

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 86/2

9633 SENATE LABOR & COMMERCE

HB

12

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSHB 12 (FIN)

Revision Date (Note if correction) _____	Dept. Affected _____	Law _____
Title <u>An Act relating to civil liability for commercial recreational activities; and providing for an effective date.</u>	BRU _____	Civil Division _____
Sponsor <u>Representative Davis</u>	Component _____	Special Litigation _____
Requester <u>House Finance Committee</u>	Component Serial No. _____	2213 _____

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

FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
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)

CSHB 12 (FIN) is intended to establish the responsibilities of operators of commercial recreational activities and participants in those activities and to decrease uncertainty regarding the legal responsibility for injuries that result from participation. The bill establishes that participation in a commercial recreational activity constitutes acceptance of the inherent risks of the activity, and that acceptance of the risks means a person is contributorily negligent to the extent the inherent risk causes injury, death, or property damage. Compensatory damages awarded in a case resulting from injury, death, or property damage shall be reduced for contributory negligence. CSHB 12 (FIN) further sets out certain responsibilities of the operator of the commercial recreational activity, including explaining risks to participants, requiring employees be trained and competent, and maintaining equipment and facilities in good repair.

CSHB 12 (FIN) will have no fiscal impact on the Department of Law.

Prepared by Joan M. Kasson
 Division Attorney General's Office
 Approved by Commissioner Bruce M. Botelho, Attorney General
 Agency Department of Law

Phone 465-5370
 Date 4/10/98
 Date 4/10/98

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SENATE COMMITTEE REPORT

DATE: 5/10/98

FURTHER: Judiciary

DATE TURNED IN TO OFFICE: 5-11-98

Labor and Commerce Committee considered

CS FOR HOUSE BILL NO. 12(FIN) am

"An Act relating to civil liability for commercial recreational activities and certain skating and cycling activities; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Tom Kelly</i>	✓				
<i>Mike Miller</i>	✓				
CHAIR: <i>Erwin J. Roman</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>Law</i>	<i>4/24/98</i>	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

Alaska State Legislature

Interim:
145 Main St. Lp., 223
Kenai, Alaska 99611
907/283-7095
907/283-3075 fx
907/262-7574 hm

Session:
State Capitol
Juneau, AK 99801
907/465-2693
fx 907/465-3835
800/463-2693

Representative Gary Davis

SPONSOR STATEMENT

SCSCSHB 12(TRA)

“An Act relating to civil liability for commercial recreational activities; and providing for an effective date.”

SCSCSHB 12(TRA) is intended to provide reasonable protection against frivolous lawsuits for operators of commercial recreational activities. Whenever an individual participates in a commercial recreational activity, they assume an inherent risk that accompanies that activity. Many of the unfortunate accidents that result from recreational activities are intrinsic in nature. If the operator is not obviously negligent, the operator should not be held accountable simply for monetary compensation.

This bill addresses specific guidelines a participant and an operator must follow in order to minimize the possibility of an accident that results in injury, death or property damage. As long as these guidelines are followed, and an accident still occurs, the participant would be responsible under this legislation. However, if a participant in a recreational activity suffers an accident and files a civil liability lawsuit against the operator, there is still a provision in this legislation that allows a jury to find the operator negligent to a degree if there is sufficient proof.

There is an additional provision in the bill to establish liability limitations for municipal skating and cycling activities. The intent is to encourage municipalities to proceed with development of areas for outdoor recreation without increasing their liability unnecessarily.

Additionally, this legislation is offered to provide the opportunity for owners and operators of commercial recreational activities to obtain affordable insurance policies. This legislation will provide some statutory protection against civil litigation so these businesses can continue to operate under proper insurance coverage.

Some of the more inherently dangerous recreational activities that would be included under this bill are; horseback riding, bicycling, car racing, 4-H competitions, rodeos, skateboarding in municipal parks, and other related activities.

*Representing House District 8
Cooper Landing, Funny River, Hope, Moose Pass, Seward, Sterling, Soldotna*

Representative_Gary_Davis@legis.state.ak.us

Alaska State Legislature

Interim:

145 Main St. Lp., 223
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907/283-7095
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907/262-7574 hm

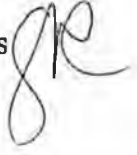
Session:

State Capitol
Juneau, AK 99801
907/465-2693
fx 907/465-3835
800/463-2693

Representative Gary Davis

MEMORANDUM

TO: Senator Loren Leman, Chair
Senate Labor and Commerce Committee

FROM: Representative Gary Davis 

DATE: May 11, 1998

RE: Request for hearing on SCSCSHB 12(TRA) "An Act relating to civil liability for commercial recreational activities; and providing for an effective date."

Please schedule Senate Committee Substitute for Committee Substitute for House Bill 12 (TRA) "An Act relating to civil liability for commercial recreational activities; and providing for an effective date" for a hearing in the Senate Labor and Commerce committee at your earliest convenience. Attached are the following items for inclusion in the packet.

- SCSCSHB 12 (TRA)
- Zero Fiscal Notes from the Department of Law
- Sponsor Statement
- Sectional Analysis
- Letter of support from Alaska Municipal League and the City of Seward

Thank you for considering this request. Please contact Darwin Peterson of my staff if you have any questions or would like additional information.

GD/dp

Attachments

*Representing House District 8
Cooper Landing, Funny River, Hope, Moose Pass, Seward, Sterling, Soldotna*

Representative_Gary_Davis@legis.state.ak.us

Alaska State Legislature

Interim:

145 Main St. Lp., 223
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907/262-7574 hm

Session:

State Capitol
Juneau, AK 99801
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Representative Gary Davis

SECTIONAL ANALYSIS

SCSCSHB 12 (TRA)

“An Act relating to civil liability for commercial recreational activities; and providing for an effective date.”

Section 1 sets out the purposes of the bill -- to establish the respective responsibilities of operators of commercial recreational activities and persons who participate in them, to decrease uncertainty about liability for damages for injuries resulting from participating in commercial recreational activities, and to encourage the continued availability of commercial recreational activities.

Section 2 enacts a new chapter relating to “Civil Liability for Commercial Recreational Activities,” and adds five new statutory provisions – Sec. 05.50.010 through Sec. 05.50.100.

Sec. 05.50.010 provides that a person who participates in a commercial recreational activity accepts the risk that an injury might occur as a result of participating in the activity.

Sec. 05.50.020 provides that if the risk inherent in the activity causes an injury, and the injured person has accepted that risk, then the person’s damages, if any, will be reduced by the percentage of fault that the court or jury determines is attributable to the acceptance of the risk.

Sec. 05.50.030 sets out the responsibilities of a person who participates in a commercial recreational activity. Those responsibilities include learning about the risks; acting within the limits of the person’s abilities; heeding all warnings; maintaining control over oneself, children, equipment, or animals; and refraining from actions that might cause or contribute to an injury.

Sec. 05.50.040 sets out the operator’s responsibilities, which include explaining the risks inherent in the activity and the skills and equipment required to participate; requiring that employees directly assisting participants have first aid and CPR training; maintaining all facilities and equipment in good repair; providing trained and competent personnel; and acting in a reasonably safe and competent manner.

Representing House District 8

Cooper Landing, Funny River, Hope, Moose Pass, Seward, Sterling, Soldotna

Sec. 05.50.050 makes it clear that the provisions of the bill do not affect existing statutes relating to the immunity of an owner of unimproved land or of the operator of a ski area.

Sec. 05.100 defines the terms "children" (a person under 18 years of age), "commercial recreational activity" (an activity for which participants pay compensation), and "recreational activity" (an outdoor activity for the purpose of exercise, education, relaxation, pleasure, sport or hobby).

Section 3 enacts a new chapter relating to "Municipal Skating and Cycling Liability and Responsibility," and adds seven new statutory provisions – Sec. 05.55.010 through Sec. 05.55.100.

Sec. 05.50.010 prohibits a person from bringing a lawsuit against a municipality, for an injury resulting from an inherent danger and risk of skateboarding or cycling at a municipal skateboarding or cycling facility.

Sec. 05.50.020 describes the effect of a violation of AS 05.50. A municipality or other person who violates AS 05.50 is negligent and civilly liable to the extent the violation causes injury or property damage. This section provides that if an injury occurs and an inherent danger and risk of skateboarding was a contributory factor or the injured person violated a provision of AS 05.50, a municipality is not liable unless the municipality also violated a provision of AS 05.50.

Sec. 05.50.030 sets out the duties of a person who uses a municipal skateboarding or cycling facility.

Sec. 05.50.040 requires that municipalities maintain a sign system for protection and instruction of skateboarders and cyclists.

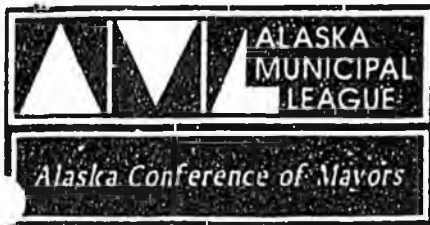
Sec. 05.50.050 sets out the duties and responsibilities of a skateboarder or a cyclist who uses a municipal skateboarding or cycling facility.

Sec. 05.50.060 requires that a municipality must allow a person participating in a skateboard or cycling competition to visually inspect the course or area. This section also provides that a person participating in a skateboard or cycling competition assumes certain risks and cannot hold the municipality liable for the assumed risks.

Sec. 05.50.100 provides additional definitions.

Section 4 makes the Act applicable only to acts or omissions that occur on or after the effective date of the Act.

Section 5 provides that the Act will take effect July 1, 1998.



217 Second Street, Suite 200 ■ Juneau, Alaska 99801 ■ Tel (907)586-1325, Fax (907)-463-5480

May 1, 1998

Senator Jerry Ward, Chair
Senate Transportation Committee
State Capitol
Juneau, AK 99811

Re: Support for HB 12 – Relating to civil liability for commercial recreational activities and certain skating and cycling activities.

Dear Senator Ward,

This bill will provide significant incentive for the **development of more and safer recreational opportunities for Alaska's youth**. This bill fulfills a top 1998 legislative goal of the AML and Alaska Conference of Mayors. Currently, many potential **public and private** operators of recreation facilities are reluctant to, or cannot afford to, assume the inherent liability of operating a recreational facility.

- ◆ **HB 12 will stimulate more recreational opportunities for Alaska's youth** because more public and private operators will be encouraged to open businesses. This development **also encourages local economic development as well as additional jobs for youth**.
- ◆ **HB 12 will result in safer recreational facilities** because the bill requires operators to conform to specific safety standards.
- ◆ **Especially in the sport of skating/bicycling, in the absence of specific public or private facilities these activities are carried on informally or illegally in a manner that greatly increases safety hazards for participants, increased potential for property damage, and increased danger of injury to citizens who happen to be in the vicinity of the activity.** For example, the problems associated with skateboarders in downtown areas.
- ◆ **HB 12 does not result in reduced individual legal rights to sue for operator negligence, and, in fact, increases and clarifies the standards to which operators are held.**

- ◆ By encouraging the development of organized recreational facilities an individual will have the right to sue an operator for negligence, whereas the individual would have no legal redress if the activity were carried on illegally or without the consent of the property owner.

This bill can stimulate a strong public/private partnership for increasing safe recreational opportunities for our youth. The issue also has very strong support by community members and organizations. Thank you for your consideration.

Sincerely,



Kevin Ritchie
Executive Director

- cc. Senate Transportation Committee
Representative Gary Davis
Alaska Conference of Mayors
AML Board of Directors
AML Legislative Committee

CITY OF SEWARD

P.O. BOX 167
SEWARD, ALASKA 99664

May 5, 1998

Representative Gary Davis
House of Representatives
State Capital Building, Room 513
Juneau, AK 99801



- Main Office (907) 224-3331
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- Harbor (907) 224-3138
- Fire (907) 224-3445
- Telecopier (907) 224-3248

Dear Representative Davis:

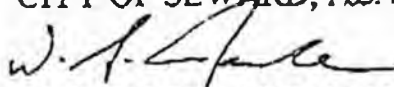
The City of Seward supports House Bill Number 12, "An Act relating to civil liability for commercial recreational activities and certain skating and cycling activities." The issue of liability for claims arising from the inherent hazards of skateboarding, in-line skating, bicycling and other non-motorized, wheel based activities is important to all municipalities.

In Seward we have a reputation for caring for our youth. Two years ago we constructed a skate park for two reasons. We wanted to give the kids a designated, safe, visible place to practice their chosen sport. We also needed to move the users out of busy pedestrian areas like sidewalks, parking lots and community plazas. We felt we did a great thing when we built the park. However, the City assumes this inherent risk on a daily basis. Restrictions placed on the users by our insurance carrier include that athletes are **required to wear 4 pieces of safety gear and sign a detailed Use Agreement.** Though positive, these requirements still leave all municipalities open for liability. In addition, this inherently dangerous sport often precludes private business from opening a park due to possible, future litigation. I am positive that House Bill No. 12 will reduce the battles our community daily faces among skateboarders, in-line skaters, city officials and concerned citizens.

We know from experience that the athletes who choose these sports are **already knowledgeable about the inherent risks.** They purposefully choose to participate without a park, thus are **already assuming their personal liability.**

The City of Seward thanks you for sponsoring this legislature. We request your continued support of House Bill Number 12. Thank you for your thoughtful consideration of this important youth issue.

Sincerely,
CITY OF SEWARD, ALASKA


W. S. JANKE, CITY MANAGER

907.224.4047
907.224.4038 fax
citymgr@seward.net

HB

18



STATE OF ALASKA

THE ALASKA STATE LEGISLATURE

House of Representatives

Representative Jeannette James
Chair of House State Affairs Committee
Chair of Joint Regulation Review Committee
Capitol Building (907) 465-3743 ph
Juneau, AK 99801 (907) 465-2381 fax

MEMO

March 10, 1997

To: Senate Labor and Commerce Committee
Attn: Loren
From: Jeannette
Re: Scheduling HB 18 for hearing in L&C

House Bill 18 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 certain disabled bidder preferences.

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

HB 18 is supported by the impacted Departments of Education and Administration.

The Legislature passed this Bill 2 years ago and the Governor vetoed it in error, last year it was lost in the rush of adjournment.

There is no known opposition.
The intent of this legislation is to create fairness.

Please schedule HB for a hearing as soon as possible. Call me, or Walt Wilcox if there are any questions.
Thank you.

SENATE COMMITTEE REPORT

DATE: 3/5/97

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 4-10-97

Labor and Commerce Committee considered HOUSE BILL NO. 18

"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."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical change
- new: SCR* _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Jim Kelly</i>	✓				
<i>JOWL</i>	✓				
CHAIR: <i>Steven D. Roman</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>DAE</i>	<i>2/21</i>	✓	
<i>MA</i>	<i>2/21</i>	✓	

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

No. 1

Version: HB 18

(H) Publish Date: 1/29/97

STATE OF ALASKA
1997 LEGISLATIVE SESSION

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

Department Affected: Administration
BRU: General Services

Component: Purchasing

Sponsor: James
Requestor: (H) I.&C

COMPONENT SERIAL NO. 60

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE: (Thousands of Dollars)

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

Estimate of any current year (FY 97) cost: \$ 0

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 bidder may 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: Dugan Petty, Director
Division: General Services

Phone: 465-2250
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

Date: 1/21/97

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FISCAL NOTE

NO. 2
 Bill Version: HB 18
 (H) Publish Date: 2/24/97

**STATE OF ALASKA
 1997 LEGISLATIVE SESSION**

Revision Date: _____ Dept. Affected: Education
 Title: An Act extending to certain partnerships and BRU: Vocational Rehabilitation
corporations the 10 percent procurement.... Component: Vocational Rehabilitation, Administration
 Sponsor: Representative James
 Requester: Finance COMPONENT SERIAL NO. 202

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY98	FY99	FY00	FY01	FY02	FY03
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						
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CHANGES IN REVENUES						
---------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

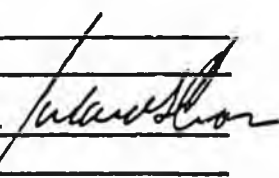
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
Other:						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of current year (FY97) cost: \$ _____ \$0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)
 Amends A.S. 36.30.170(e), expanding the businesses that qualify to bid for contracts under this law. This bill defines "qualifying entity."

Prepared by: Beth Lape, Special Assistant Phone: 465-2803
 Division: Commissioner's Office Date: _____
 Approved by Commissioner: Shirley J. Holloway, Ph.D.  Date: 2-20-97
 Agency: Department of Education

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Alaska State Legislature

REPRESENTATIVE
JEANNETTE JAMES
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(907) 488-1546
FAX (907) 488-1271



While in Office
State Capitol
Juneau, Alaska
99801-1187
(907) 465-3743
FAX (907) 467-2344

House Of Representatives
House District 34

MEMO

January 27, 1997

To: House Finance Committee
Attn: Gene
From: Jeannette
Re: Scheduling HB 18 in House Finance

Please schedule HB 18 for a hearing as soon as feasible.

SPONSOR STATEMENT

HB 18 PROCUREMENT PROCEDURES/DISABLED PERSONS

House Bill 18 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 certain disabled bidder preferences.

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

HB 18 has a zero fiscal note.

HB 18 is supported by the impacted Departments of Education and Administration.

The Legislature passed this Bill 2 years ago and the Governor vetoed it in error, last year it was lost in the rush of adjournment.

There is no known opposition.



January 15, 1997

The Honorable Jeannette James
House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Representative James,

We at Karl Bros., Inc. wish to express our sincere thanks for your past efforts to remedy the oversight of AS 36.30.170(e) which prevents Alaskan firms which are 100% handicapped owned but held by more than one individual, from participating in the bidders preference program established by the statute. It would be greatly appreciated if you would take the lead again and sponsor legislation to correct this situation.

Thank you in advance for all your help and efforts.

Sincerely,
Karl Bros., Inc.

Thomas A. Karl
Thomas A. Karl
Chairman & CEO

RECEIVED BY

JAN 29 1996

Rep. Jeannette James



March 22, 1995

The Honorable Jeannette James
Alaska State Representative
Room 102, State Capitol
Juneau, Ak. 99801-1182

Dear Representative James:

As you may know, Karl Brothers, Inc., is a 100% handicapped owned business, certified by the U.S. Small Business Administration under Section 8(a) and by the Alaska Department of Transportation and Public Facilities as a Disadvantaged Business Enterprise. Karl Brothers offers complete contractor support services and equipment leasing capabilities and other services as shown in the attached brochure (Attachment 1).

Last year, we applied for certification under the bidders' preference law. As you can see in the attached correspondence with the State Division of Vocational Rehabilitation, our application was denied (Attachment 2). We believe the denial, while it may be in accord with the exact language of the law, violates the clear intent of this law, to promote businesses owned by disabled persons.

I am asking you to sponsor corrective legislation as shown in Attachment 3, or an amendment to a related procurement bill, as shown in Attachment 4. I believe this change to the law would allow the division of Vocational Rehabilitation to follow the intent of the original legislation.

Please let me know if you would be willing to sponsor such a bill, and whether any additional information would be helpful to you during the legislative process. I am also asking Senator Sharp for sponsorship in the other house. Thank you for your consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "T. A. Karl", is written over the typed name.

Thomas A. Karl
President

Attachments

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF EDUCATION

DIVISION OF VOCATIONAL REHABILITATION

CENTRAL OFFICE
801 WEST 10TH STREET, SUITE 200
JUNEAU, ALASKA 99801-1894
PHONE: (907) 465-2814 (V/TDD)
FAX: (907) 465-2856

December 7, 1994

Karl Brothers Inc.
P.O. Box 58040
Fairbanks, Alaska 99711

Certification AS. 36.30.170

Dear Mr. Karl:

I have reviewed your request for a bidder preference as a sole proprietor and determined that you do not qualify. I have based this decision on the fact that your corporation is not a sole proprietorship.

If the status of you business changes as we have discussed please reapply for certification at the time such a change occurs.

Thank you for you interest.

Sincerely,



Stan Ridgeway
Deputy Director

DEPARTMENT OF EDUCATION

DIVISION OF VOCATIONAL REHABILITATION

801 WEST 10TH STREET, SUITE 200
JUNEAU, ALASKA 99801-1894
V/TT: (907) 465-2814
FAX: (907) 465-2356

February 26, 1997

The Honorable Jeanette James
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

RE: Definition of Disability in HB 18

Dear Representative James:

I am providing the information you requested regarding whether Alcoholism and Drug Addition would qualify as a disability under the Procurement (Bidder's) Preference.

The following represents the definition of a disability for the purposes of qualifying for a Procurement Preference:

Persons with a disability means an individual

- (1) who has a severe physical or mental disability that seriously limits one or more functional capacities in terms of employability; in this paragraph, "functional capacities" means mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills;
- (2) whose physical or mental disability
 - (A) results from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary disfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, muscular-skeletal disorders, neurological disorders, paraplegia, quadriplegia, other spinal cord conditions, sickle cell anemia, specific learning disability or end stage renal

disease; in this subparagraph, "neurological disorders" include stroke and epilepsy, or

(B) is a disability or combination of disabilities, not identified in (A) of this paragraph, and that are determined, on the basis of an evaluation of rehabilitation potential, to cause substantial functional limitations comparable to a disability identified in (A).

(3) whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time. (§ 2 ch 106 SLA 1986; am §§ 7 - 9 ch 65 SLA 1987; am §§ 6,18 ch 102 SLA 1989; am § 3 ch 175 SLA 1990; am §§ 1 - 3 ch 114 SLA 1992)

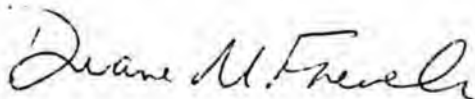
The Division of Vocational Rehabilitation (DVR) requires an individual to experience a functional limitation in two major life functions, which includes mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills, in order to qualify as having a severe disability. In most instances, an individual who experiences Alcoholism or Drug Addiction would not qualify as falling within the realm of a severe disability, without having an accompanying physical or mental impairment.

I am enclosing a copy of the form used by the Division in determining the extent of an individual's disability under the "Order of Selection" Policy. I hope I have addressed your need for information on this matter.

If you have further questions, please call me at 465-6933.

Thank you!

Sincerely,



Duane M. French
Director

Enclosure

cc: Beth Lape

The client shall be furnished notice at any time he or she is reclassified into a higher or lower priority category. The client may request reclassification at any time.

PROCEDURE:

CLASSIFICATION:

1. Any client of the division shall, upon determination of eligibility, be placed in a priority category.
2. An individual shall be classified in the highest priority category for which the client is qualified.
3. The priority category and the rationale for the priority category must appear in the case record.
4. The priority category placement and rationale shall be consistent with the case file contents.
5. The client shall be furnished notice at any time s/he is reclassified into a higher or lower priority category.

ORDER OF SELECTION CATEGORIES:

I. Priority Category I (Most Severely Disabled):

An eligible client shall be classified in this category if determined by the division to be an individual with a most severe disability.

An individual with a most severe disability is one:

- A. who has a severe physical or mental impairment which seriously limits three or more areas of functional limitations (mobility; motor skills/dexterity coordination; self care; self direction; work skills; interpersonal skills; communication; and work tolerance) in terms of an employment outcome; and,
- B. whose vocational rehabilitation (VR) can be expected to require two or more core VR services over an extended period of time, defined as six months.

If an individual has a most severe disability(ies) and that condition arose from an impairment sustained in the line of duty while s/he was performing as a public safety officer; and, if the cause of such impairment was a criminal act, or a hazardous condition resulting directly from the officer's performance of duties in direct connection with the enforcement, execution and administration of law or fire prevention, fire fighting, or related public safety activities, the individual will be served first in this category.

II. Priority Category II (Severely Disabled):

An eligible client shall be classified in this category if s/he has been determined by the division to be an individual with a severe disability.

An individual with a severe disability is one:

- A. who has a severe physical or mental impairment which seriously limits two areas of functional limitation (mobility; motor skills/dexterity coordination; self care; self direction; work skills; interpersonal skills; communication; and work tolerance) in terms of an employment outcome and;
- B. whose vocational rehabilitation can be expected to require two or more core VR services over an extended period of time, defined as six months.

If an individual has a severe disability(ies) and that condition arose from a impairment sustained in the line of duty while s/he was performing as a public safety officer; and, if the cause of such impairment was a criminal act, or a hazardous condition resulting directly from the officer's performance of duties in direct connection with the enforcement, execution and administration of law or fire prevention, fire fighting, or related public safety activities, the individual will be served first in this category.

III. Priority Category III (Disabled):

An individual shall be classified in this category if s/he has been determined by the division to be an individual eligible for VR services who does not meet one of the criteria above and is an individual whose disability is not severe.

**ALASKA DIVISION OF VOCATIONAL REHABILITATION
DETERMINATION OF SEVERE OR MOST SEVERE DISABILITY**

CLIENT: _____ SSN: _____

1. This individual has one or more impairments which are considered severe:
 Yes No
[If no, check 5(c)]

2. As a result of these impairments the individual is seriously limited from achieving an employment outcome due to chronic loss in the following functional capacity areas (as described and defined on the back):

<input type="checkbox"/> (a)	Mobility	<input type="checkbox"/> (e)	Work Skills
<input type="checkbox"/> (b)	Motor Skills/Dexterity/Coordination	<input type="checkbox"/> (f)	Interpersonal Skills
<input type="checkbox"/> (c)	Self Care	<input type="checkbox"/> (g)	Communication
<input type="checkbox"/> (d)	Self Direction	<input type="checkbox"/> (h)	Work Tolerance

[If none apply, check 5(c)]

3. The following core services are needed to address the functional losses identified in 2:

(a) Physical Restoration

(b) Mental Restoration

(c) Training

(d) Counseling and Guidance - may be considered a core service when the counseling and guidance is intensive and directed toward resolving problems which present substantial obstacles to the client obtaining, retaining or preparing for successful placement into suitable employment consistent with the vocational goal. In such instances, the counselor will prepare the IWRP and document the events and results of the intensive counseling and guidance service.

(e) Placement - Placement may be considered a core service when the placement service is substantial, involves counselor-employer communication, and results in actual employment of a previously unemployed client.

[If only one service is needed, check 5(c)]

4. It will take at least six months to complete the services identified in #3:
 Yes No
[If no, check 5(c)]

5. Severity of Disability: [Check only one]

- (a) **Most Severely Disabled:** This individual has a most severe disability because s/he experiences serious chronic limitations in two or more functional capacity areas in terms of an employment outcome, as a result of a severe physical or mental impairment and needs at least two core vocational rehabilitation services over an extended period of time.
- (b) **Severely Disabled:** This individual has a severe disability because s/he experiences serious chronic limitations in one functional capacity areas in terms of an employment outcome as a result of a severe physical or mental impairment and needs at least two core vocational rehabilitation services over an extended period of time.
- (c) **Disabled:** The individual's disability is neither severe nor most severe.

6. Certification: _____
Vocational Rehabilitation Counselor Date

7. NOTICE: The client shall be furnished notice at any time he or she is reclassified into a higher or lower category. The client may request reclassification at any time.

AREAS OF FUNCTIONAL LIMITATION

Functional loss must be identified due to a severe impairment identified in Criteria I. Check all of the following that apply:

MOBILITY

- Unable to effectively use conventional modes transportation (due to disability).
- Requires assistive devices (cane, crutches, prosthesis, walker, wheelchair) to be mobile.
- Due to disability, is unable to travel alone in unfamiliar areas.

MOTOR SKILLS/DEXTERITY COORDINATION

- Unable to use upper and/or lower extremity(ies) to obtain, control and use objects.
- Unable to control and coordinate fine and/or gross motor movements such as button buttons, wind watch, etc.
- Loss of use of dominant hand.

SELF CARE

- Places self or others at risk due to deficits in decision making, reasoning or judgement.
- Is unable to perform normal activities of daily living without assistance such as hygiene, cooking, shopping, money management.

SELF DIRECTION

- Is unable to provide informed consent for life issues without the assistance of a court appointed legal representative or guardian; or has been declared legally incompetent.
- Unable to work independently.

WORK SKILLS

- Unable to identify logical steps necessary to reach goals. Examples: severe learning disabilities, serious head injury.
- Unable to remember and understand instructions.
- Unable to learn new tasks without intensive and/or specialized instruction.
- Unable to follow written/verbal instructions

INTERPERSONAL SKILLS

- Has not acquired cultural, age appropriate skills
- Has disfigurement, deformity or behavior(s) so pronounced as to cause social rejection.
- Social withdrawal/isolation.
- Has significant difficulty interpreting and responding to behavior and communication of others.

COMMUNICATION

- Unable to participate in conversation without accommodation or assistive technology (language board, interpreter, TTD, etc.)
- Expressive and receptive primary mode of communication is unintelligible to non-family members or general public.
- Does not demonstrate understanding of simple requests or is unable to understand one-to-two step instructions.
- No apparent expressive or receptive communication skills.
- Unable to access printed/visual information without assistive technology and/or accommodation.

WORK TOLERANCE

- Requires frequent or extended periods of time from work due to necessary treatments or medical problems.
- Unable to work for an eight hour work day with breaks every two hours due to limitations in physical stamina.
- Unable to perform work requiring frequent lifting and carrying of objects weighing 10 lbs or more and/or occasionally lift objects weighing 20 lbs or more.
- Unable to sit/stand for more than 2 hours.
- Unable to perform tasks at competitive work pace.
- Requires more than 30 days per year away from work due to necessary treatments for medical and/or psychological problems.
- Unable to work for an 8 hour day with breaks every two hours due to limitations in mental or physical stamina.

HB

30

SENATE COMMITTEE REPORT

DATE: 3/18/97

FURTHER: Judiciary

DATE TURNED
IN TO OFFICE: 4-9-97

Labor and Commerce Committee considered

CS FOR HOUSE BILL NO. 30(FIN)

"An Act relating to civil liability for certain skating and cycling activities; and providing for an effective date."

and recommends:

- be replaced with SEN CS HB 30 (LTC)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by Committee
- further referral to the Committee

- Senate Bill:
 - same title
 - new title
- House Bill:
 - same title
 - technical change
 - new: SCR

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Tim Kelly</i>	✓				
<i>[Signature]</i>	✓				
<i>White Miller</i>	✓				
CHAIR: <i>Soren Stewart</i>	✓				

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
<i>Legislature</i>	<i>7/31/97</i>	✓	
<i>Law</i>	<i>7/31/97</i>	✓	

APPROPRIATION -- no fiscal note

*Include fiscal notes accompanying Governor's bill

Alaska State Legislature

Senate




Official Business

Senate Labor & Commerce Committee

State Capitol
Juneau, AK. 99801-1182

Memo

TO: Legal Services
via fax: 2029 this page only

FROM: Annette Kreitzer, Aide to 
Senate Labor & Commerce Committee
X 3844

DATE: April 8, 1997

RE: FINAL Committee Substitute for HB 30

HB 30: Skateboard Liability passed from Senate Labor & Commerce Committee today with the following changes:

- 1) Amendment LS0192\L.1 by Ford dated 4/8/97
- 2) Amendment LS0192\L.2 by Ford dated 4/8/97
- 3) Page 3, Lines 8-9:

DELETE all material and replace with:

(c) A municipality shall clearly delineate the boundaries of a municipal skating or cycling facility.

Please deliver the FINAL committee substitute to Senator Leman's office, Room 115. There were no other changes to the bill.

AMENDMENT *H1*

adopted

OFFERED IN THE SENATE

TO: CSHB 30(FIN)

- 1 Page 1, line 8:
- 2 Delete "and"
- 3 Insert "or"

AMENDMENT #2

adopted

OFFERED IN THE SENATE

TO: CSHB 30(FIN)

- 1 Page 4, following line 31:
- 2 Insert a new paragraph to read:
- 3 "(1) "facility" does not include a trail used for skating or cycling;"

- 4 Renumber the following paragraphs accordingly.

March 13, 1997



Handwritten initials and signature:
#3
Adopted

Representative Gene Kubina
State Capitol Rm 406
Juneau, AK 99801-1182

Dear Gene:

Representative Mulder has introduced House Bill No. 30 - "An Act relating to civil liability for certain skating and cycling activities". The issue of liability for claims arising from the hazards inherent in skateboarding, in-line skating, cycling and other nonmotorized wheel-based activities is becoming increasingly important for municipalities around the state. The City of Valdez supports the passage of this legislation.

Many municipalities are trying to create areas for these activities to happen in a constructive manner and eliminate the conflicts that occur on sidewalks, parking lots and other public areas. Passage of legislation such as this, that will limit a municipality's exposure to liability for providing these facilities, will help us to expand positive recreational opportunities for the youth of our community.

The City of Valdez would like to support an amendment to the following Section of House Bill No. 30:

Sec. 05.50.040 Duties of Municipalities. (c) A municipality shall clearly delineate the boundaries of a municipal skating or cycling facility with fencing or another type of enclosing or surrounding structure.

PROPOSED AMENDMENT:

Sec. 05.50.040 Duties of Municipalities. (c) A municipality shall clearly delineate the boundaries of a municipal skating or cycling facility.

Each municipality should have the ability to determine what is needed to separate the facility from conflicting uses or hazardous conditions in their situation. For example, in Valdez, our seasonal in-line hockey rink will be set up in an unused corner of our elementary school parking lot. The boundaries can easily be delineated with signs and other markers. Requiring a fence or other enclosing or surrounding structure is not necessary and the added financial burden would kill this project. Municipalities need to be given the flexibility to determine what, if any, fencing is required to provide a safe experience for their community.

The City of Valdez strongly urges you to support House Bill No. 30 with this amendment.

If you have any questions or need further information, please don't hesitate to contact me.

Sincerely,

Handwritten signature of Nancy M. Robb

Nancy M. Robb, Director
Parks and Recreation Department
(907) 835-2531

Alaska State Legislature



Committees
Labor & Commerce
Legislative Council
World Trade
Trade & Tourism
Special Committee
on Fisheries

Representative Eugene Kubina
House Minority Leader

During Session:
Alaska State Capitol
Juneau, Alaska 99801-1182

During Interim:
P.O. Box 2463
Valdez, Alaska 99686

MEMORANDUM

TO: Senator Loren Leman, Chair
Senate Labor and Commerce Committee

FR: Representative Gene Kubina *Gene*

DATE: April 7, 1997

RE: House Bill 30

This memo is to forward a request from the City of Valdez. The attached memo describes the request. Several other municipalities have requested the same change. The City of Valdez feels that each municipality should have the ability to determine what is needed to separate the facility from conflicting users and that the requirements of Section 05.50.040(c) are unnecessary. I respectfully request the committee consider the City of Valdez comments.

FISCAL NOTE

No. 2
 Bill Version: CSHB 30(L&C)
 (H) Publish Date: 1/31/97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

BILL NO.

Title: CIVIL LIABILITY FOR
SKATEBOARDING
 Sponsor: REP. MULDER
 Requestor: L & C

Dept. Affected None
 BRU: _____
 Components: _____
 Serial #: _____

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants, Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
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FUNDING: (THOUSANDS OF DOLLARS)

General Fund	0.0	0.0	0.0	0.0	0.0	0.0
Federal Fund	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

Full-Time	0	0	0	0	0	0
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (ATTACH A SEPARATE PAGE IF NECESSARY)

see attached analysis

Prepared by:
 Approved By:
 Agency:

Tim Sullivan Staff REP. Mulder
John Mulder 27 JAN 97
LEGISLATORS

Date: 27 JAN 97
 Phone: 465-2647
 Phone: 465-2647

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: Civil liability for skateboarding BRU: Trial Courts
 Component: _____
 Sponsor: Rep. Mulder
 Requestor: House Labor & Commerce COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
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	0.0	0.0	0.0	0.0	0.0	0.0
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 97) cost: None

Positions

Full-Time					
Part-Time					
Temporary					

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *CSC*
 Agency: Alaska Court System
 Approved by: Arthur H. Snowden, II, Administrative Director *AS*
 Agency: Alaska Court System

Phone: 284-8228
 Date: 01/28/97
 Date: 01/28/97

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



REPRESENTATIVE ELDON MULDER
DISTRICT 23 MULDOON-Ft. RICHARDSON



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

MEMORANDUM

DATE: 18 March 1997

TO: Senator Loren Leman, Chair
Senate Labor & Commerce Committee

FROM: Representative Eldon Mulder

RE: CSHB 30 (FIN)

CSHB 30 has been referred to the Senate Labor & Commerce Committee for consideration. The bill will provide limited protections from the risks inherent to skating and cycling for municipalities that wish to build skating and cycling parks. This is similar to the limitation on liability that we granted to ski areas.

Please schedule CSHB 30 for hearing as early as possible. It is important it receives early consideration so that the Municipality of Anchorage, Fairbanks North Star Borough and City of Borough of Juneau can proceed with the development of skating and cycling parks this Spring.

Included are copies of CSHB 30, sponsor statement, bill sectional, zero fiscal note, and letters of support.



REPRESENTATIVE ELDON MULDER
DISTRICT 23 MULDOON-Ft. RICHARDSON



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

SPONSOR STATEMENT **CSHB 30 (FIN)**

by
Representative Eldon Mulder

HB 30 was introduced at the request of the Municipality of Anchorage.

The Municipality of Anchorage, City and Borough of Juneau and several other municipalities would like to create skating and cycling parks so skaters and cyclers will have a place to ride, rather than using areas designed for pedestrians. The municipalities are willing to develop areas suitable for skating and cycling if they can be insulated from liability for claims arising from hazards inherent in skating and cycling.

The intent of HB 30 is to encourage municipalities to proceed with development of areas for outdoor recreation without increasing their liability unnecessarily. This bill applies only to municipal skating and cycling parks.

This bill is patterned after the legislation passed providing this limited protection to ski areas. The protection from liability relates to inherent dangers and risks of skating and cycling. The municipality is required to post signs warning that there are inherent risks to skating and cycling and the liability rests with the skater and cyclist.

LEGAL SERVICES

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

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


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

MEMORANDUM

January 23, 1997

SUBJECT: Sectional Summary of HB 30

TO: Representative Eldon Mulder
Attn: Dennis DeWitt

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

Sec. 05.50.010. - Prohibits a person from bringing a lawsuit against a municipality, for an injury resulting from an inherent danger and risk of skateboarding at a municipal skateboarding facility.

Sec. 05.50.020. - Describes the effect of a violation of AS 05.50. A municipality or other person who violates AS 05.50 is negligent and civilly liable to the extent the violation causes injury or property damage. Provides that if an injury occurs and an inherent danger and risk of skateboarding was a contributory factor or the injured person violated a provision of AS 05.50, that a municipality is not liable unless the municipality also violated a provision of AS 05.50.

Sec. 05.50.030. - Sets out the duties of a person who uses a municipal skateboarding facility.

Sec. 05.50.040. - Requires that municipalities maintain a sign system for protection and instruction of skateboarders.

Sec. 05.50.050. - Sets out the duties and responsibilities of a skateboarder who uses a municipal skateboarding facility.

Representative Eldon Mulder

January 23, 1997

Page 2

Sec. 05.50.060. - Requires that a municipality must allow a person participating in a skateboard competition to visually inspect the course or area. Provides that a person participating in a skateboard competition assumes certain risks and cannot hold the municipality liable for the assumed risks.

Sec. 05.50.100. - Definitions.

Section 2. Applicability section.

Section 3. Effective date.

MFF:jdr

97-042.jdr

Municipality
of
Anchorage



P.O. Box 196650
Anchorage, Alaska 99519-6650
Telephone: (907) 343-4431
Fax: (907) 343-4499
<http://www.ci.anchorage.ak.us>

Rick Mystrom, Mayor

OFFICE OF THE MAYOR

January 23, 1997

Representative Eldon Mulder
Alaska State Legislature
Juneau, Alaska 99801-1182

Re: House Bill No. 30. "An Act relating to civil liability for skateboarding"

Dear Eldon:

There is significant community interest in a municipal skateboard park and our 1997 Capital Improvement Budget includes plans for construction of one.

Like alpine skiing, skateboarding is an active sport that includes numerous inherent risks of injury. Before construction of a municipal skateboard park, the Municipality of Anchorage desires adoption of a statute that would insulate it from claims arising from the hazards inherent in skateboarding.

House Bill 30 helps fulfill that need and will eliminate a roadblock to the completion of this long awaited facility.

Thank you for your assistance with this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Mystrom". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Rick Mystrom
Mayor

"City of Lights and Flowers"

**MUNICIPALITY OF ANCHORAGE
1997 LEGISLATIVE PROGRAM**

LEGISLATIVE ISSUES

TITLE: Immunity from Civil Liability for Skateboarding Accidents

In an effort to broaden recreational opportunities, the Municipality of Anchorage may construct a skateboarding facility. However, given the significant inherent risks of skateboarding, the Municipality believes that immunity from lawsuits arising out of these risks should be adopted by state statute. The Municipality supports immunity language, such as that contained in HB 291 in the last session, which proposes amending Title 5, Chapter 50 to specifically address liability associated with skateboarding accidents; this proposed legislation is similar to the immunity which already exists for ski area operators. Additionally, HB 291 would impose duties upon skateboarders to protect themselves from injury.

Contact: Ann Waller Resch
Deputy Municipal Attorney
Phone: 343-4545

MUNICIPALITY OF ANCHORAGE

MEMORANDUM

Date: March 5, 1997
To: Representative Eldon Mulder
From: Connie Jones, Director, CRS Dept. *Connie Jones*
Subject: Attached Resolution from the Youth Commission

The Anchorage Youth Commission, appointed by the Mayor and approved by the Municipal Assembly, passed the attached Resolution in support of HB 30 at its February meeting.

I understand that there is a hearing today on the bill and wanted to get this Resolution to you in advance of that hearing in the Finance Committee. Thank you for your ongoing support of efforts to pass this legislation.

**Municipality
of
Anchorage**



P.O. Box 196650
Anchorage, Alaska 99519-6650
Telephone: (907) 343-4906
Fax: (907) 343-4583

Rick Mystrom, Mayor

ANCHORAGE YOUTH ADVISORY COMMISSION

**A RESOLUTION IN SUPPORT OF HOUSE BILL 30
RELATING TO CIVIL LIABILITY FOR SKATEBOARDING**

WHEREAS, the Municipality of Anchorage and the State of Alaska report that the population of children and youth is growing at twice the rate of the overall population, and

WHEREAS, youth need a variety of safe and accessible recreational opportunities in our communities, and

WHEREAS, youth need positive actions from their elected officials which reflect the value our leaders place on the needs of youth, and

WHEREAS, skateboarding is growing in popularity and is a recognized and accepted sport, and

WHEREAS, House Bill 30 will encourage local governments to construct safe skateboard parks for their youth.

Now, therefore, the Anchorage Youth Advisory Commission resolves:

Section 1. That the House and Senate approve without delay the provisions of House Bill 30, "An Act relating to civil liability for skateboarding; and providing for an effective date."

Passed and approved by the Anchorage Youth Advisory Commission this 25th day of February, 1997.

Melissa Karsrud

Chair



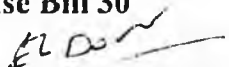
CITY/BOROUGH OF JUNEAU
★ **ALASKA'S CAPITAL CITY**

OFFICE OF THE MAYOR

January 27, 1997

The Honorable Eldon Mulder
Representative
Alaska State Legislature
Alaska State Capital, Rm 501
Juneau, Alaska 99801-1182

RE: House Bill 30


Dear Representative Mulder:

On behalf of the City & Borough of Juneau Assembly, I am writing to express our support for House Bill 30, pending legislation limiting municipal liability for skate park operation. The introduction of this bill is timely for Juneau's youth; a group of students from Juneau Douglas High School has undertaken a class project to construct a skate facility on borough land. Of concern to the Borough Assembly is liability for skate park operation.

In their proposal for the skate park, the youth included a summary of survey data substantiating the need for the facility. From the data they gathered at three schools, we learned that over 80% of our youth roller skate, in-line skate, skate board or BMX bike. We suspect that recreation patterns in Juneau are similar to those in other Alaskan communities. Like other municipalities, we have no facility to accommodate these activities. An Alaska law limiting a municipality's exposure to liability for park operation will go a long way towards enabling us to accommodate our youth without breaking the budget.

Please contact me if I can provide additional information regarding our efforts to provide a venue for skating in Juneau. Thank you for your effort on behalf of Alaskan skaters.

Sincerely,



Dennis Egan
Mayor



January 29, 1997

Representative Eldon Mulder
State Capital
Juneau, AK 99801

Dear Representative Mulder:

Thank you for introducing HB 30, relating to civil liability for skateboarding. This issue is becoming increasingly important for municipalities around the state and we support its passage.

As stated in the 1997 AML Policy Statement, which was adopted unanimously by AML members at their November conference:

C. Liability Issues

1. Liability for Injury in Recreational Activities: The League supports legislation that would limit the liability of a government, organization, volunteer, or private property owner providing recreational activities, facilities, and trail easements.

There is increasing pressure on local governments to provide additional recreational areas for young people, but they are reluctant to do so because of the unacceptable risk to their taxpayers. With passage of HB 30, those municipalities would be able to provide a safe place for skateboarders without putting the rest of the population at financial risk.

This issue is also a part of our 1997 Legislative Platform (attached). We believe providing recreational opportunities for youth will give communities more tools to help reduce youth crime.

Thanks again for your continued support.

Sincerely,

Kevin C. Ritchie
Executive Director

Attachment

c:\jk\leg97\hb30ltr.doc



Alaska Municipal League &
Alaska Conference of Mayors
1997 Legislative Platform

1. Approval of the "Safe Communities" bill and maintain current funding for municipal revenue sharing to avoid further state generated local property tax increases. The "four legs" of the Safe Communities bill are:
 - Directs the funds to be used primarily for public safety and health services
 - Establishes a minimum sharing of \$40,000 for small municipalities
 - Removes the "hold harmless" to allow equal treatment to all municipalities
 - Distributes municipal funds on July 31 each year
2. Provide for the long term construction, operation, and maintenance of state and municipal airports, roads, and harbors, including revenue sharing programs for maintenance. Bring state harbors up to an adequate maintenance level through a statewide bond issue, or other funds, to prepare them for possible negotiated transfer to municipalities.
3. Approval of a Long Range Financial Plan that prohibits unfunded mandates and unfunded service responsibilities, adequately funds schools and maintenance of public infrastructure, reasonably reduces state expenses, protects the Permanent Fund, and phases in new tax revenue sources.
4. Actively encourage the construction of a natural gas pipeline with an emphasis on jobs for Alaskans.
5. Restore funding for Municipal Capital Matching Grant Program to \$20 million because local communities can most efficiently determine and meet local capital needs.
6. Create a permanent State/Local Government Partnership Council to negotiate methods to most efficiently provide public services at the lowest possible cost to taxpayers.
7. Provide long term funding of public safety and health services through the equitable sharing of increased statewide alcohol and tobacco taxes, and removing the current prohibition against municipalities voting for local special taxes on the sale or use of alcohol.
8. Reduce the state unfunded mandate for the Senior Citizen Property Tax exemption.
9. Adequately fund a program to construct efficient sanitation systems throughout Alaska.
10. Give communities more tools to reduce youth crime by limiting confidentiality of youth crime information to protect the community, allow municipalities the option of assuming greater jurisdiction over juvenile justice, and limit liability for providing recreational opportunities for youth, such as skateboard parks.



CITY OF KODIAK
POST OFFICE BOX 1397, KODIAK, ALASKA 99615

February 12, 1997

Representative Eldon Mulder
Alaska State Legislature
Alaska State Capital, Rm 501
Juneau, Alaska 99801-1182

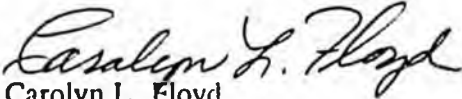
Dear Representative Mulder:

The City of Kodiak, not unlike many Alaska communities, has an active group of young people needing a place to skateboard. One of the major hurdles to building a facility has been the liability. House Bill 30 would remove some of the concern and permit consideration of such a facility on its merits. These young people have felt that it was a lack of interest or caring when in reality it was a fear of being sued for an inherently dangerous activity.

Your concern and efforts are recognized and appreciated.

Sincerely,

CITY OF KODIAK


Carolyn L. Floyd
Mayor

CITY OF SEWARD

P.O. BOX 167
SEWARD, ALASKA 99664



- Main Office (907) 224-3331
- Police (907) 224-3338
- Harbor (907) 224-3138
- Fire (907) 224-3445
- Fax (907) 224-3248

February 12, 1997

Representative Eldon Mulder
Alaska State Legislature
Alaska State Capital, Rm 501
M/S 3100
Juneau, Alaska 99801-1182

RE: House Bill 30

Dear Representative Mulder:

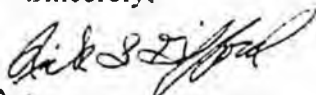
The City of Seward is in support of HB 30, relating to civil liability for skateboarding. Municipalities and taxpayers are deeply impacted by rising costs associated with claims. Since 1986, insurance and claim costs have been a major factor in municipal tax increases and have, in some cases, influenced communities to limit or eliminate recreation and other public services.

We are concerned for our youth, yet due to the increase in public liability, municipalities are reducing and/or eliminating recreational facilities and activities, such as skateboard parks, that would provide our youth with constructive activities instead of idle time which causes many of our youth to get in trouble in their communities.

Skateboarding, like alpine skiing, is an active sport that includes numerous inherent risks of injury. The sport is very popular among the youth in Seward and if we don't provide them a place to use, they will continue to use the streets, sidewalks, harbor and other public facilities that not only endanger the youth, but also the public who are using those facilities.

Thank you for your assistance with this legislation!

Sincerely,


for Ronald A. Garzini,
City Manager

RAG:rg

cc: Governor Tony Knowles
Senator John Torgerson
Representative Gary Davis
Seward Mayor and Council Members
Alaska Municipal League
Alaska Municipal League Joint Insurance Association

CITY OF SEWARD

P.O. BOX 167
SEWARD, ALASKA 99664



- Main Office (907) 224-3331
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- Fire (907) 224-3445
- Fax (907) 224-3248

March 24, 1997

Senator Loren Leman L & C 3844
State Capital Room 113
Juneau, AK 99801-1182

1-907-465-35810

Dear Senator Loren Leman:

Representative Mulder introduced House Bill Number 30, "An Act relating to civil liability for certain skating and cycling activities." The issue of liability for claims arising from the inherent hazards of skateboarding, in-line skating, bicycling and other non-motorized, wheel-based activities is important to all municipalities. The City of Seward supports the passage of this legislation.

Many communities are researching the issues in an attempt to create areas for these activities to serve users in a constructive manner which would eliminate the conflicts which presently occur on sidewalks, parking lots and community plazas. When the State of Alaska passes House Bill Number 30, it will place a limit to a municipality's exposure to liability for providing these facilities. Then communities can expand positive recreational opportunities for the youth and active adults in our cities and towns across the state.

The City of Seward supports an amendment to the following section of House Bill No. 30:

Sec. 05.50.040 Duties of Municipalities. (c) A municipality shall clearly delineate the boundaries of a municipal skating or cycling facility with fencing or another type of enclosing or surrounding structure.

PROPOSED AMENDMENT:

Sec. 05.50.040 Duties of Municipalities. (c) A municipality shall clearly delineate the boundaries of a municipal skating or cycling facility.

Each municipality must have the ability to determine what, if anything, is required to separate the facility from conflicting uses or hazardous conditions. For example, in Seward, our skate court has been designed into an existing recreational area. Trees, hills, physical distance and other such planning separates the court from the horse shoe pit, picnic pavilion, and outdoor volleyball court. A new playground is planned for this Adams Street Recreation Area later this spring. Our design allows for a very smooth transition into the well-used bike path. The current proposed requirement would limit the bike path access, require a non-budgeted fence, detract from the view of Resurrection Bay, upset the balance of the recreation design and cause community discord.

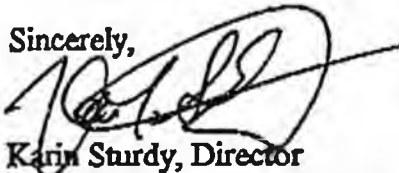
House Bill No. 30 / Recreation Indemnification
Page 2

Local government has the expertise to safely provide recreation opportunities; they must be provided the flexibility to determine the park boundaries.

The City of Seward strongly urges you to support House Bill Number 30 with this amendment. Attached please find a copy of City of Seward Resolution No. 96-077, Authorizing the Development of a Skate Park and Appropriating Funds and City of Seward Resolution No. 96-150, Establishing Priorities for the State Legislative Program. Resolution 96-150 includes priority number nine, Support for Recreation Facility Indemnification Bill.

If you have any questions or need further information, please feel free to contact me.

Sincerely,



Karin Sturdy, Director
Seward Parks & Recreation Department

SEWARD, ALASKA

Attachments

Karin Sturdy
PO Box 0167
Seward, AK 99664-0167
(907) 224-4057
fax 224-4053

Sponsored by: Garzini

**CITY OF SEWARD, ALASKA
RESOLUTION NO. 26-077**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF SEWARD, ALASKA, AUTHORIZING THE DEVELOPMENT
OF A SKATE PARK AND APPROPRIATING FUNDS**

WHEREAS, it is the City's desire to provide a place for interested skate boarders and in-line skaters to recreate; and

WHEREAS, a skate park facility was the Youth Advisory Board's number two priority for 1995; and

WHEREAS, although state legislation which would have assisted municipalities with the heavy and often unclear liability and insurance issues associated with municipally-sponsored skate facilities did not make it through committee during the recently completed legislative session, a bill reforming tort legislation is currently awaiting the Governor's signature; and

WHEREAS, it is in the public interest to provide skaters and skate boarders with a safe skating area off the city's streets and public rights-of-way; and

WHEREAS, funds for this project are available from funds set aside for the renovation of the Community Center;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEWARD, ALASKA, that:

Section 1. The City Manager is hereby authorized to proceed with the design and bid of a skate park to be located adjacent to the volleyball court north of the Adams Street Pavilion.

Section 2. The sum of \$21,025 is hereby appropriated from Account No. 101-0000-3041, designated for Community Center Renovations, to Account No. 101-14XX-5XXX, Parks and Recreation Department Operating Budget, and the Fiscal Year 1997 budget is amended accordingly.

Section 3. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED by the City Council of the city of Seward, Alaska, this 10th day of June, 1996.

**CITY OF SEWARD, ALASKA
RESOLUTION NO. 96-077**

THE CITY OF SEWARD, ALASKA

Margaret Anderson, Mayor

AYES: Anderson, Crane, Deeter, Keil, Sieminski
NOES: King
ABSENT: Bencardino
ABSTAIN: None

ATTEST:

Linda S. Murphy, CMC/AAE
City Clerk

(City Seal)

Sponsored by: Garzini**CITY OF SEWARD, ALASKA
RESOLUTION NO. 96-150****A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF SEWARD, ALASKA, ESTABLISHING PROJECTS AND
PRIORITIES FOR THE STATE LEGISLATIVE PROGRAM**

WHEREAS, the administration has provided the projects and priorities list for the 1997 State Legislative session; and

WHEREAS, following a work session held by the Council on November 4, 1996, it was determined that the following projects are the City's priorities for the upcoming legislative session:

1. Alaska Railroad Dock Improvements
2. Spring Creek Correctional Center Expansion
3. North Forest Acres Road
4. East Harbor Expansion - Matching Funds for Design
5. Support of Marine Fuel Tax Designation to Marina/Port Maintenance
6. Alaska Railroad Dock North Access Road
7. Support of Capital Projects Matching Grants Program
8. Seward Life Action Council Facility Construction Funds
9. Support for Recreation Facility Indemnification Bill

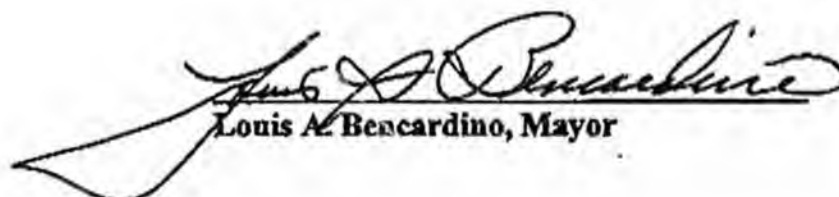
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEWARD, ALASKA, that:

Section 1. The list of legislative projects is hereby declared to be the official legislative priority list for the City of Seward for the 1997 Legislative Session.

Section 2. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED by the City Council of the city of Seward, Alaska, this 25th day of November, 1996.

THE CITY OF SEWARD, ALASKA


Louis A. Bencardino, Mayor

RECREATION FACILITY INDEMNIFICATION BILL

Public agencies that sponsor recreation programs and facilities face liability from legal actions related to personal injury by those using programs and/or facilities. Apart from public costs involved in replacing playground equipment items that may have safety flaws which reduce public liability, agencies are being asked to provide new types of facilities for high-risk activities such as skaters' parks for in-line skaters and skateboarders.

In previous year's legislative session, a bill was sponsored to relieve public agencies of liabilities from injuries sustained at such facilities as skater's parts. The bill progressed through the legislative process yet was not completed for adoption before the session ended.

Recommendation:

That the City support any legislative action that allows levels of liability protection from personal injury claims for use of high-risk sports facilities.

04/08/97

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

13:53:29

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:PSG

TCN:70527

SCHEDULED FOR:04/08/97 13:30 TO 15:00

FOR:PSG

PUBLIC HEARING

SENATE LABOR & COMMERCE

LOCATION:PETERSBURG

HB 30

MR.

BILL

MUSSON

PSG PKS & REC

TESTIFY

TESTIFY

PARKS & REC

ROBB

NANCY

MS.

HB 30

LOCATION:VALDEZ

SENATE LABOR & COMMERCE

PUBLIC HEARING

FOR:VAL

SCHEDULED FOR:04/08/97 13:30 TO 15:00

TCN:70527

BY:VAL

PARTICIPANT LIST (ALL PARTICIPANTS)

13:35:51

LTN1150

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

04/08/97

HB

33

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE COMMITTEE, CHAIRMAN
SPECIAL COMMITTEE ON OIL & GAS, MEMBER
JUDICIARY COMMITTEE, MEMBER
CORRECTIONS BUDGET SUBCOMMITTEE, MEMBER
ADMINISTRATION BUDGET SUBCOMMITTEE, MEMBER
HESS BUDGET SUBCOMMITTEE, MEMBER



INTERIM:
710 WEST 4TH AVENUE, SUITE 640
ANCHORAGE, AK 99501
PHONE: (907) 258-8191
FAX: (907) 258-2918

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

Representative Norman Rokeberg

SPONSOR STATEMENT

CSHB 33 (FIN) am

CSHB 33 (FIN) am, An Act relating to real estate licensees, was introduced at the request of the Real Estate Commission (hereinafter "Commission"), and its appointed task force, with the intent of enhanced consumer protection. The most significant changes to the law are: including community association managers in real estate licensing; strengthening the language prohibiting unlicensed activities; expanding educational requirements; increasing the Commission's scope of authority; and expanding the exemptions for property management. The length of this bill is due to the many technical language revisions and housekeeping changes.

The need for new legislation became obvious after the indictment, and subsequent conviction, of a manager for various community associations on charges stemming from the embezzlement of \$570,000 from 18 separate community associations in Anchorage. Currently, anyone can undertake this activity and, with the exception of criminal law, there is no legal protection for the public.

In 1994, the Commission appointed a Task Force to review the significant number of recent consumer complaints and surety fund claims filed regarding property managers and also discussed the consumer losses brought about by some community association manager activities. CSHB 33 (FIN) am is the result of suggestions made by: the Commission's Task Force, members of the real estate community, community association managers, and the public.

The licensure of community association managers will provide the consumer with (1) more qualified managers, (2) recourse to surety fund and fidelity bond recovery, and (3) a licensing agency to oversee those who have a fiduciary responsibility to the public.

The other changes made by the bill are to assure the public that all real estate licensees in Alaska follow certain guidelines. Payments to non-licensed individuals and "marketing kickback" mechanisms ("affinity" groups) are strictly prohibited under this legislation.

The legislation expands the exemptions under current law, and will not impact individuals who (a) manage their own property, (b) manage four or fewer residential units for another, or, if more than four units, without a fee (except for expenses), (c) manage as a resident manager, or (d) manage as a member of a self-managed association.

I urge your support of this legislation.

ED4:2/27/98

FISCAL NOTE

No: 1

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Bill Version: CSHB 33 (L&C)
(H) Publish Date: 1/30/98

Revision Date: _____
Title: An Act relating to real estate licensing and the
real estate surety fund;....
Sponsor: Representative Rokeberg by Request
Requestor: House 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	7.1	7.1				
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	7.1	7.1	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES	***	***				
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other 1091 Designated PR	7.1	7.1				
TOTAL	7.1	7.1	0.0	0.0	0.0	0.0

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

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)
 HB 33 makes several amendments to the real estate licensing statutes, AS 08.88. The costs shown on this fiscal note represent costs associated with the re-write and public noticing of regulations for \$1.2; printing and mailing of new statute and regulation booklets to approximately 2,124 licensees for \$5.9. No costs are included for restructuring of the examination since the exam is scheduled for review at no additional costs in FY 98 by the exam contractor. Costs are shown for the first two-years only to cover the implementation stage of this legislation. Once HB 33 is implemented, these costs will no longer apply. ***Revenue in both designated program receipts and the surety fund can be expected to increase with the authority to set fees for each type of endorsement and to recover costs for educational programs. However, the amount of revenue cannot be estimated at this time until fees are reviewed in accordance with sec. 08.88.221.

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

Phone: 465-2144
 Date: 1/29/98
 Date: _____

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office

SENATE COMMITTEE REPORT

DATE: 3/3/98

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 4-18-98

Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 33(FIN) am

"An Act relating to real estate licensees and to the real estate surety fund; relating to the Real Estate Commission; and providing for an effective date."

and recommends:

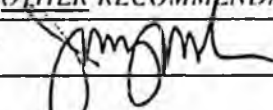
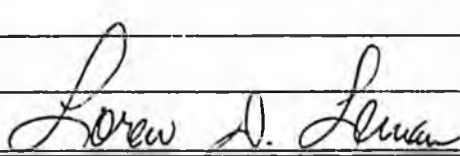
- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical change
- new: SCR# _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
Tom Kelly Mike Miller	✓		✓		
CHAIR:					✓

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Department	Date	Zero	Fiscal
DC+ED	1/29/98		7.1

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

Moved by Leman
obj. by Kelly
Vote:
Miller NO
Leman YES
Mackin NO
Kelly NO

Failed

0-LS0197X.1
Lauterbach
4/15/98

AMENDMENT #1

OFFERED IN THE SENATE

BY SENATOR LEMAN

TO: SCS CSHB 33(L&C), Draft Version "X"

- 1 Page 23, line ²⁰22, following "chapter":
- 2 Insert "unless the person was a principal in the transaction for which the compensation
- 3 is received"

- 4 Page 23, lines 27 - 29: *Can still pay principle for any reason*
- 5 Delete "as part of the resolution of a dispute regarding the terms of a transaction or
- 6 regarding the property transferred"

- 7 Page 29, lines 8 - 10:
- 8 Delete "so long as the compensation the person receives does not include any
- 9 portion of the commission or other compensation paid to a real estate licensee in the
- 10 transaction"

- 11 Page 31, line 21, following "estate":
- 12 Insert "unless the person was a principal in the transaction for which the compensation
- 13 was received"

Annals's copy

not offered
4-15-98
HB 33
d. Sebasco

AMENDMENT

OFFERED IN THE SENATE

TO: CSHB 33(FIN) am

- 1 Page 12, lines 1 - 30:
- 2 Delete all material.

- 3 Renumber the following bill sections accordingly.

- 4 Page 18, lines 7 - 10:
- 5 Delete "if authorized by the board of directors of a community association to
- 6 collect, control, or disburse association funds. keep a separate account in a financial
- 7 institution for the funds:
- 8 (5)"

- 9 Page 18, line 14:
- 10 Delete "(6)"
- 11 Insert "(5)"

- 12 Page 18, line 27:
- 13 Delete ";
- 14 Insert ".

- 15 Page 18, line 28, through page 19, line 5:
- 16 Delete all material.

- 17 Page 19, following line 12:
- 18 Insert a new bill section to read:
- 19 "* Sec. 27. AS 08.88 is amended by adding new sections to read:

1 **Sec. 08.88.353. Limitations, duties of community association managers.**

2 A real estate licensee who practices community association management

3 (1) shall, if authorized by the board of directors of a community
4 association to collect, control, or disburse association funds, keep a separate account
5 in a financial institution for the funds;

6 (2) shall promptly deposit community association funds or proceeds
7 from periodic community association assessments into either a community association
8 reserve account or a community association operating account; if, at any time, the
9 community association operating account contains more money than is estimated to
10 be needed for budgeted expenditures for the subsequent three months, the licensee
11 shall transfer the excess funds to the community association reserve account as soon
12 as practicable;

13 (3) may not commingle funds of a community association with funds
14 of another community association or with the licensee's funds;

15 (4) may not, within the practice of community association
16 management, exercise control over the reserves or investment accounts of a
17 community association;

18 (5) may not, within the practice of community association
19 management, exercise control over the operating account of a community association
20 unless

21 (A) allowed under a contract that has been approved by the
22 association's board of directors; and

23 (B) duplicate financial statements concerning the account are
24 sent by the institution holding the account to the licensee and the association's
25 board of directors at separate addresses.

26 **Sec. 08.88.355. Fidelity bond for community association managers.** (a)

27 If the board of directors of a community association allows a broker to exercise
28 control over community association fees or other community association funds, the
29 broker must provide evidence to the commission that the broker is covered by a
30 blanket fidelity insurance bond. The bond may be in the name of the broker with the
31 association as an additional insured or in the name of the association with the broker
32 as an additional insured. The bond must cover the maximum funds that will be within

1 the control of the community association manager at any time while the bond is in
2 force. The commission may grant an exemption from the bonding requirement of this
3 subsection if the commission determines that the community association manager has
4 equivalent comparable coverage or that coverage is unavailable. The commission may
5 adopt regulations to implement this subsection, including regulations concerning the
6 minimum coverage and terms of coverage that are required and proof of bond and the
7 granting of exemptions.

8 (b) If a loss covered by the fidelity bond required under this section is also
9 reimbursable from the real estate surety fund, the owners' association that suffered the
10 loss may not recover under the bond until the association has filed a claim for
11 reimbursement under AS 08.88.460 and proceedings relating to the claim are
12 concluded."

13 Renumber the following bill sections accordingly.

AMENDMENT

*Not offered
4-15-98
HB 33
discharged*

OFFERED IN THE SENATE
TO: CSHB 33(FIN) am

- 1 Page 21, line 31:
- 2 Delete "a new section"
- 3 Insert "new sections"

- 4 Page 21, following line 31:
- 5 Insert a new section to read:
- 6 "Sec. 08.88.397. No duty to disclose certain matters. (a) A criminal, civil,
- 7 or administrative action may not be brought against a licensee for failing to disclose
- 8 a suspicion or knowledge that the property being transferred in a real estate
- 9 transaction is
- 10 (1) or has been the site of a natural death, suicide, homicide, or crime
- 11 classified as a felony;
- 12 (2) or has been owned or occupied by a person who has been exposed
- 13 to the human immunodeficiency virus or by a person who is or has been diagnosed
- 14 as having the acquired immune deficiency syndrome or another disease that is known
- 15 to be transmitted through common occupancy of real estate; or
- 16 (3) located in the vicinity of a person who has been convicted of a sex
- 17 offense, as defined in AS 12.63.100.
- 18 (b) Failure by a licensee to disclose knowledge or suspicion of a matter
- 19 described in (a) of this section is not grounds for termination or rescission of a real
- 20 estate transaction."

Annette's Coreg

not adopted

0-LS0197X
Lauterbach
4/15/98

SENATE CS FOR CS FOR HOUSE BILL NO. 33(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG BY REQUEST, Porter

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to real estate licensees and to the real estate surety fund;
2 relating to the Real Estate Commission; and providing for an effective date."

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

4 * Section 1. AS 08.67.010 is amended to read:

5 Sec. 08.67.010. Registration of mobile home dealers. A mobile home dealer
6 may not do business in the state unless the dealer is registered with the department.
7 However, a person licensed under AS 08.88 may, without registering under this
8 chapter, perform the same activities with respect to mobile homes, except for
9 property management, as are authorized for that person to perform under
10 AS 08.88 with respect to real estate.

11 * Sec. 2. AS 08.88.051(c) is amended to read:

12 (c) The commission shall elect its officers at the first meeting of each fiscal
13 year.

14 * Sec. 3. AS 08.88.061 is amended to read:

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Sec. 08.88.061. Assistants. Notwithstanding contrary provisions of AS 08.01.050, the [THE] commission may assign or designate [USE] assistants to

- (1) issue licenses to applicants who meet the qualifications for licensure established under this chapter;**
- (2) prepare questions on examinations;**
- (3) administer and [(2)] grade examinations;**
- (4) certify courses required under this chapter;**
- (5) approve instructors to teach courses required under this chapter; and**
- (6) negotiate terms for payment of fines and other money due under this chapter.**

* Sec. 4. AS 08.88.071 is amended to read:

Sec. 08.88.071. Duties of the commission. (a) The commission shall

- (1) determine whether [PASS ON QUALIFICATIONS OF] applicants meet requirements for licenses under this chapter and issue licenses to those who qualify;**
- (2) prepare and grade examinations;**
- (3) after hearing, have the authority to suspend or revoke the license of a licensee or impose other disciplinary sanctions authorized under AS 08.01.075 on a licensee who**
 - (A) with respect to a real estate transaction**
 - (i) made a substantial misrepresentation;**
 - (ii) made a false promise likely to influence, persuade, or induce;**
 - (iii) in the case of a real estate broker, pursued a flagrant course of misrepresentation or made a false promise through another [AN AGENT, ASSOCIATE REAL ESTATE BROKER, OR] real estate licensee [SALESMAN];**
 - (iv) has engaged in conduct that is fraudulent or dishonest;**
 - (v) violates AS 08.88.391;**

1 (B) procures a license by deceiving the commission, or aids
2 another to do so;

3 (C) has engaged in conduct of [IN] which the commission had
4 no knowledge at the time the licensee was licensed demonstrating the licensee's
5 unfitness to engage in the business for which the licensee is licensed;

6 (D) knowingly authorizes, directs, connives at or aids in
7 publishing, distributing, or circulating a material false statement or
8 misrepresentation concerning the licensee's business or concerning real estate
9 offered for sale, rent, or lease, or managed in the course of the licensee's
10 business in this or any other state or concerning the management of an
11 association in the course of a licensee's business in this or another state;

12 (E) if a real estate broker, wilfully violates AS 08.88.171(d) or
13 08.88.291;

14 (F) if an associate real estate broker, claims to be a real estate
15 broker, or, if a real estate salesperson [SALESMAN], claims to be a real estate
16 broker or associate real estate broker;

17 (G) if a real estate broker, employs an unlicensed person to
18 perform activities for which a real estate license is required [ASSOCIATE
19 REAL ESTATE BROKER OR REAL ESTATE SALESMAN];

20 (H) if an employed real estate licensee of a [ASSOCIATE]
21 real estate broker [OR REAL ESTATE SALESMAN], fails immediately to turn
22 money or other property collected in a real estate transaction over to the
23 employing real estate broker or the broker's authorized representative;

24 (4) prosecute, through the Department of Law, violations of the
25 provisions of this chapter or lawful regulations adopted under this chapter;

26 (5) release for publication [PUBLISH, ON THREE CONSECUTIVE
27 WEEKENDS] in a newspaper of general circulation in the locale of the offending
28 person's principal office registered with the commission notice of [LICENSED
29 UNDER THIS CHAPTER.] disciplinary action taken by the commission against a
30 person licensed under this chapter;

31 (6) issue a temporary permit to the personal representative of the estate

1 of a deceased real estate broker or to another [SOME OTHER] person designated by
2 the commission with the approval of the personal representative of the estate in order
3 to secure proper administration in concluding the affairs of the decedent broker's real
4 estate business;

5 (7) issue a temporary permit to the personal representative of a
6 legally incompetent real estate broker or to another person designated by the
7 commission with the approval of the personal representative of the broker in
8 order to secure proper administration in temporarily managing the real estate
9 business of the broker;

10 (8) establish and periodically revise the form of the seller's property
11 disclosure statement required by AS 34.70.010;

12 (9) have the authority to levy civil fines as established in this
13 chapter;

14 (10) revoke the license of a broker or associate broker who is
15 convicted of forgery, theft, extortion, conspiracy to defraud creditors, or a felony
16 involving moral turpitude committed while licensed under this chapter;
17 notwithstanding AS 08.88.171, a person whose license is revoked under this
18 paragraph is not qualified for a license under AS 08.88.171(a) or (b) until seven
19 years have elapsed since the person completed the sentence imposed for the
20 conviction.

21 (b) When an award is made from the real estate surety fund under this chapter
22 [IN REIMBURSEMENT OF LOSSES SUFFERED BY A CLAIMANT AS A
23 RESULT OF FRAUD, MISREPRESENTATION, DECEIT, OR CONVERSION OF
24 TRUST FUNDS ON THE PART OF A LICENSED BROKER, ASSOCIATE
25 BROKER, OR SALESMAN], the commission may suspend [CONSIDER THE
26 HEARING ON THE CLAIM TO BE A HEARING ON THE SUSPENSION OF] the
27 license of the real estate licensee whose actions formed the basis of the award
28 [BROKER, ASSOCIATE BROKER, OR SALESMAN, AND MAY SUSPEND THE
29 LICENSE OF THE BROKER, ASSOCIATE BROKER, OR SALESMAN]. A
30 suspension ordered under this subsection shall be lifted if the licensee [BROKER,
31 ASSOCIATE BROKER, OR SALESMAN] reaches an agreement with the commission

1 on terms and conditions for the repayment to the real estate surety fund of the money
2 awarded to the claimant and the costs of hearing the claim under AS 08.88.465. The
3 suspension shall be reimposed if the licensee [BROKER, ASSOCIATE BROKER, OR
4 SALESMAN] violates the terms of a repayment agreement entered into under this
5 subsection.

6 (c) For the purposes of (a)(3) of this section, the conduct of an employee is
7 [NOT] attributable to a real estate broker if [UNLESS] the real estate broker has actual
8 knowledge that the employee is going to engage in the conduct and agrees to the
9 conduct, either actively or by remaining silent, or ratifies the conduct after it is
10 engaged in.

11 * Sec. 5. AS 08.88.091(d) is amended to read:

12 (d) A person who is licensed under this chapter must complete 20 hours of
13 continuing education approved by the commission before the person's license may be
14 renewed. The commission may not establish limits that prevent a person from
15 satisfying this continuing education requirement within a two-day period.

16 * Sec. 6. AS 08.88.091(e) is amended to read:

17 (e) Except for a course described in (f)(1) or (3) of this section, in order
18 for an educational course to be recognized for credit under this section, [THE
19 COMMISSION MAY NOT APPROVE AN EDUCATION OR CONTINUING
20 EDUCATION COURSE REQUIRED UNDER THIS SECTION UNLESS THE
21 COMMISSION CERTIFIES] the course outline and [APPROVES] the instructor of the
22 course must be approved by the commission or the commission's designee before
23 the course is conducted. A course outline or instructor is considered approved if
24 the commission or the commission's designee does not disapprove the outline or
25 instructor within 45 days after the date on which complete application was made
26 for approval. Each approved contact hour of a submitted course outline
27 constitutes one credit hour of continuing education. The fee for continuing
28 education course certification under AS 08.88.221 shall be based on the hours
29 approved for credit not hours submitted.

30 * Sec. 7. AS 08.88.091 is amended by adding new subsections to read:

31 (f) The commission shall establish by regulation the educational and continuing

1 educational requirements for licenses issued by the commission. The regulations for
 2 continuing education requirements must allow the following types of courses to qualify
 3 for the appropriate number of credit hours, as determined by the commission:

4 (1) courses that are developed by national organizations, as identified
 5 for the purpose of this paragraph in the commission's regulations, that are delivered by
 6 nationally certified instructors and that are required in order to earn professional
 7 designations from a national organization in specialized areas of licensed real estate
 8 practice; notwithstanding other provisions of this chapter, the commission may not
 9 charge a fee for these courses;

10 (2) technology courses directly related to real estate practice that are
 11 designed to enhance the skills and performance of a real estate licensee; and

12 (3) courses offered by an accredited college or university as part of a
 13 real estate curriculum that are available for at least one quarter-hour or one-half
 14 semester-hour of academic credit; the commission may not charge a fee for these
 15 courses.

16 (g) The commission shall establish core curricula for continuing education in
 17 the following areas: real estate sales, property management, community association
 18 management, and commercial sales. A licensee shall complete at least one of the four
 19 core curricula during each biennial licensing period as part of the licensee's continuing
 20 education.

21 * Sec. 8. AS 08.88.161 is amended to read:

22 **Sec. 08.88.161. License required.** Unless licensed as a real estate broker,
 23 associate real estate broker, or real estate salesperson in this state [SALESMAN], a
 24 [NATURAL] person [, FOREIGN OR DOMESTIC CORPORATION, OR
 25 PARTNERSHIP, OR LIMITED PARTNERSHIP, OR OTHER ENTITY] may not,
 26 except as otherwise provided in this chapter,

27 (1) sell, exchange, rent, lease, auction, or purchase real estate;

28 (2) list real estate for sale, exchange, rent, lease, auction, or purchase;

29 (3) collect rent for the use of real estate or collect fees for property

30 management;

31 (4) practice, or negotiate for a contract to practice, property

management:**(5) collect fees for community association management;****(6) practice, or negotiate for a contract to practice, community association management;****(7)** as a business, buy, sell, or deal in

(A) options in real estate; or

(B) options in improvements to real estate;

(8) [(5)] assist in or direct the procuring of prospective buyers and sellers of real estate, communicate with prospective buyers and sellers of real estate, or assist in the negotiation of a transaction that [WHICH] results or is calculated to result in the sale, exchange, rent, lease, auction, or purchase of real estate;**(9) accept or pay a fee for the performance of any of the activities listed in this section except as otherwise specifically provided in this chapter;****(10) [(6)] hold out to the public as being engaged in the business of doing any of the things listed in this section; or****(11) [(7)] attempt or offer to do any of the things listed in this section**
[.**(8) REPEALED).**

* Sec. 9. AS 08.88 is amended by adding a new section to read:

Sec. 08.88.167. Civil penalty for unlicensed or unauthorized practice. (a)

In addition to penalties prescribed by any other provision of law, if a person engages or offers to engage in an activity for which a license is required under AS 08.88.161 without being licensed or authorized to engage in the activity in accordance with the provisions of this chapter, the commission may enter an order levying a civil penalty.

(b) A civil penalty levied under this section may not exceed \$5,000, or the amount of gain realized plus \$5,000, whichever is greater, for each offense. In levying a civil penalty, the commission shall set the amount of the penalty imposed under this section after taking into account the seriousness of the violation, the economic benefit resulting from the violation, the history of violations, and other facts the commission considers relevant.

1 (c) Before entering an order under (a) of this section, the commission shall
2 send the person written notice of the proposed order that grants the person a 30-day
3 period during which the person may request a hearing on the record.

4 (d) In connection with proceedings under (a) - (c) of this section, the
5 commission may issue subpoenas to compel the attendance and testimony of witnesses
6 and the disclosure of evidence and may request the department to bring an action to
7 enforce a subpoena.

8 (e) A person aggrieved by the levy of a civil penalty under this section may
9 file an appeal with the superior court for judicial review of the penalty under
10 AS 44.62.560.

11 (f) If a person fails to pay a civil penalty within 30 days after entry of an order
12 under (a) of this section, or within 10 days after the court enters a final judgment in
13 favor of the commission of an order stayed pending an appeal under (e) of this section,
14 the commission may initiate other action to recover the amount of the penalty.

15 (g) An action to enforce an order under this section may be combined with an
16 action for an injunction under AS 08.88.037.

17 * **Sec. 10.** AS 08.88.171 is amended to read:

18 **Sec. 08.88.171. Entitlement to license.** (a) A natural person qualifies [IS
19 ELIGIBLE] for a real estate broker license if the person passes the [REAL ESTATE]
20 brokers examination, [IF THE PERSON] applies for a license within six months after
21 passing the [PERSON HAS TAKEN THE REAL ESTATE BROKERS] examination,
22 [IF THE PERSON] furnishes satisfactory proof of successful completion of the
23 education requirements of AS 08.88.091, [IF THE PERSON] has had at least 24
24 months of active and continuous experience as a licensed real estate salesperson
25 within the 36 months immediately preceding application for the broker license,
26 [SALESMAN, IF THE PERSON] is not under indictment for, or seven years have
27 elapsed since the person has completed a sentence imposed upon conviction of,
28 forgery, theft, extortion, conspiracy to defraud creditors, or any other felony involving
29 moral turpitude, and [IF THE PERSON] is an owner of a real estate business or
30 employed as a real estate broker by a domestic or foreign corporation, [OR A]
31 partnership, limited partnership, or limited liability company [AND IF THAT

1 CORPORATION OR PARTNERSHIP DOES NOT HAVE AN EXISTING
2 LICENSED BROKER]. Unless the broker fails to renew the license [PAY THE
3 BIENNIAL RENEWAL FEE] or unless the broker's license is suspended or revoked
4 [UNDER AS 08.88.071(a)(3)], the [REAL ESTATE] broker's license continues in
5 effect as [SO] long as the broker's license is active [BROKER IS AN OWNER OF
6 A REAL ESTATE BUSINESS, OR THE BROKER IS EMPLOYED AS A REAL
7 ESTATE BROKER BY A CORPORATION OR A PARTNERSHIP]. If the broker
8 stops being an owner of a real estate business [,] or stops being employed as a real
9 estate broker by a domestic or foreign corporation, [OR] partnership, limited
10 partnership, or limited liability company, the broker's license is suspended from the
11 time the broker stops until

12 (1) the broker again becomes an owner of a real estate business or is
13 again employed as a real estate broker by a domestic or foreign corporation, [OR A]
14 partnership, limited partnership, or limited liability company; or

15 (2) the broker is employed by another [A LICENSED REAL
16 ESTATE] broker as an associate [REAL ESTATE] broker, in which case the real
17 estate broker license shall be [IS] returned to the commission by the broker, and the
18 commission shall issue [ISSUES] the broker an associate real estate broker license.

19 (b) A natural person qualifies [IS ELIGIBLE] for an associate real estate
20 broker license if the person passes the [REAL ESTATE] brokers examination, [IF THE
21 PERSON] applies for the [A] license within six months after passing [THE PERSON
22 HAS TAKEN] the examination, [IF THE PERSON] submits satisfactory proof of
23 successful completion of the education requirements of AS 08.88.091, [IF THE
24 PERSON] has had at least 24 months of active and continuous experience as a licensed
25 real estate salesperson within the 36 months immediately preceding application for
26 the license, [SALESMAN, IF THE PERSON] is not under indictment for, or five
27 years have elapsed since the person has completed a sentence imposed upon conviction
28 of, forgery, theft, extortion, conspiracy to defraud creditors, or any other felony
29 involving moral turpitude, and [IF THE PERSON] is employed by a licensed real
30 estate broker as an associate real estate broker. Unless the associate broker fails to
31 renew the license [PAY THE BIENNIAL RENEWAL FEE] or unless the associate

1 broker's license is suspended or revoked [UNDER AS 08.88.071(a)(3)], the associate
2 [REAL ESTATE] broker's license continues in effect as [SO] long as the associate
3 broker is employed by a licensed real estate broker as an associate broker. If the
4 associate broker stops being employed by a licensed real estate broker, the associate
5 broker's license is suspended from the time the associate broker stops until

6 (1) the associate broker again is employed by a real estate broker as an
7 associate broker; or

8 (2) the associate broker becomes an owner of a real estate business or
9 is employed as a real estate broker by a domestic or foreign corporation,
10 partnership, limited partnership, or limited liability company, in which case the
11 associate broker's [ASSOCIATE REAL ESTATE BROKER] license shall be [IS]
12 returned to the commission by the associate broker, and the commission shall issue
13 [ISSUES] the licensee [ASSOCIATE BROKER] a broker's [REAL ESTATE
14 BROKER] license.

15 (c) A natural person qualifies [IS ELIGIBLE] for a real estate salesperson
16 [SALESMAN] license if the person passes the real estate salesperson [SALESMAN]
17 examination, [IF THE PERSON] applies for the [A] license within six months after
18 passing [THE PERSON HAS TAKEN] the examination, [IF THE PERSON] submits
19 satisfactory proof of successful completion of the education requirements of
20 AS 08.88.091, [IF THE PERSON] is at least 19 years old, [IF THE PERSON] is not
21 under indictment for forgery, theft, extortion, conspiracy to defraud creditors, or any
22 other felony involving moral turpitude, or, if convicted of such an offense, the person
23 has completed the sentence imposed upon conviction, and [IF THE PERSON] is
24 employed by a real estate broker. Unless the salesperson [SALESMAN] fails to
25 renew the license [PAY THE BIENNIAL RENEWAL FEE] or unless the real estate
26 salesperson's [SALESMAN'S] license is suspended or revoked [UNDER
27 AS 08.88.071(A)(3)], a real estate salesperson's [SALESMAN'S] license continues in
28 effect as [SO] long as the salesperson [SALESMAN] is employed as a salesperson
29 [SALESMAN] by a licensed real estate broker. If the salesperson [SALESMAN]
30 stops being employed as a real estate salesperson [SALESMAN], the real estate
31 salesperson's [SALESMAN'S] license is suspended from the time the salesperson

1 [SALESMAN] stops until the salesperson [SALESMAN] again is employed as a real
2 estate salesperson [SALESMAN] by a licensed real estate broker.

3 (d) A real estate licensee shall promptly inform the commission of a change
4 in business association that affects the status of the licensee's license under this
5 section.

6 * **Sec. 11.** AS 08.88.171 is amended by adding new subsections to read:

7 (e) Notwithstanding (a) - (d) of this section, a natural person qualifies for a
8 limited license to practice community association management under (f) of this section
9 if the person

10 (1) applies by January 1, 1999;

11 (2) pays the required fees;

12 (3) demonstrates to the commission's satisfaction that the person has
13 engaged in the practice of community association management for at least 24 months
14 before January 1, 1999; and

15 (4) meets other requirements that may be established by the
16 commission in its regulations for issuance of a license under this subsection.

17 (f) A person who qualifies under (e) of this section shall be issued an associate
18 broker license if, at the time of issuance, the person is employed by a broker. A
19 person who qualifies under (e) of this section shall be issued a broker license if, at the
20 time of issuance, the person is the owner of a community association management
21 business or is employed as a community association manager by a domestic or foreign
22 corporation, partnership, limited partnership, or limited liability company. After initial
23 issuance of a license to a person under this subsection, the person is subject to the
24 same requirements that exist for other brokers and associate brokers licensed under this
25 chapter. However, notwithstanding other provisions of this chapter, under a license
26 issued under this subsection, a person may practice only community association
27 management and does not qualify as a broker or associate broker for purposes of
28 AS 08.88.161(1) - (4), (7), or (8) or 08.88.165(2). A person issued a limited license
29 to practice community association management under this section may not use the
30 terms "salesperson," "broker," or "associate broker" for any business purpose unless
31 the person is also licensed appropriately under other provisions of this chapter.

1 * **Sec. 12.** AS 08.88 is amended by adding new sections to read:

2 **Sec. 08.88.173. Fidelity bond for community association managers.** (a) If
3 the board of directors of a community association allows a broker to exercise control
4 over community association fees or other community association funds, the broker
5 must provide evidence to the commission that the broker is covered by a blanket
6 fidelity insurance bond. The bond may be in the name of the broker with the
7 association as an additional insured or in the name of the association with the broker
8 as an additional insured. The bond must cover the maximum funds that will be within
9 the control of the community association manager at any time while the bond is in
10 force. The commission may grant an exemption from the bonding requirement of this
11 subsection if the commission determines that the community association manager has
12 equivalent comparable coverage or that coverage is unavailable. The commission may
13 adopt regulations to implement this subsection, including regulations regarding the
14 minimum coverage and terms of coverage that are required and proof of bond and the
15 granting of exemptions.

16 (b) If a loss covered by the fidelity bond required under this section is also
17 reimbursable from the real estate surety fund, the owners' association that suffered the
18 loss may not recover under the bond until the association has filed a claim for
19 reimbursement under AS 08.88.460 and proceedings related to the claim are concluded.

20 **Sec. 08.88.175. Limitations on community association managers.** A
21 licensee may not, within the practice of community association management, exercise
22 control over the

23 (1) reserves or investment accounts of a community association;

24 (2) operating account of a community association unless

25 (A) allowed under a contract that has been approved by the
26 association's board of directors; and

27 (B) duplicate financial statements concerning the account are
28 sent by the institution holding the account to the licensee and the association's
29 board of directors at separate addresses.

30 * **Sec. 13.** AS 08.88.181(a) is amended to read:

31 (a) The real estate examinations [EXAMINATION] may include [, BUT IS

1 NOT NECESSARILY LIMITED TO,] questions on real estate business ethics and
2 standards; arithmetic and accounting; elementary principles of land economics and
3 appraisal; the general principles in state statutes related [RELATING] to deeds,
4 mortgages, real estate contracts, subdivisions, common interest communities, legal
5 descriptions, building restrictions, agency, [AND] brokerage, disclosure requirements,
6 trust accounting requirements, and landlord and tenant law; property
7 management ethics and standards; community association management
8 operations, ethics, and standards; and the general provisions of this chapter and of
9 the regulations of the commission.

10 * Sec. 14. AS 08.88.191(b) is amended to read:

11 (b) If the commission authorizes the department to contract with a national
12 testing service to prepare, administer, and grade examinations,

13 (1) the commission or its designee shall review the examination and
14 approve its contents;

15 (2) application for an [THE] examination [, ACCOMPANIED BY THE
16 PROPER FILING FEE,] may be transmitted by the applicant directly to the national
17 testing service; payment of an examination fee shall be made by the applicant
18 directly to the national testing service's designated representative before the
19 examination is taken by the applicant.

20 * Sec. 15. AS 08.88.201 is amended to read:

21 **Sec. 08.88.201. Reexamination.** A person who fails an examination may
22 apply for a subsequent examination, but shall pay the application fee with [FOR] each
23 application.

24 * Sec. 16. AS 08.88.221 is amended to read:

25 **Sec. 08.88.221. Fees.** The Department of Commerce and Economic
26 Development shall set fees under AS 08.01.065 for a real estate broker, associate
27 broker, or salesperson [SALESMAN] licensee or applicant for the following:

28 (1) examination;

29 (2) [RECIPROCITY;

30 (3)] initial license;

31 (3) [(4)] renewal of an active license;

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- (4) [(5)] renewal of an inactive license;
- (5) [(6)] amending or transferring a license;
- (6) [(7)] publications offered by the commission;
- (7) [(8)] seminars offered by the commission;
- (8) reinstatement of a lapsed license;
- (9) changes to registered office information;
- (10) course certification and recertification; and
- (11) instructor approval and renewal of approval.

* Sec. 17. AS 08.88.241 is repealed and reenacted to read:

Sec. 08.88.241. Reinstatement of lapsed license. (a) A person whose real estate license has lapsed less than 24 months is eligible for reinstatement of the license if the person provides the required application, license fees, proof of continuing education as required by AS 08.88.091 for licensing periods during which the license was inactive or lapsed.

(b) A real estate licensee whose license has been lapsed for more than 24 months is not eligible for reinstatement of the license and is eligible for the license only by meeting the qualifications applicable to initial licensure under AS 08.88.171.

* Sec. 18. AS 08.88.251 is amended to read:

Sec. 08.88.251. Inactive license. (a) A real estate licensee who intends to [PERSON LICENSED BY THE COMMISSION MAY] become inactive shall return [BY RETURNING] to the commission the person's license certificate and a completed inactivation form provided by the commission along with any applicable fees. [IN THE FORM, THE PERSON SHALL STATE THE DATE ON WHICH THE PERSON INTENDS TO BECOME INACTIVE. THE PERSON'S INACTIVE STATUS BEGINS ON THE DATE STATED.] The commission shall issue the person an inactive license certificate.

(b) An inactive licensee may not attempt or offer to do any of the activities listed in AS 08.88.161, but may receive commissions or other payments from the broker who previously contracted with or employed the licensee for services performed while actively licensed [EXCEPT AS OTHERWISE ALLOWED FOR UNLICENSED PERSONS UNDER AS 08.88.165].

1 (c) A person who has an [IS] inactive license certificate under (a) of this
2 section may reactivate the license [BECOME ACTIVE] by applying for an active
3 license and paying the required fees. [IN THE APPLICATION FORM THE PERSON
4 SHALL STATE THE DATE ON WHICH THE PERSON INTENDS TO BECOME
5 ACTIVE. THE PERSON'S ACTIVE STATUS BEGINS ON THE DATE STATED.
6 THE COMMISSION SHALL SEND THE PERSON A LICENSE CERTIFICATE.]
7 A person is eligible for change from an inactive to an active status under this
8 subsection only [WITHOUT EXAMINATION] if the person has [NOT] been in
9 inactive status for less [MORE] than 24 months [TWO YEARS]. If the person has
10 been in inactive status for 24 months or longer [MORE THAN TWO YEARS], the
11 person is required to meet the requirements for initial licensure in order to be
12 licensed under this chapter again [TAKE AN EXAMINATION].

13 * Sec. 19. AS 08.88.281 is amended to read:

14 **Sec. 08.88.281. Real estate surety fund.** Before issuing a license to an
15 applicant under this chapter, the commission shall ensure [DETERMINE] that the
16 applicant has complied with the provisions of AS 08.88.455 and is covered by the real
17 estate surety fund established in AS 08.88.450.

18 * Sec. 20. AS 08.88.291 is amended to read:

19 **Sec. 08.88.291. Location.** A person licensed as a real estate broker shall, by
20 registering with the commission, inform the commission of the person's
21 [BROKER'S] principal office and of any branch offices of the person's real estate
22 business and include in the information the names of the real estate licensees who
23 are employed at each office. A [BROKER HAS. THE BROKER AND THE
24 ASSOCIATE] real estate licensee [BROKERS AND REAL ESTATE SALESMEN
25 THE BROKER EMPLOYS] may do real estate business only through a [IN OR OUT
26 OF THE BROKER'S] principal office or from a [AND THE BROKER'S] branch
27 office registered by the broker by whom the licensee is employed [OFFICES].
28 Failure of a real estate broker to maintain a place of business or to inform the
29 commission of its location and the names and addresses of all real estate licensees
30 employed at each location by the broker is [UNDER THE BROKER'S
31 JURISDICTION AT THE LOCATION ARE] grounds for the suspension or revocation

1 of the broker's license.

2 * Sec. 21. AS 08.88.301 is amended to read:

3 **Sec. 08.88.301. Change of location.** Before [IF] a real estate broker changes
4 the location of the broker's principal office or of a branch office, the broker shall
5 [IMMEDIATELY] notify the commission of the new address and any other office
6 changes on a form provided by the commission and pay the applicable fees.

7 * Sec. 22. AS 08.88.311 is amended to read:

8 **Sec. 08.88.311. Branch offices.** (a) A branch office shall be under the direct
9 supervision of a real estate associate broker whose principal place of business is that
10 office and who is licensed under this chapter. An associate [REAL ESTATE] broker
11 may serve in the capacity of direct supervisor at only one office [ONLY].

12 (b) A [ALL] branch office [OFFICES] shall bear and be advertised only in the
13 name of the principal office but may also indicate that it is a [THEY ARE] branch
14 [OFFICES OF THE PRINCIPAL] office.

15 * Sec. 23. AS 08.88.321 is repealed and reenacted to read:

16 **Sec. 08.88.321. Possession and display of license certificates.** (a) The
17 license certificate of a real estate broker shall be displayed in the broker's principal
18 office.

19 (b) The license certificate of each licensee working in the broker's principal
20 office shall be displayed in that office.

21 (c) The license certificate of the designated associate broker who is in charge
22 of a branch office and the certificate of each licensee working in a branch office shall
23 be displayed in the branch office indicated as the office of the licensees' employment
24 in the registration required under AS 08.88.291.

25 (d) Certificates displayed under this section must be displayed where they are
26 available for public clients and customers to verify the current active status of licensees
27 working in the office.

28 * Sec. 24. AS 08.88.331 is amended to read:

29 **Sec. 08.88.331. Making of transactions.** An active [A] real estate
30 salesperson [SALESMAN] or associate real estate broker may perform activities for
31 which a real estate license is required [MAKE A REAL ESTATE TRANSACTION]

1 only through the real estate broker who employs or contracts with the licensee
2 [REAL ESTATE SALESMAN OR ASSOCIATE REAL ESTATE BROKER]. All
3 money or other proceeds collected in trust and related to a real estate transaction
4 [ON BEHALF OF THE BROKER] shall immediately be turned over to the broker or
5 the broker's authorized representative [AGENT. ALL TRANSACTIONS IN REAL
6 ESTATE BY A REAL ESTATE SALESMAN OR ASSOCIATE REAL ESTATE
7 BROKER SHALL BE PROCESSED THROUGH THE REAL ESTATE
8 SALESMAN'S OR THE ASSOCIATE REAL ESTATE BROKER'S EMPLOYING
9 REAL ESTATE BROKER'S OFFICE, WHETHER THE TRANSACTIONS ARE FOR
10 THE REAL ESTATE SALESMAN'S OR ASSOCIATE REAL ESTATE BROKER'S
11 OWN USE OR THE USE OF A CLIENT].

12 * Sec. 25. AS 08.88.341 is amended to read:

13 Sec. 08.88.341. Listings or management contracts. All real estate listings
14 or management contracts must be in writing and must be signed by the broker
15 [SELLER] or associated licensee [BY AN AGENT] of the broker and by the client
16 or an authorized representative of the client for whose benefit the real estate
17 licensee will act [SELLER]. All real estate exclusive listings or management
18 contracts must have a definite expiration date that may be renewed or extended
19 only by a written agreement signed by the client or the client's authorized
20 representative. A real estate contract that specifies that a commission on a
21 transaction will be received by the real estate licensee must also state that the
22 commission is negotiable and that the commission stated in the contract was
23 determined after negotiation.

24 * Sec. 26. AS 08.88.351 is amended to read:

25 Sec. 08.88.351. Accounts; records of transactions [RECORD OF
26 TRANSACTION]. A real estate broker shall

27 (1) keep a complete record, [OF ALL REAL ESTATE
28 TRANSACTIONS MADE BY THE BROKER OR EMPLOYEES OF THE BROKER]
29 for [AT LEAST] three years, of all real estate transactions in which the broker or
30 employed licensees of the broker engaged;

31 (2) provide upon request to any principal in a transaction an