The committee is made up of five senators and five representatives, with one alternate from each legislative chamber. The chairmanship of the committee alternates between the two chambers every legislature.

The committee is responsible for providing the legislature with audits of state government agencies. The programs and activities of state government now cost more than \$5 billion a year. As legislators and administrators try increasingly to allocate state revenues effectively and make government work more efficiently, they need information to evaluate the work of governmental agencies. The audit work performed by the Division of Legislative Audit helps provide that information.

As a guide to all their work, the Division of Legislative Audit complies with generally accepted auditing standards established by the American Institute of Certified Public Accountants and with government auditing standards established by the U.S. General Accounting Office.

Audits are performed at the direction of the Legislative Budget and Audit Committee. Individual legislators or committees can submit requests for audits of specific programs or agencies to the committee for consideration. Copies of all completed audits are available from the Division of Legislative Audit's offices in either Anchorage or Juneau.

BUDGET AND AUDIT COMMITTEE

Senator Randy Phillips, Chairman
Senator Al Adams
Senator Dave Donley
Senator Rick Halford
Senator Drue Pearce
Senator John Torgerson (alternate)

Representative Terry Martin, Vice Chair
Representative Con Bunde
Representative Eric Croft
Representative Jeanette James
Representative Gene Therriault
Representative Mark Hanley (alternate)

DIVISION OF LEGISLATIVE AUDIT

Randy S. Welker, CPA
Legislative Auditor
Merle R. Jenson, CPA
Deputy Legislative Auditor

P.O. Box 113300
Juneau, Alaska 99811-3300

(907) 465-3830, Juneau
(907) 561-1445, Anchorage
(907) 465-2347, Juneau FAX

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P.O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347
Internet e-mail address:
legaudit@legis.state.ak.us

January 7, 1998

Members of the Legislative Budget
and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT
DIVISION OF OCCUPATIONAL LICENSING
BOARD OF CERTIFIED REAL ESTATE APPRAISERS

January 7, 1998

Audit Control Number
08-1453-98

The objective of the audit was to determine whether the Board of Certified Real Estate Appraisers (BCREA) should continue its existence. Alaska Statute 08.03.010(c)(19) has scheduled BCREA for termination on June 30, 1998. If no action is taken by the legislature, BCREA has one year in which to conclude its affairs and will be dissolved at June 30, 1999. We recommend that the legislature extend BCREA's termination date to June 30, 2004.

This report does not include a response from the state agency responsible for the program's administration. This is an exception to generally accepted government auditing standards.

With the exception noted in the previous paragraph, the audit was conducted in accordance with generally accepted government auditing standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology section of this report.

Handwritten signature of Pat Davidson in cursive.

Pat Davidson, CPA
Acting Legislative Auditor

TABLE OF CONTENTS

	<u>Page</u>
Objectives, Scope, and Methodology.....	1
Organization and Function	3
Background Information.....	5
Report Conclusion	7
Analysis of Public Need	9

OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes (sunset legislation), we have reviewed the activities of the Board of Certified Real Estate Appraisers (BCREA) to determine whether it should continue in existence.

As required by statute, the legislative committee of reference is to consider this report as part of the oversight process in determining whether BCREA should be reestablished. The law currently specifies that BCREA will terminate on June 30, 1998 and will have one year from that date to conclude its affairs.

The major areas of our examination were board proceedings, licensing, complaint investigation and resolution functions of the board. During the course of our examination, we reviewed and evaluated the following:

1. Applicable sections of state and federal laws and regulations.
2. Tests of files and documents of licensees.
3. Minutes of board meetings, annual reports, and budget documents.
4. Complaints filed with the Division of Occupational Licensing, the Ombudsman's closed case files, and the Department of Law.
5. Interviews with employees of the Department of Commerce and Economic Development, Division of Occupational Licensing.
6. Interviews with Appraisal Subcommittee personnel of the Federal Financial Institutions Examination Council.
7. Interviews with Appraisal Qualifications Board personnel of the Appraisal Foundation.
8. Discussions with board chairperson.

ORGANIZATION AND FUNCTION

The Board of Certified Real Estate Appraisers (BCREA) was created by the Alaska State Legislature in 1990 after the federal government's enactment of the Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA) guidelines of 1989. An amendment to FIRREA extended to no later than December 31, 1992 the deadline by which all appraisals in connection with federally related transactions must be performed by state licensed or state certified appraisers (see Background Information).

Membership on board

BCREA (see inset at right) consists of five members. By statute, the membership of the board consists of at least one general real estate appraiser licensed in the State, one residential real estate appraiser licensed in the State, one mortgage banking executive, and one person from the general public. The background, or special designation, of the fifth board position is unspecified in statute. This position is referred to and designated at right as the "at large" position. It is currently held by an individual who happens to be a certified appraiser.

BOARD OF CERTIFIED REAL ESTATE APPRAISERS

Jon B. Wolfe, Chair, Member at Large

Elleen R. Bechtol, Public Member

Susan K. Crosson, General Real Estate Appraiser

Paige R. Hodson, Residential Real Estate Appraiser

Vacant, Mortgage Banking Executive

Duties of the board

Alaska Statute 08.87 defines BCREA's authority, purpose, and scope of work. BCREA establishes the following: (1) examination specifications for certification as a real estate appraiser; (2) rules of professional conduct to establish and maintain a high standard of integrity in the real estate appraisal profession; and, (3) regulations necessary to carry out the purposes of statutes.

BCREA certifies general real estate appraisers, residential real estate appraisers, institutional appraisers, and registered trainees. Courtesy licenses are also issued for state certified real estate appraisers temporarily practicing in Alaska. Qualifications for certification as a general and residential real estate appraiser include education related to real estate appraisal, experience in real property appraisal, and passing a state examination endorsed by the board. The qualifications for receiving an institutional appraisal certificate are that the applicant is a full-time employee of a financial institution with offices in the State and the applicant meets education and testing requirements. The requirement to become a registered trainee includes 75 hours of instruction in courses related to real estate appraisal theory or practices from an organization approved by the board.

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education
State of Alaska

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Real estate appraisal certificates are renewed biennially. The next biennial renewal date is June 30, 1999. Renewal requires the certified appraiser to complete a renewal application, provide evidence of continuing education, and submit a license fee. Courtesy licenses may not be renewed.

Duties of the Department of Commerce and Economic Development (DCED)

DCED provides administrative and investigatory assistance to BCREA. Administrative assistance includes budgetary services and functions such as: collecting fees, maintaining files, receiving and issuing application forms, and publishing notice of examinations and meetings. On its own initiative, DCED may conduct an investigation if it appears a person has engaged or is about to engage in a practice over which DCED has authority. DCED can issue an order that the person stop the practice, bring an action in superior court to enjoin the act, examine the books and records of a person, and issue subpoenas for the attendance of witnesses and records.

BACKGROUND INFORMATION

In the early 1980s a memorandum issued by the Federal Home Loan Bank Board created an extensive debate within the appraisal community. Appraisers felt uniform appraisal standards would be a move toward improved professionalism. Nine major appraisal organizations formed a committee of representatives who drafted the Uniform Standards of Professional Appraisal Practice (USPAP). These standards were adopted by the nine organizations as well as by clients who regularly hire appraisers.

An independent appraisal standards board was established by eight member organizations to review appraisal advancements and keep USPAP standards current. To create the independence desired and provide a funding mechanism, the Appraisal Foundation was formed. The foundation provides the funding and appoints members of the Appraisal Standards Board (ASB). As a result of the national savings and loan crisis, the Appraisal Foundation also formed the Appraiser Qualifications Board (AQB) to promulgate minimum criteria that appraisers should meet in order to perform certain assignments. AQB and ASB were given significant responsibilities under federal legislation. More specifically, under the federal law:

1. The AQB establishes the qualification criteria for state certification of appraisers. AQB has also been given the responsibility of reviewing and endorsing real estate appraiser examinations developed or adopted by the various states.
2. The ASB sets forth the rules for conducting an appraisal and reporting its results. This is accomplished through the promulgation of USPAP.

The Board of Certified Real Estate Appraisers (BCREA) was created by the Alaska State Legislature in 1990 in response to the passage of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act¹ (FIRREA) of 1989. The impetus in getting FIRREA passed was the national savings and loan crisis. In many instances, the value of property returned to financial institutions through loan defaults was significantly less than the appraised value at the time of loan origination. Part of the problem was thought to be substandard work by unregulated real estate appraisers. Section 1101 of Title XI states the purpose of FIRREA was:

to provide that federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.

¹U.S. Code 3331 - 3351, Title XI, Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

FIRREA established the Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC). FFIEC ensures that rules and regulations are consistent among the various member organizations. ASC is composed of six members, each of whom is designated by the head of the agency. The subcommittee includes the Department of Housing and Urban Development and the following five Federal Financial Institutions Regulatory Agencies:

Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation
Office of the Comptroller of the Currency
Office of Thrift Supervision
National Credit Union Administration

Section 1103 of Title XI sets out ASC's general responsibilities. These include:

1. Monitoring the certification and licensing requirements established by states, territories, and the District of Columbia to determine whether the policies, practices, and procedures are consistent with Title XI and to enforce the states' compliance with the requirements of Title XI.
2. Monitoring the requirements established by the five Federal Financial Institutions Regulatory Agencies and the Resolution Trust Corporation² regarding appraisal standards for federally related transactions and determine which federally related transactions will require the services of state licensed or state certified appraisers.
3. Maintaining a National Registry of state licensed and state certified appraisers qualified to perform appraisals involved with federally related transactions.
4. Monitoring and reviewing the practices, procedures, activities and organizational structure of the Appraisal Foundation.
5. Transmitting an annual report to Congress regarding the activities of ASC during the preceding year.

² The Resolution Trust Corporation (RTC) was created by FIRREA to liquidate the assets of failed savings and loan associations. Although not part of FFIEC, RTC established appraisal requirements that are followed, as appropriate, by ASC regulated entities.

REPORT CONCLUSIONS

In accordance with AS 08.03.010(c)(19), the Board of Certified Real Estate Appraisers (BCREA) is presently scheduled for termination on June 30, 1998. If no action is taken by the legislature, the board has one year in which to conclude its affairs and will be dissolved at June 30, 1999.

The BCREA has been given the responsibility in statute to: (1) establish the examination specifications for certification as a general real estate appraiser, as a residential real estate appraiser, and as an institutional appraiser; (2) adopt rules of professional conduct to establish and maintain a high standard of integrity in the profession; and, (3) adopt regulations necessary to meet the requirements of statute. These functions are necessary to meet federally mandated appraisal guidelines. Failure to meet federal requirements could cause the State to risk the loss of opportunity to participate in a number of federal programs.

In our view, the BCREA serves a public purpose, is operating in an efficient and effective manner, and continues to propose changes to statutes and regulations to remain in compliance with federal mandates.

We recommend that the legislature extend BCREA's termination date to June 30, 2004.

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ANALYSIS OF PUBLIC NEED

Limited Analysis

The following analyses of board activities relate to the public need factors defined in the "sunset" law, Alaska Statute 44.66.050. These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

The extent to which the board, commission, or program has operated in the public interest.

The board has operated in the public interest to the extent the board has established examination specifications, adopted rules of professional conduct, and adopted regulations to carry out statutes. The Board of Certified Real Estate Appraisers (BCREA) reports 174 active licenses as of fiscal year end 1997.

Alaska does not have reciprocity agreements with any other states. The board has adopted a certification by endorsement regulation as an alternative to reciprocity. The Appraisal Subcommittee (ASC) accepts the endorsement method as an acceptable procedure for allowing entry into the real estate appraiser profession in Alaska.

The extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters.

According to AS 08.87.020(3), the board may not adopt regulations pertaining to real estate certification, continuing education requirements for license renewal, or registered trainees that are more stringent than corresponding minimum federal requirements. We reviewed the standards in place, compared them to federal minimums, and are satisfied that current regulations are in accordance with the above statutory requirement.

A board position was not filled by the Office of the Governor in a timely manner. The certified general real estate appraiser position remained vacant for two years. The position of mortgage banking member position is currently vacant.

The board is required by law to prepare and submit annual performance reports to the Department of Commerce and Economic Development (DCED) before the end of the fiscal year. The board narrative for the FY 97 report was not submitted until December 1997. The board feels the statutory date of June 30 is inappropriate because some statistics are not available at that time. If a board member prepares a report to comply with the deadline, there is concern that it may not accurately reflect the board's views because the report will not receive board approval until the next board meeting.

The extent to which the board, commission, or agency has recommended statutory changes that are generally of benefit to the public interest.

The BCREA's central accomplishment was refining the Alaska Administrative Code (AAC) regulations. Some changes brought the state in compliance with federal mandates. Major revisions made to the regulations include: (1) amending the education and experience requirements; (2) adding the real estate appraiser trainee registration; (3) adding a section on the approval of courses/seminars for initial certification or trainee registration; and, (4) extending the length of time a courtesy license is valid to 90 days.

The extent to which the board, commission, or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service that it has provided.

A public comment period has been set aside in the agenda for each board meeting. The Department of Commerce and Economic Development (DCED), Division of Occupational Licensing examiner is available to the public and forwards public comment and concerns to the board for consideration during board meetings.

The extent to which the board, commission, or agency has encouraged public participation in the making of its regulations and decisions.

Draft regulations developed by BCREA for institutional real estate appraisers were properly advertised for the required amount of time. Public notices of regulatory hearings were published in major newspapers.

The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the Office of the Ombudsman have been processed and resolved.

Between FY 95 and FY 96 the Ombudsman's office resolved five complaints related to real estate appraisers in a timely manner.

Five cases pertaining to BCREA were also filed with DCED. All the cases, which were filed between FY 94 and FY 97, remain open. Although cases were assigned in a timely manner, two cases remain open beyond a reasonable time period, given the priority of the cases.

The extent to which the board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public.

The table below summarizes licensing activity for the past four fiscal years, listing the number of new licenses issued per year and the number of current license holders regulated by the board.

Licenses	Issued in FY 94	Issued in FY 95	Issued in FY 96	Issued in FY 97	Total Current Active Licenses
General	6	10	7	2	83
Residential	6	8	6	3	84
Institutional	0	0	0	0	0
Trainee	10	1	1	3	5
Courtesy	3	0	8	7	2

During our testing, we found no instances where BCREA had certified unqualified applicants. Further review with a representative of the ASC indicates that current state licensing statutes and regulations for real estate appraisers are in compliance with federal mandates. A minor regulatory change will need to be made during FY 98 to remain in compliance. Courtesy licenses are currently available for a maximum of 90 days, with one license allowed per calendar year. New federal mandates, effective in April 1998, will require that temporary (courtesy) licenses may not be limited to less than six months with at least one extension.

The extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission, or agency to its own activities and the area of activity or interest.

We found no evidence that the board was not complying with state personnel practices, including affirmative action, in qualifying applicants. Each time the board has denied an applicant a license the reason has been based on education requirements and not personal attributes of the applicant.

The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

No significant changes are necessary.

