

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10315 HOUSE LABOR & COMMERCE

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10/14/2003

Date

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HB

11



Representative Eric Croft

Sponsor Statement House Bill 11

In July 2000 an Anchorage rezoning decision evicted 220 lower-income mobile home owners and their families. This change created both a net loss of mobile home spaces as well as a decrease in available lower income housing. As Anchorage has grown, areas once considered marginal for development have become more desirable.

As the specter of rezoning was raised in the spring of 2000, Archbishop Francis Hurley and United Way Director Dennis McMillan formed a task force to address how relocations of mobile home communities impact the larger community of Anchorage. The "Anchorage Response to Manufactured Housing Community Relocation" Task Force Report prepared an unbiased report for the Anchorage Assembly. HB 11 addresses the task force's legislative action recommendations.

Current state law provides for 180 days notice before eviction, but no provision for moving expenses. Fortunately, recent purchasers of mobile home communities in Anchorage provided some moving allowance, but it is not clear that a future purchaser would be as generous.

HB 11 updates the Alaska Landlord Tenant Act to accommodate the needs of mobile home community members by changing the Notice to Quit requirement from 180 days to 365. A 180 day notice may still be given, but the mobile home park owner or operator will then be required to help relocate the mobile home and pay the actual cost of relocation, not to exceed \$5,000. The additional notice is intended to allow the displaced residents opportunity to find a new space for their mobile home, or save up the deposit and other fees before moving elsewhere.

I ask for your support and assistance in swift passage of this important piece of legislation.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
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MEMORANDUM

February 20, 2001

SUBJECT: Sectional Summary of House Bill 11, relating to Notice of Eviction to Mobile Home Park Dwellers (Work Order No. 22-LS0117/C)

TO: Representative Eric Croft
Attn: Peggy Wilcox

FROM: Kathryn L. Kurtz *KK*
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.

This bill requires that a mobile home park tenant being evicted due to a change in the use of land be given one year's notice, unless the park owner or operator pays the costs of relocating the mobile home. It prohibits park owners and operators from requiring the tenants and mobile home park tenants whose parks are being converted to common interest communities to vacate during the winter.

Section 1. Changes the definition of unlawful holding by force in the landlord tenant act to take into account the new notice to quit provisions of section 3.

Section 2. Changes the subsection on reasons for evicting a mobile home park tenant to take into account the new notice to quit provisions of section 3.

Section 3. Adds a new subsection requiring that a mobile home park tenant being evicted due to a change in the use of the land on which the mobile home is located be given a quit date between April 1 and September 30 and at least 365 days notice of eviction, unless the mobile home park owner or operator pays the actual cost of moving the mobile home, not to exceed \$5,000, in which case only 180 days notice need be given.

Section 4. Existing law provides one year's notice for a trailer park tenant being evicted due to a conversion to a common interest community; this section adds a requirement that the quit date fall between April 1 and September 30, to correspond to the changes made in section 3.

KLK:glc
01-175.glc

Anchorage Response To
Manufactured Housing Community
Relocations

Task Force Report

Overview

In the spring of 2000, Archbishop Francis Hurley contacted Dennis McMillian, Executive Director of United Way of Anchorage, concerning the inevitable relocation of residents of Alaskan Village Mobile Home Court. Archbishop Hurley was concerned that while many of the residents, though inconvenienced by the relocation, would be able to adapt to the change, some of the residents would not successfully move their home and adapt to new surroundings. There was legitimate concern that this relocation could, in effect, create a new group of high risk, potentially homeless, citizens.

In June of 2000, Dennis McMillian and Angela Liston representing the Archdiocese, met with members of the "Go Team", a grass-roots citizens group consisting of residents of Alaskan Village. At that meeting, it was determined that the emphasis of the Archdiocese and United Way effort would be to focus on researching how this relocation issue impacts the entire community and future neighborhood relocations, rather than focusing on the Alaskan Village move. However, it was also determined that if at all possible the effort would attempt to produce a report that could give guidance to the residents, the developer and the Municipality on the Alaskan Village relocation.

After that meeting, Dennis McMillian, Angela Liston, and Karleen Jackson, Executive Director of Catholic Social Services, (CSS), determined that United Way and CSS should convene a task force to review the issues and produce such a report. They met with members of the Assembly in mid-July to seek their approval and assistance in this effort and received their support.

On June 29, 2000, a group of forty citizens comprised of residents of manufactured home communities, professionals involved in the housing industry, government officials, bank officers, non-profit professionals, and planners met to discuss the issues and determine a course of action. This large group divided into four work groups with specific responsibilities. They were:

- Community Data - A group responsible for gathering the best available data on the number and location of manufactured home communities, the available spaces in those communities, and to the best of their ability, indicators of how such communities could identify their risk of re-development; and,
- Code Compliance - A group with the responsibility to look at existing building codes and code enforcement efforts regarding the manufactured housing industry in Anchorage and Alaska; and,
- Community Response - A group with responsibility to develop a comprehensive list of services available to assist individuals and/or their homes relocated by such re-development. They were also tasked to determine how this information could be made available to the public; and
- Community and Legal Support - This group was tasked with reviewing legislative actions taken in other states that could be useful in Alaska, and

determining what volunteer efforts in the community could lessen the impact on displaced residents.

The individual groups met during July and prepared a draft report for full group review on July 27. Final revisions were made and submitted by mid-September in preparation of this report.

The volunteers involved in this effort are to be commended for their long hours and hard work developing what we hope to be a non-biased report to the Anchorage Assembly and Mayor for review.

Team Members

<u>Name</u>	<u>Group Affiliation, if known</u>
MHC Task Force Facilitators:	
Dennis McMillian	United Way of Anchorage
Kelly Fehrman	Catholic Social Services
Karleen Jackson	Catholic Social Services
Community Data Team:	
Facilitator:	
Barbara Symmes	Providence
Members:	
Loretta DeBord	Alaska Village "Go" Team
Jewel Jones	MOA
Norman Kallander	CIHA
Kevin Waring	Anchorage Citizen
Bob Maier	Alaska Manufactured Homes Assn
Denise Henderson	Rep. Pete Kott
Sue Fison	MOA
Fred Jenkins	United Way
Sheila Howe	Northeast Community resident
Ronnie Stork	Muldoon Family Center
Pastor Ron Martinson	Alaska Lutheran Synod
Community Compliance Team:	
Facilitator:	
Tim Sullivan	Weed and Seed Project
Members	
Melinda Taylor	Anchorage Assembly
Paul Johnson	HUD
David Prec	Rep. Eldon Mulder
Jeri Walters	NBA
Will Theuer	Anchorage Citizen
Mac Carey	Carey Homes
Mackenna John	Alaska Village "Go" Team
Hazel Welch	Manufactured Home Resident

Team Members (continued)

<u>Name</u>	<u>Group Affiliation, if known</u>
Community Response Team:	
Facilitator:	
Gail West	HUD
Members	
Jan Jones	Consumer Credit Counseling Services
Norm Kallendar	Cook Inlet Housing Authority
Mary Jane Michael	Anchorage Neighborhood Housing Services
Pastor Wilbert Mickens	Good Shepherd Baptist Mission
Brenda Moore	Christian Health Associates
Rev. Ted Moore	Leake Temple
Teresa Nelson	Key Bank
Judith DeSpain	Alaska Housing Finance Corp.
Lynn Taylor	Municipality of Anchorage
Sam Meneses	Catholic Social Services
Barbara Baker	AHFC
Kris Duncan	AHFC
Community and Legal Support Team:	
Community Response Team:	
Facilitator:	
Liz Forrer	Alaska Humanities Forum
Members:	
Angela Liston	Archdiocese of Anchorage
Julie Bailey	Northrim Bank
Chris Main	
Mac Carey	Carey Homes
MacKenna Johns	Alaska Village "Go" Team
Rebecca Powell	
Individuals not listed in teams above who attended Task Force Meetings:	
Laura Robertson	
Judy Billington	Manufactured Home Resident
Clark Rukelderfer (sp?)	Manufactured Home Resident
Lorna Roberts	Alaska Village "Go" Team
Lanny Bennett	Alaska Village "Go" Team
Miriam Mastacusa	Anch Assembly - Cheryl Clementson

Community Data

This team's task was to do research and present facts and data as a basis for assumptions that it or other teams might present in the final report.

Abbreviation: MHC = Manufactured Home Communities (this terminology is used to denote groups/communities of mobile homes/manufactured homes)

Facts:

1. Team leaders secured a map of the Anchorage bowl from the MOA showing all existing individual manufactured homes and manufactured home communities (MHC's). Two-thirds of MHC's and MH spaces lie within the Renaissance Zone and within northeast Anchorage.
2. Commercial redevelopment of MHC's reduces the availability of scarce residential land in the Anchorage Bowl. In this regard, one of the strategies recommended in the Draft Anchorage 2020 plan (page 55) is: "Avoid the loss of new housing capacity from rezoning of residential land for other uses". The effect on housing supply of potential rezoning of Alaska Village and other MHCs, as well as vacant residential land, is the issue this strategy was meant to address.
3. Because of location and size of tracts, MHC's are at risk for closure for commercial redevelopment.
4. More than 50% of manufactured homes in MHC's were built in the 1970's (MOA Planning Dept). Current zoning, codes, MHC restrictions, and age/condition of MHC's present significant obstacles to relocation of older manufactured homes.
5. The median value of manufactured homes in Anchorage is \$11,400 (MOA Planning Dept).
6. The 2000-2002 MOA Housing & Community Development Consolidated Plan notes the shortage of affordable housing stock. Access to both rental and homeownership opportunities is constrained among Anchorage's low and moderate income households. The only neighborhood in which the median selling prices for homes is affordable to very low, low, or moderate income families is Mountain View at \$69,607 (Housing MLS data updated 6/30/09)
7. Many of the existing MHC's have water, sewage, and soil contamination problems.
8. Four Seasons is the only existing MHC in Anchorage that is redeveloping into a modern MHC.
9. Thirty-four of the sixty-six MHC's in Anchorage have less than 30 spaces. Of the total of 5,713 spaces in MHC's in Anchorage, 4545 (80%) are occupied. Neeser Construction is surveying MHC's in Anchorage to determine the number of available spaces.

Assumptions:

1. Displacement of residents will continue as MHC's undergo rezoning and commercial redevelopment.
2. There is a shortage of public strategies to alleviate the loss of affordable housing stock caused by displacement of residents in MHC's that are closed.

Code Compliance

The study group met numerous times to discuss current codes and zoning that affect Manufactured Housing Communities (MHC) and the residents of those neighborhoods. These meetings were prompted by the recent request for a change in zoning at Alaska Village.

First, we had to examine the codes that applied to the MHC and determine if there were any codes that were extraordinary regarding Manufactured Housing. We found none. In fact, we observed that the code dealt well with the life, health and safety issues codes are intended to address.

However, what became obvious after interviewing members of the Alaska Village Community and other manufactured home representatives was that the Municipality's ability to enforce code was hampered by the judicial system. The judiciary is reluctant to enforce to the letter of the law when it means families are being evicted from their homes. The question of private property rights is ever present regarding enforcement in the manufactured housing communities.

Those homes that are pre 1976 are grandfathered, insofar as code is concerned. However if and when the home moves it then falls under the current code. Required updates can be quite costly. For instance, a home could need new wiring, a new electrical box, a new water heater, a new furnace, and a new roof, all in addition to the cost of physically moving the home. In some cases the home might not be worth moving, because of structural problems and the aforementioned code issues. Title of the homes is an issue for owners who did not receive one at the time of sale and still do not have one. Delinquent personal property taxes will be an issue for some.

We have also recently been made aware of inconsistency with regard to inspections. When a home is ready to move there is a pre-inspection to let the home owner know approximately what items will need to be replaced or repaired when they arrive at their new neighborhood. However, it seems that a different inspector requires different compliance at the new community that costs the homeowner much more that they had originally anticipated. Improved coordination and internal communication by the MOA would benefit the homeowners.

Options offered by the Code and Zoning Study Group are:

- The MOA could review its inspection process so that the homeowners will be impacted minimally by the stress of voluntary or involuntary move.
- The Municipal Assembly could resurrect the Manufactured Housing Ordinance that has been languishing in MOA Legal since December of 1998. This ordinance would permit post-1976 manufactured homes to be treated the same as conventional site-built homes.
 - Any zoning of residential land to business or commercial needs to be done with the highest concern for affordable housing needs in Anchorage...perhaps a land swap to make a no net loss of residential land.

Community Response

Committee Discussion

The committee identified four groups of people who may need the resources identified by the committee for assistance during the closure of a manufactured home community.

Those four groups are:

- potential homebuyers
- potential renters
- potentially homeless
- people who are able and want to move their current manufactured homes to a new community

Within the four groups, two subgroups were also identified:

- the disabled
- seniors

To gather information on resources that may be helpful to the four groups and two subgroups, the committee created a survey to identify a wide variety of resources.

Committee Action

The committee surveyed potential resources and identified an existing, but little used, database of resources for the homeless and very low income.

- surveyed all agencies, organizations and businesses that received the Anchorage Consolidated Plan
- surveyed utilities that may have delayed-payment plans or options for families who are unable to pay the full deposit for a new hook-up
- identified

Responses to the survey have been compiled and are currently being merged into the existing database of resources. Completion of this project is tentatively schedule for mid-November 2000.

Once the final database is complete, it will be housed at the Municipality of Anchorage (through the Safe City program), and will be linked to: Alaska Housing Finance Corp., AKinfo, Cook Inlet Housing Authority and HUD Web pages.

Community and Legal Support

The first issue this group worked on was to understand the lifestyle of many residents of manufactured home communities. Many individuals strongly feel that living in manufactured housing, as compared to apartments or condominiums enhances their lives. They urge the Anchorage community to find ways and means to accommodate their choice to live in manufactured housing. Many feel that with current land use conditions, their lifestyle is in jeopardy.

This committee also determined that when a manufactured housing community is relocated, there should be formalized support from the larger community to help individuals adapt to the change. Although the comparison of persons displaced by a natural disaster did not ring true to all participants, all agreed that neighborhood relocation is a traumatic experience for those affected therefore support from others could help with the transition.

This committee recommends that some organization facilitate an event similar to A Day of Caring, to help residents successfully complete such relocations. The plan would be to call on volunteers and community groups to "adopt" individuals and/or families and assist them during their relocation. Work continues to determine the appropriate organization to head such an effort.

The other task of this group was to review legal options for the Municipality and State. The following pages describe some of these options.

Proposed Legal Protections of Mobile Home Communities

The recently proposed rezone of Alaskan Village Mobile Home Court has brought myriad issues to the fore, not the least of which is the inadequacy of current law in Alaska. The law provides only that the owner of a manufactured housing community who has chosen to redevelop the property for another use must give community residents a 180-day notice to vacate the property.¹

While the current law addresses only the issue of "notice", there are many related areas of financial and human impact which the landowner, developer, and MHC resident must resolve. Several problem areas could be addressed through state or municipal legislation.

The first issue is the human impact of any redevelopment of residential properties. At a recent Planning and Zoning Commission public hearing on Alaskan Village, several commissioners stated they could not address the displacement of manufactured housing community residents, causing immense frustration on the part of the residents. The Mobile Home Task Force recommends enactment of ordinance that requires a human impact statement whenever a MHC is considered for rezoning. For example:

The person or entity applying for a change of use of a MHC must submit a report to the Municipality on the impact of the conversion of use. Included in the report would be availability of adequate replacement housing, whether "real property" rental units or spaces in other MHC's parks, and the predicted actual relocation costs. The Municipal Assembly may require that, as a condition for the approval of the change of use, the person or entity applying for the change mitigate any adverse impact of the conversion.²

The Task Force suggests that a governmental organization/agency or some group other than the applicant for the land usage change should be the entity required to research, compile, and submit the impact statement.

A second and related issue is that many residents cannot afford to move their homes. The redevelopment of a MHC can force self-sufficient individuals and families into poverty and a position of requiring charity. The Task Force considered several legislative approaches to this problem including the following:

The owner of a manufactured housing community who has chosen to redevelop the land for another use must give community residents a 365-day notice to quit the property, with a quit date during the calendar year falling no earlier than April 1 and no later than September 30. An owner or developer can choose to give a 180-day notice contingent on:

- a) *the owner/developer finds suitable places for the residents to move their homes; and*

¹ AS 34.03.225

² See California Government Code 65863.7

- b) *the owner/developer pays the disconnection, relocation, and reestablishment costs (DRR)³ of the mobile home, or \$5,000, whichever is less.⁴*

Another approach to the financial difficulties that arise when a MHC is redeveloped and families are displaced is the development of a "relocation fund." The Task Force considered several possibilities for building and maintaining such a fund including the following:

The Municipality of Anchorage shall establish a "manufactured housing relocation fund" to be managed and invested by a director and a board. In case of a change of use, Mobile Home Community residents may apply to the fund for relocation expenses. The owner/developer will reimburse the fund a minimum of \$1000 per resident applying to the fund.⁵

The fund will be created through one or a combination of the following:

- a) *each manufactured home owner shall be assessed a personal property tax to be deposited into the "manufactured home relocation fund"; AND/OR*
- b) *the \$50 fee required at the time of the title transfer of a manufactured home will be deposited into the "manufactured home relocation fund"; AND/OR*
- c) *a portion of current personal property taxes of manufactured home owners shall be diverted to the "manufactured home relocation fund"; AND*
- d) *when the relocation fund reaches a specified dollar amount, the tax/fee will no longer be assessed.*

³ The disconnection, relocation, and reestablishment costs are defined as the cost of the actual physical move, including disconnecting and reconnecting utility hook-ups, obtaining the necessary permits, installing tie-downs, ground anchors and strapping, completing the blocking, leveling, insulating and skirting, and putting the exterior of the home in a MOA code compliant condition.

⁴ See Oregon Civil Code 90.630(6)(b)

⁵ See Arizona Code, Chapter 11, Section 33-1476 *et seq.*

Conclusions

This task force was formed to focus attention on a specific segment of our community. While the Comprehensive Plan does address affordable housing, it did not include much specific mention of manufactured housing options. It is obvious to this group that while many Anchorage citizens may not regret the demise of this housing option, others see manufactured housing communities as a valid, viable, affordable housing choice and do not want Anchorage to lose this option.

Manufactured housing community resident's fear is that if their issues are not on the table for discussion, their housing option will eventually disappear through neglect. The task force is suggesting that more discussion be held on the benefits and challenges produced by and related to this housing option.

The task force also suggests that during relocations of manufactured housing communities, that all segments of the community should be mobilized, as in a "natural" disaster, to insure residents are not negatively impacted by the relocation.

Through the efforts of the members of the task force and organizations involved, the individual committee reports have outlined how appropriate responses can be made by all sectors of the larger community. Addressing code issues and legislation also seem to be in order.

The Task Force had not endorsed any specific legislative actions, but has outlined a selection of the many options available that could minimize or alleviate the negative impact currently experienced by displaced residents.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 11
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act relating to required notice of eviction BRU Civil Division
to the dwellers, tenants, and owners of mobile homes . . ." Component Fair Business Practices
 Sponsor Representative Croft
 Requester House Labor and Commerce Component No. 2206

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2002 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 11 requires that when a mobile home is to be evicted from a mobile home park because the land is to be used for another purpose, the date to quit the park must be between April 1 and September 30.

Passage of this legislation will have no fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson Phone 465-5370
 Division Attorney General's Office Date/Time 2/21/01 9:16 AM
 Approved by: Kathryn Daughhetee for Bruce M. Botelho, Attorney General Date 2/21/01
 Agency Department of Law

For distribution information, call the Governor's Legislative Office

Please add to HB 11 Bill Packet

AMENDMENT

OFFERED IN THE HOUSE
TO: HB 11

BY REPRESENTATIVE CROFT

- 1 Page 4, lines 4 - 5:
- 2 Delete "if the mobile home park owner or operator finds a suitable place to relocate
- 3 the mobile home and pays"
- 4 Insert "if a suitable place to relocate the mobile home is found and the mobile home
- 5 park owner or operator pays"

Comm. Hel.



Anchorage Daily News

Michael J. Sexton
Publisher

Patrick Dougherty
Editor

Steve Lindbeck
Associate Editor

Founded in 1946 by Norman C. Brown
Fuller A. Cowell, Publisher, 1993-1999 Katherine Fanning, Editor and Publisher, 1971-1983
Gerald E. Grilly, Publisher, 1984-1993 Lawrence Fanning, Editor and Publisher, 1967-1971

OUR VIEW

Mobile homes

Shrinking space requires creative city solutions

The impending eviction of 130 mobile homes from Alaskan Village and Plaza 36 trailer parks has exposed some real problems on Anchorage's housing scene. The forces displacing these homes and making it difficult for owners to relocate eventually could hit thousands more units in the city's mobile home parks.

Alaskan Village and Plaza 36 are not unique. Many of the city's 66 mobile home parks have aging facilities that haven't been kept up, that occupy potentially valuable ground, and are full of older mobile homes requiring costly code upgrades when they are relocated.

Alaska might want to follow New Hampshire's example and require tenants to have the first right of refusal when a mobile home park is sold.

With relocations now pending, the developers are showing a social conscience by offering generous resettlement aid. But Anchorage can't count on such generosity in all cases. We ought to be asking why mobile home residents are put in such a difficult position and find ways to keep this affordable housing option available.

Last summer, United Way of Anchorage convened a helpful process to brainstorm responses. Some useful ideas have emerged.

For starters, the city's new 20-year comprehensive plan now mentions mobile homes as an important source of affordable housing. That should give city planners more impetus to tackle the problem.

Two bills in the legislature, SB6 by Sen. Johnny Ellis and HB11 by Reps. Eric Croft and Lisa Murkowski, would strengthen the rights of mobile home park tenants. Landlords could require relocations only during the period between April 1 and Oct. 1, to avoid the logistical problems of moving in winter. Landlords would have to give one year's notice on evictions, unless they provide \$5,000 of relocation assistance to owners. In addition to those ideas, the state's housing agency should have funds available to provide back-up moving assistance as necessary.

Progress has not been so good on finding ways to spare mobile home park tenants from eviction. One popular idea is to help tenants stop renting space and buy the land under their homes. Creating co-ops or condominium arrangements would give mobile home owners more security and make it more likely that grounds and infrastructure will be properly maintained over the long haul. New Hampshire already has 44 of these parks, financed by a creative non-profit lending fund.

Anchorage should be able to achieve similar results, but somebody will have to step forward to spearhead an effort. Creating affordable financing is the biggest challenge. Tenants also need advice in setting up the necessary management structure.

Once those tools are in place, Alaska might want to follow New Hampshire's example and require tenants to have the first right of refusal when a mobile home park is sold. Alternatively, the city might consider making land for co-ops available through the Heritage Land Bank. Another possibility is to let developers create mobile home subdivisions where people can buy their own tiny lots.

Anchorage's housing market missed the boom that hit the West Coast in the 1990s. Nonetheless, affordable housing is always a challenge here. Mobile homes can and should play a key role in meeting our community's housing needs. But it will take some planning and creativity.

THE
FOLLOWING
DOCUMENT(S)
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**Catholic Social Services
Beyond Shelter Program
276-3046**

Memorandum

To: Representative Eric Croft
Representative Lisa Murkowski

Cc: Senator Bettye Davis
Senator Johnny Ellis

From: Stephanie Wheeler

Date: 02/28/01

Re: House Bill No 11

I am the Program Director for the Beyond Shelter and St. Francis House programs - programs of Catholic Social Services.

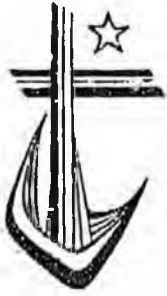
Thank you for the opportunity to provide input for House Bill No 11. Currently the Beyond Shelter Program is assisting with the relocation planning of forty-two (42) Plaza 36 residents needing to relocate the Plaza 36 Mobile Home Community by May and July. The concerns/issues of relocating a mobile home community are many and House Bill 11 addresses two of these major concerns for residents needing to relocate: adequate notice of closure and financial compensation for relocation costs.

Adequate planning for Mobile Home Residents is crucial for residents who are impacted by the redevelopment of their community. A 365-day notice will help residents explore options and finalize a plan for relocation. Additionally, House Bill 11 addresses the issue of relocating during appropriate seasons, so residents are not being forced to move during the winter months.

In conjunction with adequate planning time, financial compensation will assist residents with some of the relocation costs so that residents are not forced to abandon or sell their homes but can successfully relocate their homes to another area.

Mobile Homes/parks help meet the housing needs and provide a source of low cost housing to many families living in Alaska. We encourage the legislature to begin addressing other issues such as code compliance (or neglect issues) and help to establish acceptance for resident-owned mobile home communities in the private market. The cost for inspections and upgrades can be overwhelming for many residents who need to bring their homes up to code.

As two Anchorage area mobile home communities currently face the challenge of relocation, the total impact will not be fully understood until residents actually relocate. It is our hope that residents currently facing relocation and those who may be facing relocation in the future are not left homeless by this process. Thank you!



Archdiocese of Anchorage

225 Cordova Street • Anchorage, Alaska 99501-2409
907/297-7700 • fax: 907/279-3885

February 26, 2001

FAX#: 1-907-465-4419

Representative Eric Croft
Alaska State Legislature
State Capitol Room 400
Juneau, AK 99801-1182

Re: **HB11 -- An Act relating to required notice of eviction to mobile home park dwellers and tenants before redevelopment of the park.**

Dear Representative Croft:

I am writing in support of your proposed mobile home legislation. As you know, the Anchorage community is faced with the possible rezoning of two manufactured home communities -- Alaska Village Mobile Home Park and Plaza 36 Mobile Home Community. Several hundred residents will be displaced if the Municipality of Anchorage approves these rezoning petitions and the development goes forward.

During the past year, I had the privilege of serving on the Anchorage Manufactured Home Community (MHC) Task Force, formed specifically to address the potential suffering that might result from the displacement of hundreds of families. Those serving on the task force found that the issues were formidable:

- 1) there would result a loss of already scarce affordable housing due to the closure of manufactured home communities;
- 2) homes not code compliant, but having grandfather rights, would require costly code compliance when moved;
- 3) older manufactured homes are no longer moveable or may not be acceptable in existing manufactured home communities;
- 4) the cost of disconnecting and relocating a home is beyond the resources of many MHC residents;
- 5) self-sufficient individuals and families may be forced into poverty due to the cost of a move or the loss of their manufactured home due to its age and lack of mobility.

HB11 mirrors legislation that was recommended in the Task Force Report. It provides some incentive for the owner/developer to consider the needs of the tenants

Representative Eric Croft
February 26, 2001
Page 2

when changing the use of the property. By expanding the notice requirement to 365 days, it was the hope that tenants would have adequate time to make relocation plans and, if necessary, seek the assistance of social service agencies. However, not to unduly burden the owner/developer, the proposed legislation allows the owner/developer to essentially "buy down" the time to 180 days, by compensating the tenants for the costs of their move.

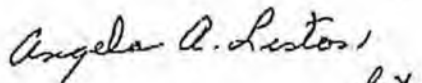
It should be noted that the \$5,000 maximum compensation in the proposed legislation also appeared in the Task Force Report. This amount was not the result of any specific study of relocation costs on the part of the Task Force. In fact, the cost of disconnecting, relocating, and reestablishing a manufactured home might well exceed \$5,000.

While serving on the Task Force and working with the tenants of manufactured home communities, it became apparent to me that mass displacement places an undue burden on the tenants and the social services of the community. If a change of use is, indeed, in the best interest of the community, then efforts to alleviate suffering of displaced persons must be shared by the owner/developer and the community.

HB11 is one step toward protecting the interests of manufactured home owners in Alaska. It does not address the needs of those whose homes will be lost in any change of use of a manufactured home community, but it is a first step. Further efforts will, undoubtedly, be required at the local level.

I urge the passage of HB11.

Respectfully,



Angela A. Liston
Director
Office of Justice and Peace
Archdiocese of Anchorage



The Salvation Army

Alaska Divisional Headquarters

Mailing Address: P.O. Box 101459
143 E. Ninth Avenue • Anchorage, Alaska 99510-1459
(907) 276-2515 • FAX (907) 276-1424

Founded in 1865
By William Booth
John Gowans
General
David Edwards
Territorial Commander
Terry W. Griffin
Divisional Commander

February 27, 2001

Office of Representative Eric Croft
Attention: Peggy
Capitol Building - Room 400
Juneau Alaska 99801
FAX # 907-465-4419

**RE: Sectional Summary of Notice of Eviction to Mobile Home Park Dwellers
House Bill 11**

Dear Representative Croft;

On behalf of The Salvation Army Alaska Division and the Divisional Commander, Lt. Colonel Terry W. Griffin, I am writing this letter in support of House Bill 11 (which includes the amendments for tenants and landlords of mobile home parks).

This bill is important because it helps to develop strategy to alleviate the strain involved with the decrease of affordable housing caused by the displacement of residents of mobile home parks due to rezoning and commercial redevelopment in the Anchorage area.

Please add our names to the list of supporters for this Bill.

Thank you for your attention and assistance.

Sincerely,

C. Joe Murray, Major
DIVISIONAL SECRETARY

C/c: Lt. Colonel Terry W. Griffin, Alaska Divisional Commander
Dennis McMillian, Director, United Way of Anchorage



Into a Second Century of Service

HB

27

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE COMMITTEE, CHAIRMAN
JUDICIARY COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON UTILITY RESTRUCTURING, MEMBER
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &
TOURISM, MEMBER

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SESSION:
ALASKA STATE CAPITOL
JUNEAU, AK 99801-1182
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Representative Norman Rokeberg

SPONSOR STATEMENT FOR HOUSE BILL 27 - Home Inspectors

TITLE: An Act relating to the licensure and registration of individuals who perform home inspections; relating to home inspection requirements for residential loans purchased or approved by the Alaska Housing Finance Corporation; relating to civil actions by and against home inspectors; and providing for an effective date.

HB 27 will protect consumers and the home inspection industry by licensing home inspectors in Alaska.

Currently anyone can call themselves a home inspector and there is no state agency overseeing the industry. Consumers desire assurance that the home inspector they hire is competent, and that they have recourse against inspectors that are not. HB 27 accomplishes this by establishing licensing qualifications such as registration, insurance, and proof of competency via a written and practical examination. Home inspectors will also be required to provide consumers with an inspection report.

A faulty inspection could have serious consequences for consumers, practically when they are buying or selling a home. Common sense dictates that home inspectors must be held accountable for their work. This limits legal actions against a licensed and registered home inspector to a written home inspector report that is not more than 180 days old and/or unlawfully disclosed.

I have met with representatives from the industry who agree licensure for home inspectors is a worthy goal. It will establish a competency level that will protect the name of the profession and shield consumers from faulty inspections.

I would urge your support for this legislation.

ED1:01/17/2001

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

JUDICIARY COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &
TOURISM, MEMBER

website: <http://www.akrepublicans.org/Rokeberg.htm>



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Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

SECTIONAL ANALYSIS HOUSE BILL 27

An Act relating to the licensure and registration of individuals who perform home inspections; relating to home inspection requirements for residential loans purchased or approved by the Alaska Housing Finance Corporation; relating to civil actions by and against home inspectors; and providing for an effective date

Prepared by Representative Norman Rokeberg

- Section 1:** Creates the Board of Home Inspectors within the Division of Occupational Licensing, Department of Community and Economic Development. Sets forth general duties of the board and board meetings. Establishes licensing, qualifications, and educational requirements for home inspectors. Sets forth license renewal procedures. Establishes insurance requirements. Sets forth activities of home inspectors. Establishes grounds for disciplinary action and disciplinary proceedings. Sets forth prohibited acts. Establishes circumstances under which legal actions may not be brought against home inspectors. Sets exemptions to licensing requirements.
- Section 2:** Adds Board of Home Inspectors to centralized licensing statutes.
- Section 3:** Establishes four-year sunset date for Board of Home Inspectors.
- Section 4:** Amends Alaska Housing Finance Corporation statute on home inspection and adds licensed home inspectors to list of those qualified to accomplish home inspections for the Corporation.
- Section 5:** Effective January 1, 2003 would eliminate ICBO and IAEB from being qualified to perform home inspections for AHFC and replace them with licensed home inspectors.
- Section 6:** Administrative Procedures Act is applicable to Board of Home Inspectors.
- Section 7:** Brings violations of disclosure of conflicts of interest, home inspection report required, and the prohibited acts listed in the legislation under "unfair trade practices" statutes.
- Section 8:** Effective immediately the Board may begin developing regulations.
- Section 9:** The initial members of the Board do not have to be licensed home inspectors before being appointed to the Board.

Sectional Analysis
HB 27 - Home Inspector Licensing
Page Two

- Section 10:** **Establishes transitional licensing provisions.**
- Section 11:** **Effective date for Sections 1 and 4.**
- Section 12:** **Effective date for Section 5.**
- Section 13:** **Immediate effective date for all other sections of the legislation.**

ED1:01/29/01

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

JUDICIARY COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &
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Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

MEMORANDUM

TO: The Honorable Lisa Murkowski, Chair
House Labor & Commerce Committee

FROM: Rep. Norman Rokeberg

A handwritten signature in black ink that reads "Norm Rokeberg".

DATE: February 1, 2001

RE: House Bill 27
Home Inspector Licensing

In light of some of the questions that came up at yesterday's committee meeting on House Bill 27, I am attaching some information on this issue:

1. "State Home Inspector Licensing/Regulation" as of October 27, 2000, obtained from the American Society of Home Inspectors web site, <http://www.ashi.com>
2. "Should We Care Who the Buyer Chooses to Do a Home Inspection" by Rick Jarvis, from Realtor® News, September 1998.
3. "Home-inspection bill would help buyers" by Clair Ramsey, from the Anchorage Daily News, June 27, 1999
4. "Expert home inspections useful for buyer and seller" by Clair Ramsey, from the Anchorage Daily News, July 25, 1999
5. "Inspect the Inspector: Choosing the Right One Can Help Avoid Costly Mistakes" by Karen Crawford of HouseMaster, from Realtor® News, November 1999
6. "Anxiety Continues Over FHA Appraisal Reform" by Judy Kemplen of Alaska Mortgage Bankers Association, from Realtor® News, November 1999 [This is the issue I discussed in committee about HUD then wanting appraisers to do home inspectors].

12-8-2006

From: www.ashi.com

American Society of Home Inspectors®

State Home Inspector Licensing/Regulation as of October 27, 2000



Alabama Registration. Under the "Alabama Home Inspectors Registration Act," home inspectors must show proof of liability insurance and show evidence of one of the following: 1) membership in and adherence to the ethical standards of ASHI or an equivalent professional body; 2) current approval or certification by the United States Veterans Administration, the United States Department of Housing and Urban Development, the Southern Building Code Congress International, or the Council of American Building Officials; 3) a high school diploma or its equivalent, work experience for at least one year as a home inspector, and completion of at least 100 home inspections for compensation; or 4) current licensure in Alabama as a general contractor, architect, structural engineer, or residential home builder.

Arizona Registration. Under the Arizona Home Inspector Registration Act, the State Board of Technical Registration (SBTR) administers registration requirements for home inspectors. The law establishes a process and requirements for registration and registration renewal as a home inspector. In addition, the law requires that registered home inspectors have one of the following financial assurances: a. Errors and Omissions in the amount of \$200,000 in the aggregate and \$100,000 per occurrence. b. \$25,000 bond or. c. Financial assurance mechanism with a value of at least \$25,000. The law states that a failure to obtain, or loss of, financial assurance is grounds for revocation of registration. The law allows a practicing home inspector to present evidence of sufficient experience to not have to obtain training through December 31, 2002. The act exempts individuals from course study requirements for registration that can provide evidence to the SBTR that they have performed 250 or more home inspections for compensation.

Arkansas Registration. Under the "Arkansas Home Inspector Registration Act," all home inspectors in the state must register with the Secretary of State. In addition, home inspectors must conduct all inspections in adherence to the ASHI Standards of Practice and Code of Ethics, the Arkansas Association of Real Estate Inspectors, or an equivalent professional home inspection association. The law prohibits inspectors from performing repairs on a structure he has inspected within the previous 12 months. In order to register under the law, an applicant must procure general liability insurance of at least \$100,000 and, if applicable, workers compensation insurance coverage. Home inspectors must also demonstrate a positive net worth, or provide a \$10,000 bond payable to the Secretary of State.

California Trade practice act. The law in California prohibits "unethical" home inspection practices, including repairing properties that home inspectors have inspected in the previous 12 months. The law encourages courts to consider the ASHI Standards of Practice and Code of Ethics and the California Real Estate Inspection Association when determining whether or not an inspection meets the required standard of care.

Connecticut Licensure. Connecticut law requires home inspectors to be licensed under the "Home Inspection Licensing Board." In order to be eligible for a home inspector license, an applicant shall: 1) have successfully completed high school or its equivalent; 2) have either been engaged as a home inspector intern for not less than one year and not performed less than 200 home inspections for compensation or have taken and successfully completed a board-approved training program, earned a home inspector intern permit, and performed not less than 100 home inspections under the direct supervision and in the presence of a licensed home inspector; 3) have passed an oral, written, or electronic competency examination; and 4) have paid a \$200 fee. In order to receive a permit as a home inspector intern, an applicant shall: 1) have successfully completed high school or its equivalent; 2) have enrolled in and completed a board-approved training program; 3) have an identified supervisor, who is licensed as a home inspector, is in good standing, and has agreed to perform the supervisory functions required; and 4) have paid a \$100 fee.

Georgia Trade practice act. Georgia law requires home inspectors to provide written documents containing certain information with regard to inspections. The documents must include the scope of the inspection, including the structural elements and systems to be inspected and, must state the inspection is a visual inspection, and that the home inspector will notify, in writing, the person on whose behalf such inspection is being made of any defects noted during the inspection.

Louisiana Licensure. HB 893 created the "Louisiana Home Inspectors Licensing Law." The bill created the Louisiana State Board of Home Inspectors within the Department of Economic Development, and it requires the Board to establish minimum qualifications for licensing and allows the Board to charge and collect fees. Applicants for licensure must be at least 18 years old and must have successfully complete high school or its equivalent, and must have passed the required examination. Applicants must also show evidence of successful completion of at least 120 hours of instruction, at least 30, but no more than 40 of which, must be in course work containing actual practical home inspections. Home inspectors are required to provide a written report of the home inspection, and are prohibited from, at the time of the inspection and for a reasonable time thereafter, advertising or soliciting to perform repair services on the home, which the inspection was performed. As a condition of renewal of a license, a home inspector must show evidence of completion of 20 hours of continuing education. Active licensees are required to carry errors and omission insurance, and the Board must establish a group insurance program.

Maryland Trade practice act. Maryland law requires home inspectors to disclose professional qualifications and the scope of the inspection within the home inspection contract. The law also requires home inspectors to conduct home inspections in accordance with the standards of practice set forth by a professional home inspection trade association such as ASHI or the National Association of Home Inspectors.

Massachusetts Licensure. Massachusetts's law requires home inspectors and associate home inspectors to be licensed under the Board of Registration of Home Inspectors. The Board is required to: 1) establish the requirements for licensure and for the standards of professional and ethical conduct; 2) establish standards for continuing education; 3) authorize and conduct examinations; 4) grant licenses to qualified applicants; and 5) establish penalties. The law also requires that the Director of the Office of Consumer Affairs and Business Regulation publish an informational brochure on home inspections, which must be issued to homebuyers at the signing of an offer to purchase. Licensed home inspectors must: 1) have successfully completed high school or its equivalent; 2) have been engaged as a licensed associate home inspector for not less than one year and have performed not less than 100 home inspections under the supervision of a licensed home inspector; 3) have passed a written or electronic competency examination; and 4) paid the appropriate fee. A licensed associate home inspector must: 1) have successfully completed high school or its equivalent; 2) have successfully completed a Board-approved training program; 3) have performed not less than 25 home inspections in the presence of a licensed home inspector; 4) have passed a written or electronic competency exam; 5) have an identified supervisor who is a person licensed in good standing as a home inspector; and 6) paid the appropriate fee. Licensed home inspectors and associate home inspectors must carry errors and omissions insurance in an amount not less than \$250,000. Also, a home inspector or associate home inspector may not attempt to limit liability for negligent or wrongful errors or omissions by use of a clause within a performance contract that limits the cost of damages from negligent or wrongful errors or omissions.

Montana Trade practice act. The Montana law (SB 210), the "Home Inspection Trade Practices Act," prescribes what elements must be identified in a home inspection and defines prohibited activities by a home inspector.

Nevada Certification. Nevada law provides for the certification of home inspectors of structures by the Real Estate Division of the Department of Business and Industry. Applicants must submit proof they have errors and omissions insurance of at least \$100,000 and general liability insurance of at least \$100,000. The

law also provides that a purchaser may not recover damages from a seller on the basis of an error or omission in the disclosure form that was caused by the seller's reliance upon information provided to the seller by a certified inspector of real estate.

New Jersey Licensure. The New Jersey's "Home Inspection Professional Licensing Act," sets specific educational and experience requirements in order to become a licensed home inspector. All home inspectors are required to: 1) complete high school or its equivalent; 2) serve as a licensed associate inspector for at least one year; 3) perform at least 250 inspections; 4) carry \$500,000 in insurance; and 5) pass the ASHI exam, in order to become a licensed associate home inspector under the law, an inspector must: 1) perform at least 50 inspections in the presence of a licensed inspector; and 2) pass the ASHI exam. Also, the law provides that, if home inspectors fail to disclose problems or accept payment from another party in the transaction, they can lose their license. Home inspectors are regulated by a five-member Home Inspection Advisory Committee housed under the State Board of Professional Engineers and Land Surveyors.

North Carolina Licensure. The North Carolina "Home Inspection Licensure Act" provides for the licensing and regulation of home inspectors through the creation of a Home Inspector Licensure Board within the Department of Insurance. In order to become licensed as a home inspector, an individual must pass the licensing examination prescribed by the Board, have minimum net assets or a bond in an amount determined by the Board (not less than \$5,000 nor more than \$10,000) and meet certain educational conditions, including: 1) have a high school diploma or its equivalent, have been engaged as a licensed associate home inspector for at least one year, and have completed 100 home inspections for compensation; 2) have education and experience the Board considers to be equivalent to that in subpart 1. above; or 3) be licensed as a general contractor, architect, or professional engineer. In order to become licensed as an associate home inspector, an individual must pass a licensing examination prescribed by the Board, have a high school diploma or its equivalent, and be affiliated with or intend to be affiliated with a licensed home inspector and submit a sworn statement by the licensed home inspector with whom the applicant is or intends to be affiliated certifying that the licensed home inspector will actively supervise and train the applicant.

Oregon Certification. The law in Oregon requires home inspectors to be certified under the Construction Contractors Board, and allows the Board to establish competency testing, training, and continuing education requirements. Also, home inspectors in Oregon are required to post bond and carry insurance under a law passed in 1992.

Rhode Island Trade practice act. The law in Rhode Island forbids home inspectors, pest control inspectors, and contractors from doing work on property that is inspected prior to real estate sales. The law was passed to help eliminate activities that could present a conflict of interest.

Licensure. The new Rhode Island legislation creates a home inspector licensing law and requires that all home inspectors be licensed. Home inspectors would be required to maintain \$250,000 of liability insurance and would be required to pass written examinations. This law will take effect on January 1, 2001.

South Carolina Licensure. South Carolina law requires any person desiring to be a licensed home inspector to file with the South Carolina Residential Builders Commission. A home inspector must show to the satisfaction of the Commission that he is currently certified as a home inspector by an organization recognized by the Commission, that he has a minimum of one year of experience as a home inspector under the supervision of a licensed inspector, and that he has performed a minimum of fifty residential inspections.

South Dakota Licensure. The South Dakota law provides for the regulation of home inspectors. The South Dakota Real Estate Commission shall issue and renew certificates to licensed and registered home inspectors pursuant to the provisions of this law. No person may provide a home inspection for compensation unless registered or licensed in the State of South Dakota. Applicants for a license as a home inspector shall meet the following requirements; 1) Good moral character; 2) Completion of high school or equivalency; 3) Employment as a registered home inspector for not less than one year and performance of not less than one hundred home inspections for compensation; 4) Successful completion of licensing exam. Applicants for registration as a home inspector shall meet the following requirements; 1) Good moral character; 2) Completion of high school or equivalency; 3) Successful completion of an approved course of study; 4) Successful completion of registration exam.

Tennessee Certification. Tennessee law only applies to the inspection of new construction and authorizes such inspections if the inspector is: 1) a licensed contractor; 2) certified by the state as a fire prevention officer or building official; 3) certified by the Southern Building Code Congress; 4) certified by the Home Inspectors of Tennessee Association; or 5) certified by ASHI. The law only applies to inspectors in certain counties in Tennessee.

Texas Licensure. The Texas licensure law provides for the examination of home inspectors and established continuing education requirements. The law also requires home inspector applicants to work as apprentice inspectors under the supervision of a professional licensed home inspector. If an applicant is unable to obtain an apprenticeship, educational coursework and an examination can be substituted. The Texas Real Estate Commission regulates home inspectors.

Wisconsin Certification. Under Wisconsin's law, home inspectors must register with the State and pass an examination approved by the Department of Regulation and Licensing. The law instructs the Department to consider the use of an examination modeled after ASHI's examination. The law also requires that a home inspector perform a "reasonably competent and diligent" inspection; however, the inspection is not required to be technically exhaustive. Home inspectors are prohibited from limiting their liability from damages resulting in a failure to conduct a "reasonably competent and diligent" inspection. Also, inspectors are prohibited from performing repairs, maintenance, or improvements to a structure that they have inspected within the last two years.



By Rick Jarvis, CRS, CRP
Associated Broker
Re/Max Properties

Should We Care Who the Buyer Chooses to Do a Home Inspection?

Who are those guys who have so much influence on the residential real estate market? Their written reports and recommendations affect the buying and selling of millions of dollars worth of properties each year. But they are NOT state tested for knowledge, or licensed or regulated in any manner. Their reports and their opinions can and often do influence the decision making of buyers, lenders, appraisers, real estate agents, underwriters, contractors, and specialists of all kinds. Yet they are Not regulated in any manner.

Let me ask you a few questions: What is the purpose of a home inspection? What do you know about the background, experience and training of your favorite "home inspector?" Why should we care? As a Buyer's Agent, should we care who the buyer chooses to do a home inspection? As a Seller representative, should we question a home inspection report or depend upon the appraisers and lender to scrutinize these reports? Have you ever asked a home inspector to show you where his recommendations for repairs are supported by code or lender requirements?

Perhaps the most important question to ask a home inspector is: DO YOU HAVE ERRORS AND OMISSIONS INSURANCE? Could this be important information for a buyer, seller or real estate agent to know about? What if the home inspector makes a mistake? A few are trying to hold their liability to only the cost of the home inspection report. One home inspector said the reason he did not have E & O insurance was to avoid being sued. "That way they don't come after me." Gee. I wonder who a disgruntled buyer or seller will look to next?

Now don't get me wrong, and let me make it perfectly clear: I do believe that there is a vital place and purpose for home inspections within the scope of a real estate transaction. In fact I believe that almost every home inspector I have met tries his best to do a thorough and conscientious inspection.

After conducting an informal survey of home inspectors, the following observations were made:

1. *Every home inspector interviewed agreed that some*

form of reasonable and reliable regulation for home inspectors is needed.

2. *Only about half the home inspectors interviewed had Errors and Omission Insurance.*

3. *Three years was about the average time frame a home inspector has been in the business.*

4. *Most thought the American Society of Home Inspectors (ASHI) set the best standards and qualifications for a person to become a home inspector.*

5. *Most every home inspector had a construction, engineering or architectural background.*

6. *On average the home inspectors interviewed conducted between 125-175 home inspections a year.*

The demand for home inspections is ever increasing. Relocation companies are now requiring home inspections on the home purchase by transferee as a requirement for a "buy out" program when the employee is transferred again. Alaska Housing is planning to make home inspections "mandatory" for a buyer to sign. It makes buyers aware of the importance of a home inspection and asks them to indicate whether or not they will be obtaining a home inspection. Indeed, home inspections are becoming a normal routine for most residential transactions.

Let me suggest that all home inspectors organize themselves to become self-regulated. They should set the standards by which all home inspections are conducted and establish the qualifications to become a general home inspector in Alaska. They need to have continuing educational courses. They should have standardized written report forms. They need to have E & O Insurance. They should do this ASAP. And if they cannot organize themselves, then the Real Estate Commission, interested REALTOR® Boards, real estate agents, brokers, appraisers, home inspectors, banks and mortgage companies should create a task force to ask the State Legislature to regulate home inspectors.

In the meantime, what to do? Ask lots of questions -- E&O, background, experience, how report is structured, easy to understand, how long to receive, fees, liability, issues, etc. The Anchorage Board is looking for your input about this process. Please send your comments/recommendations: Fax - 563-8476.

Expert home inspections useful for buyer and seller



**CLAIR
RAMSEY**

Previously I discussed licensing of home inspectors (June 27, Page C-1). This time, let's focus on the actual home inspection. After a buyer and seller sign a purchase agreement on a home defining price and terms, the home inspection occurs. By the time the inspection report and buyer's request for repairs is delivered to the seller, the home typically has been off the market for two weeks.

In many cases the results of the inspection report reopen negotiations between buyer and seller. Negotiating on repairs can delay closing, and it rarely is resolved to the seller's liking. The lender and or appraiser also may require repairs of major items noted in the inspection before financing the home.

The home inspection report typically groups items between minor ongoing

maintenance and major repairs. Major repairs are of most concern to buyers and sellers alike. Major problem areas frequently include the roof, groundwater, furnaces and decks.

Let's start with the roof. What is the age and condition of the roof? Is the roof ventilated or non ventilated? Does the roof have an ice shield? If the roof is 2 to 3 years old, there should not be a problem. If the roof is 20 years old, per-

haps there are reasons for concern. Non ventilated roofs are subject to condensation problems not always visible on the home's interior. Ice shields help prevent infiltration of water when ice dams form in the winter months. Replacing or repairing a roof can be expensive.

Groundwater problems are a second

Please See Page C-5, RAMSEY

ADN 23 July 1999 p C-1

RAMSEY: Inspections focus on repairs.

Continued from Page C-1

area of concern. Is there evidence of water in the crawl space? How is water removed from the crawl space? Does your home have a sump pump? Does it pump into the city sewer — which is illegal — or to an outside drain? Does the ground outside slope away from the home, or toward it? Ground that slopes toward the house may send water into the crawl space or basement. The crawl space is an area where homeowners rarely look, unless a problem arises. Groundwater problems can also be expensive to repair.

The third problem area is the furnace. What is the condition of the furnace or forced-air heating systems? Does the furnace have a cracked heat exchanger? If it is 10 to 15 years old, it may have. This may necessitate a new furnace if the heat exchanger cannot be economically replaced.

As Anchorage ages, it becomes evident that many homes built in the late '70s and early '80s are not withstanding the test of time gracefully. Decks and bathrooms are typical areas of concern in older homes. Most decks were built with fir, and homeowners did not fully understand the upkeep required. Many of these decks are now rotting and require renovation or even complete replacement.

Bathrooms in older homes may also need

attention. Walls around tubs and showers may be showing evidence of deterioration as water penetrates through the grout between the tile to the sheet rock behind. Removing and replacing select tiles can be difficult, particularly when trying to match older ceramic tile. However, repairing either of these areas prior to putting your home on the market helps demonstrate that your property has been adequately maintained.

Before you sell your home, find out if you have a major problem. Don't worry about small items like ground-fault circuit interrupter outlets (GFCIs), seismic straps or hot water tanks. Focus on the bigger-cost items. If you have any concerns about these types of problems, address them before going on the market. Have your real estate agent recommend an inspector to check specific areas of concern. If you wait, it will be harder to get the buyers to adjust the sales price or participate in repairs after they make an offer. Completing repairs first may allow you to recover some of the expense with an increase in the sales price.

Clair Ramsey, CRS, is a local associate broker specializing in residential real estate. His opinion column appears every fourth Sunday. His e-mail address is ramsey@alaska.net.

INSPECT THE INSPECTOR: Choosing the Right One Can Help Avoid Costly Mistakes

by Karen Crawford, HouseMaster, 346-9190, lmalaska@pobox.alaska.net

Home buyer horror stories are plentiful: A new home owner finds the roof leaks during the first rain, the circuit breakers blow the first time everything gets plugged in, the furnace malfunctions during the first cold snap.

Buying a home is fraught with perils that are supposed to be eliminated with a professional home inspection. Unfortunately, such new homeowner nightmares can, and do, happen - even when a "professional" home inspector was called in to inspect the prospective home.

Many homebuyers think they are automatically protected against risk and liability when they order a home inspection. But home inspectors, unfortunately, are not all created equal.

There is so much riding on the inspection, yet many homebuyers don't know what qualifications they should be looking for in an inspection firm.

Inspection Industry Unregulated

There is no "official" regulation of the home inspection industry with regard to training, experience or insurance coverage, so credentials and credibility vary widely. It's the 'consumer beware' in this situation.

The home inspection industry grew out of a group of contractors, roofers and plumbers who supplemented their earnings during slow periods with inspections. These "independents" often did not have the complete knowledge of the total workings of a house and their findings were not always impartial.

Along with the boom real estate market in the 80s, the residential home inspection industry grew rapidly. Today, the consumer has the choice of hiring an independent inspector, who may or may not do it as a full-time profession, or go with an inspection company whose sole business is home inspections. These firms run the gamut from small "mom and pop" operations, to companies or franchise offices affiliated with a large national corporation. HouseMaster, with more than 230 offices across the U.S. and Canada, falls into the latter group.

Insurance & Training of Great Importance

Because there is no federal, state or provincial regulation of the home inspection industry, consumers need to know what to look for when hiring an inspector. While everyone - trained or not - is capable of making a mistake, the outcome can vary greatly depending on several key factors. Carrying the necessary insurance - called "Errors and Omissions (E&O)" insurance - is one of these critical factors.

In the event your buyer must bring a lawsuit against an uninsured inspector, chances are he'll simply go out of business and they will never collect the money needed for repairs, even if you win your case in court.

For maximum benefit and liability protection for both buyers and sellers, HouseMaster advises that it is essential to hire a home inspection firm that employs inspectors with all of the following credentials:

* **Training and Technical Support:** training in all aspects of home inspection and ongoing support for questions and changes in residential construction techniques and systems.

* **Certification:** certification by a reputable training institute, which requires re-testing annually, such as The American Society of Home Inspectors (ASHI) or National Institute of Building Inspectors (NIBI).

* **Insurance:** insurance coverage, including general liability, worker's compensation and especially E and O insurance, which is like malpractice insurance

* **Written Guarantee:** a formal, written guarantee, which backs up the inspection findings.

If the inspector is missing any of these important credentials - particularly the E and O insurance - don't hire them. Even if they say they are certified, that does not guarantee that they have all the other credentials.

Large reputable companies have helped set many industry-accepted inspector requirements with their own stringent rules. HouseMaster, for example, requires all its franchise offices to carry Errors and Omissions insurance. It encourages all of its offices to have their inspectors trained and certified.

Engineer Versus General Inspector

Many engineers have been drawn to the inspection field as their industries have changed and scaled down, such as the defense industry or the aerospace industry. Consequently, there has been some confusion about whether to hire an 'engineer' or a 'general inspector'. But licensed engineers - even trained structural engineers - may not know a great deal about heating, plumbing, electrical systems or roofing. Hiring one for a home inspection is just like getting a heart specialist to do a general physical. Consumers should verify specifically what home inspection and experience training they have had in addition to their engineering background.

The biggest misconception is that structural problems can only be detected by a structural engineer. Properly trained inspectors are totally capable of detecting structural deficiencies.

In reality, the incidence of structural problems with resale homes is only around two percent, according to HouseMaster statistics. The highest incidence of problems, however, is with electrical wiring, water penetration, plumbing, heating and roofing, depending on the age of the home.

Is a structural engineer going to be able to find an electrical or heating system deficiency? These are serious and often expensive problems to be concerned with.

(Continued on Page 8)

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According to Warren Boroson, co-author with HouseMaster chairman Kenneth Austin of "The Homebuyer's Inspection Guide" available in bookstores, most homebuyers seem more comfortable dealing with people who have extensive home inspection experience, rather than those who have only advanced degrees. For example, an engineer may have studied aeronautical or chemical engineering, both of which offer no practical expertise in the systems that make a house work.

It's really critical to find a home inspector who is knowledgeable about all the systems within a home, is trained to look for symptoms of problems and keeps up to date on equipment and repair techniques. In the small percentage of cases where a structural condition is detected during an inspection, we may recommend further evaluation by a licensed engineer.

Proper Insurance Coverage Key Factor in the Litigious '90s

Critical to the home inspection is that the inspection firm or inspector carries all the proper insurance coverage. This helps ensure that the buyer is not financially responsible if the inspector makes an error (E&O), falls off the roof (Worker's Comp) or damages the seller's property in some way (General Liability).

Errors and Omissions insurance in real estate is the equivalent of malpractice insurance. This is very difficult insurance for home inspectors to obtain. If your buyers find an inspector who does not carry this type of insurance, it is usually an indication that the inspector has had no formal training, or has a poor track record in the industry.

Because of the cost of E and O insurance and the difficulty in qualifying for it, a small percentage of independent inspectors will carry it.

General liability insurance and worker's compensation is also extremely important. Without such coverage, the homebuyer assumes a large degree of liability for the safety and well being of the inspector while in the employ of the homebuyer during the inspection.

Independent Vs. Large Inspection Firm

There are other advantages to hiring a home inspector who works for an established company. National companies have set requirements for hiring, training, professionalism and insurance coverage; they have credibility and experience; and they can offer special services and technical support to customers and inspectors.

It is also important to ask whether the inspection firm will stand behind its inspection with a formal, written guarantee. HouseMaster, for example, includes in the inspection fee, a complimentary 90-day guarantee on the inspection for most of the major elements in the home that it found to be satisfactory at the time of the inspection.

In addition, its technical information center is available for buyers who want to know more about how to maintain or repair equipment in their home.

Educating homebuyers about the operation and maintenance of their new home is one of our main objectives. We encourage buyers to

(Continued on Page 14)

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(Continued from Page 8)

come along on the inspection, ask questions and call our office afterwards. We also provide printed material and a free instructional videotape on home maintenance and repairs as part of our comprehensive inspection package.

When you consider the potential risk and liability involved with the purchase or sale of a home, it pays to shop for the best - not the cheapest - inspection service available in your area.

The Six Most Important Questions to Ask When Hiring A Home Inspector

1. Is home inspection your only business?

Make certain it is, in order to avoid any potential conflicts of interest. Many independent inspectors do it on a part-time basis to supplement their real businesses as contractors, roofers, etc., and their report findings might be suspect.

2. Do you carry all the necessary insurance, including professional liability (E&O), general liability and worker's compensation?

E&O is the number one priority, says Warren Boroson, co-author of the Homebuyer's Inspection Guide. This malpractice-type insurance protects the inspector (and indirectly the homebuyer and those referring the inspector) against post-inspection legal problems. General liability covers personal liability not covered by the basic E&O policy and worker's compensation covers the safety of the inspector during the inspection.

3. Does the home inspection firm offer a written guarantee on the inspection?

It's best to hire an inspection company that offers a formal, written guarantee along with the inspection, although not many do.

4. How long does the inspection take and can the homebuyer accompany the inspector?

Yes, they should. A professional inspection of the average house takes about two hours. Be skeptical of home inspectors who don't want you to tag along. Inspectors who invite the homebuyer along will often offer valuable maintenance tips.

5. What type of a report will the buyer receive and when will they receive it?

There are various types of reports given by professional inspectors, including typed narrative (sent to the homebuyer within a week), and on-the-spot written reports for those who need or want the information as soon as possible. Don't accept a verbal report without a written backup, since you will have no record of the inspector's findings for future referral.

6. Is the inspector trained or certified in home inspection by a recognizable organization, such as the American Society of Home Inspector's (ASHI)?

With no official government regulation of the home inspection industry required in Alaska, certification by ASHI ensures that the inspector meets strict guidelines set forth by one of the largest and most reputable home inspection organizations.

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PUBLICATION OF THE ANCHORAGE BOARD OF REALTORS

November
1999

Anxiety Continues Over FHA Appraisal Reform



Judy Kemplen, President
Alaska Mortgage
Bankers Association
SVP, National Bank of Alaska

On August 1, 1999, the HUD "Homebuyer Protection Plan", a major reform of the FHA appraisal process, went into effect. According to HUD, the goal of the plan is to ensure that appraisers identify observable defects that could undermine the safety, marketability or security of the property. Secretary Cuomo initiated the plan after widespread publicity about FHA borrowers buying homes with serious property defects.

On August 20, 1999, Anchorage appraisers met with Realtors, lenders and the local HUD office to discuss concerns over the new appraisal process contained in a revised HUD Handbook. It appeared to those who reviewed the revised Handbook that FHA wanted appraisers to perform the work of home inspectors or engineers. In addition, appraisers were now subject to severe sanctions for non-compliance with the Handbook. After that meeting, finding an appraiser to accept an FHA assignment was about as difficult as finding an Alaskan voting "yes" on the Advisory Vote.

For the next thirty days, the leadership of the Anchorage Board of Realtors, Alaska Mortgage Bankers Association, and Anchorage Appraisal Institute worked with Senator Stevens office to obtain revisions to the HUD handbook.

That work culminated in a nationally distributed letter to Senator Stevens from FHA Commissioner William C. Apgar. In summary, the letter states:

- * HUD will not enforce sanctions against appraisers until March 1, 2000.
- * FHA is not asking appraisers to perform home inspections.
- * FHA will allow an FHA-insured loan to close on a snow-covered roof home.

Round One of the FHA Appraisal Reform Battle is now over with Alaskans claiming a victory;

Round One of the FHA Appraisal Reform Battle is now over with Alaskans claiming a victory; however, there is still much work to be done. Today's FHA appraisals are more expensive not only because appraisers are charging more, but often an appraiser must require additional inspections from others to meet FHA requirements. Alaska is not the only state to experience an increase in costs. Lenders around the country are seeing higher FHA appraisal charges; some appraisers are refusing to do FHA appraisals. Appraiser Boards in several states have issued warnings to their appraisers to exercise caution when completing an FHA appraisal assignment.

(Continued from Page 1)

In November, FHA will issue a revision to their appraisal Handbook. We are hopeful that this revision will contain meaningful changes that will restore affordability to an FHA loan. Approximately half of the loans originated in Alaska have FHA insurance. Our delinquency rate for FHA loans is 5.41% compared to the national average at 7.74%; the percentage of loans in foreclosure is .5% (national, 2.42%). Alaska's performance on FHA loans exceeds the national average considerably. Commissioner Apgar was quoted in the National Mortgage News on September 13, 1999, that "if fewer [FHA] loans are made, so be it -- as long as they are the right fewer loans". Commissioner Apgar may be willing to accept fewer FHA loans; however, the Alaskan real estate community is not. We understand the crucial role FHA plays in getting Alaskans into homes and we will continue to advocate for reasonable appraisal requirements that do not constitute yet another barrier to home ownership.

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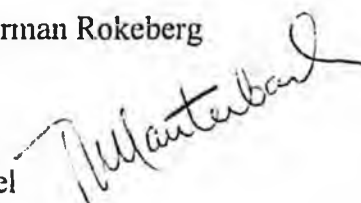
MEMORANDUM

January 30, 2001

SUBJECT: Home Inspectors (CSHB 27()); version "F")

TO: Representative Norman Rokeberg
Attn: Janet Seitz

FROM: Terri Lauterbach
Legislative Counsel



Enclosed is a draft CS for HB 27.

The chief changes in the CS, compared with the original bill, are as follows:

(1) **The definition of "home inspection" is clarified.** "Home inspection" is defined on page 10 to mean a visual inspection of one or more of the systems listed on page 10, lines 5 - 12. This list includes a provision under which the board could add new systems to the definition. Inspectors and clients could also agree that an inspection will cover a system not listed in the definition when they discuss the pre-inspection document required under Sec. 08.57.310 (page 5 of this draft). Language is added in this draft to paragraph (1) of Sec. 08.57.310 specifying that the scope of an inspection may include mutually agreed-upon systems.

(2) **The contents of an inspection report are clarified.** In Sec. 08.57.330 (page 6 of this draft), language is added specifying that the report must include a review of the condition of whichever systems were identified as being within the scope of the intended inspection in the pre-inspection document required under AS 08.57.310. Since the contents are specified here for inspection reports and are dependent on which systems were part of the inspection, the definition of "home inspection report" has been removed from the definitions section of the bill.

(3) **The executive director of AHFC has been added to the board.** The executive director will be a voting member until July 1, 2002, under sec. 9(2) of the draft (page 13). After July 1, 2002, the executive director will be a non-voting member under Sec. 08.57.010 (page 1).

(4) **The exemptions listed on page 9 of the draft are all listed together, rather than being split into two subsections.** While the scope of an inspection done by the various types of people listed in the exemptions section may be quite different from each other, they are all alike in their need to be exempt from the licensing provisions of the bill

Representative Norman Rokeberg
January 30, 2001
Page 2

(according to policy choices that have been made). They each inspect at least one system that is included in the definition of "home inspection" on page 10 of the draft. Therefore, unless they have an exemption from licensing, they would each need a home inspector's license. Being listed on page 9 in the exemptions section means that they do not need a home inspector license even though what they are doing falls within the definition of "home inspection" on page 10.

(5) The exemption listed in paragraph (8) on page 9 has been rewritten because, according to AHFC, there is no state certification program for energy raters. The certification language has been removed in this draft.

(6) The exemption previously listed for engineers and architects in Sec. 08.57.920(b)(2) has been eliminated. The exemption in paragraph (3) on page 9 of the draft has been expanded by removing the word "civil" that used to be in front of "engineer." However, the policy in this draft is that an engineer or architect is only exempt from licensure as a home inspector if the engineer or architect either seals the report or puts his/her registration number with his/her signature on the report. Therefore, the more general exemption in the original bill (Sec. 08.57.920(b)(2)) has been omitted.

(7) "For new construction" has been added on page 11, line 7. AHFC requested this change.

TML:glc
01-072.glc

Enclosure

22-LS0136\F
Lauterbach
1/30/01

CS FOR HOUSE BILL NO. 27()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION**

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE ROKEBERG

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the licensure and registration of individuals who perform home
2 inspections; relating to home inspection requirements for residential loans purchased or
3 approved by the Alaska Housing Finance Corporation; relating to civil actions by and
4 against home inspectors; and providing for an effective date."

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

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

7 **Chapter 57. Home Inspectors.**

8 **Article 1. Board of Home Inspectors.**

9 **Sec. 08.57.010. Creation and membership of board.** There is created the
10 Board of Home Inspectors consisting of five voting members and one nonvoting
11 member. Three voting members shall be licensed under this chapter and shall have
12 been engaged in the practice of home inspection in the state for three years
13 immediately preceding appointment, one voting member shall be a licensed real estate
14 broker or certified real estate appraiser, and one voting member shall be a public

1 member. The executive director employed by the Alaska Housing Finance
2 Corporation under AS 18.56.052, or a designee of the executive director, shall serve
3 ex officio as a nonvoting member of the board.

4 **Sec. 08.57.020. General duties.** The board shall

- 5 (1) administer and enforce this chapter;
6 (2) regulate the practice of home inspection;
7 (3) establish education and experience requirements that must be met
8 for licensure under this chapter; the requirements established by the board must
9 include Alaska or northern education or experience in Arctic construction or building;
10 (4) establish standards for continuing education of licensed home
11 inspectors;
12 (5) adopt a code of ethics for licensed home inspectors; and
13 (6) in addition to the meeting required under AS 08.01.070(2), meet
14 when requested by a majority of the voting members of the board.

15 **Sec. 08.57.030. Meetings; quorum.** The board may meet by teleconference.
16 Three voting members constitute a quorum of the board.

17 **Article 2. Licensure.**

18 **Sec. 08.57.050. Licensure required.** (a) Unless exempt under AS 08.57.920
19 or serving lawfully as an associate home inspector under (b) of this section, an
20 individual may not perform a home inspection

- 21 (1) for new construction unless that individual is licensed as a home
22 inspector for new construction under this chapter;
23 (2) for previously occupied construction unless that individual is
24 licensed as a home inspector for previously occupied construction under this chapter.

25 (b) Notwithstanding (a) of this section, an individual who is not licensed under
26 this chapter may perform a home inspection as an associate home inspector if the
27 individual

28 (1) is employed by a licensed home inspector who supervises the
29 associate's work and the inspection is of the type that the supervising individual is
30 authorized to perform; and

- 31 (2) is registered with the board as an associate home inspector.

1 (c) A licensed home inspector who employs an associate home inspector
2 under (b) of this section is liable for the work done by the associate home inspector.

3 (d) An individual who holds a joint license is considered to be licensed as both
4 a home inspector for new construction and a home inspector for previously occupied
5 construction.

6 **Sec. 08.57.060. Qualifications.** The board shall authorize the department to
7 issue a home inspector license for new construction, previously occupied construction,
8 or both, as appropriate, to an individual who

9 (1) passes the appropriate home inspection examination; the
10 examination, which must include a written portion and other test methodologies as
11 determined by the board, must test competence in relation to Alaska construction
12 techniques and other matters as determined by the board; the examination may be
13 based on a recognized national examination or other methodology;

14 (2) meets the educational and experience requirements adopted by the
15 board in regulations for the type of license applied for;

16 (3) submits a complete application for licensure within one year after
17 passing the examination required under (1) of this section;

18 (4) within the seven years preceding the date of application, has not
19 been under a sentence for an offense related to forgery, theft in the first or second
20 degree, extortion, or conspiracy to defraud creditors or for a felony involving
21 dishonesty; and

22 (5) pays the appropriate fees.

23 **Sec. 08.57.070. License renewal; continued competency.** (a) A license
24 issued under this chapter may not be renewed unless the applicant submits proof of
25 continued competency relating to home inspecting that satisfies the board.

26 (b) A lapsed license may be reinstated within two years after the lapse upon
27 proof of continued competency, payment of a renewal fee for the intervening time
28 period, and payment of any penalty fee established under AS 08.01.100(b). If the
29 license has been lapsed for more than two years, the license may not be reinstated until
30 the individual also passes the appropriate home inspection examination described in
31 AS 08.57.060. A license may not be reinstated if the license has been lapsed for more

1 than five years.

2 (c) The license of an applicant whose license has been suspended or against
3 whom a fine has been imposed under this chapter may not be renewed until the period
4 of suspension has expired and any fine has been paid.

5 **Sec. 08.57.080. Fees.** (a) The department shall set fees under AS 08.01.065
6 for

7 (1) licensure and renewal of licensure for a home inspector qualified to
8 inspect new construction;

9 (2) licensure and renewal of licensure for a home inspector qualified to
10 inspect previously occupied construction;

11 (3) joint licenses and renewal of joint licenses;

12 (4) registration and renewal of registration as an associate home
13 inspector;

14 (5) examinations; and

15 (6) board and departmental publications and seminars related to this
16 chapter.

17 (b) An individual who fails a home inspector examination shall pay the
18 examination fee set by the department if the individual applies to retake an
19 examination.

20 **Article 3. Insurance Requirement.**

21 **Sec. 08.57.200. Type of insurance.** Each applicant for licensure, at the time
22 of applying for licensure or for renewal of licensure, shall file with the board
23 satisfactory evidence that there is in effect for the applicant public liability and
24 property damage insurance covering the applicant's home inspecting operations in this
25 state in the sum of not less than \$20,000 for damage to property, \$50,000 for injury,
26 including death, to any one person, and \$100,000 for injury, including death, to more
27 than one person.

28 **Sec. 08.57.210. Suspension of license.** If insurance required in AS 08.57.200
29 ceases to be in effect, the license of the home inspector shall immediately be
30 suspended until the insurance has been reinstated.

31 **Article 4. Activities of Home Inspectors.**

1 **Sec. 08.57.300. Identification requirements.** (a) Except as provided
2 otherwise by law, an individual who is licensed or registered under this chapter by one
3 name may not act in the capacity of a home inspector or associate home inspector
4 under any other name unless the individual is also licensed or registered under that
5 name.

6 (b) All advertising and business cards prepared by a licensed home inspector
7 or associate home inspector for the home inspection business must show the
8 inspector's name, mailing address, and license or registration number.

9 (c) Individual licensed home inspectors and partners, associates, agents,
10 salespeople, solicitors, officers, and employees of licensed home inspectors shall use
11 their true names and addresses and the true name of the home inspecting firm at all
12 times while acting in the capacity of a licensed home inspector or performing related
13 activities.

14 (d) Regardless of whether they are exempt from licensure and registration
15 under AS 08.57.920, persons who perform home inspections may not hold themselves
16 out to be licensed home inspectors or use words or titles that may reasonably be
17 confused with the title of "licensed home inspector" unless they are licensed under this
18 chapter.

19 **Sec. 08.57.310. Pre-inspection document required.** Before performing a
20 home inspection, a licensee or an associate home inspector shall provide to the person
21 on whose behalf a home is inspected a written document specifying

22 (1) the scope of intended inspection; the scope of the intended
23 inspection may include systems and components that are not listed in
24 AS 08.57.990(3); and

25 (2) that the inspector will notify in writing the person on whose behalf
26 the inspection is being made of defects noted during the inspection along with a
27 recommendation, if any, that experts be retained to conduct further evaluation through
28 examination and analysis by a qualified professional, tradesperson, or service
29 technician beyond that provided by the home inspection to determine the extent of
30 defects and corrective action necessary to address the defects.

31 **Sec. 08.57.320. Conflict of interest must be disclosed.** (a) A licensed home

1 inspector who has a conflict of interest relating to a home inspection shall disclose that
2 conflict of interest at the time of initial substantive contact with the person requesting
3 the home inspection and confirm the conflict of interest in writing to the person
4 requesting the home inspection as soon as possible after the initial substantive contact.

5 (b) The failure of a licensee to disclose a conflict of interest as required under
6 this section does not give rise to a cause of action by a private person. However, the
7 commission may, under AS 08.57.400, impose a disciplinary sanction for violation of
8 this section.

9 (c) In this section, "conflict of interest" is when

10 (1) a relative of the licensee or a person with whom the licensee has a
11 financial relationship has a present financial interest in the property being inspected or
12 considered for inspection; or

13 (2) the licensee receives compensation from someone other than a
14 party to the home inspection contract or another party having a financial interest in the
15 outcome of the home inspection.

16 **Sec. 08.57.330. Inspection report required.** After performance of a home
17 inspection, a licensed home inspector shall give a written or oral home inspection
18 report to the person requesting the inspection. The report must include a review of the
19 condition of each system and component identified as being within the scope of the
20 intended inspection under AS 08.57.310(1).

21 **Article 5. Disciplinary Actions; Other Enforcement Mechanisms.**

22 **Sec. 08.57.400. Grounds for disciplinary sanctions or other license**
23 **decisions.** The board may take disciplinary action authorized under AS 08.01.075 or
24 refuse to grant or renew a license or registration under this chapter on a finding that

25 (1) the application is fraudulent or misleading;

26 (2) the individual has knowingly violated this chapter or a lawful order
27 or regulation of the department or the board;

28 (3) the individual is incompetent or has engaged in fraudulent practices
29 relating to home inspection.

30 **Sec. 08.57.410. Administrative Procedure Act applicable.** Proceedings for
31 the denial, suspension, or revocation of a license or registration under this chapter are

1 governed by AS 44.62 (Administrative Procedure Act).

2 **Sec. 08.57.420. Injunction.** In an action instituted in the superior court by the
3 board or the department, the court may enjoin an individual from performing a home
4 inspection in violation of this chapter. In addition to other relief, the court may
5 impose a civil penalty of not more than \$500 for each violation. Each day that an
6 unlawful act continues constitutes a separate violation.

7 **Sec. 08.57.430. Violations.** (a) An individual who knowingly violates
8 AS 08.57.050 is guilty of a class B misdemeanor. A person who violates another
9 provision of this chapter is guilty of a violation punishable under AS 12.

10 (b) Criminal prosecution for a violation of this chapter does not preclude the
11 board or the department from seeking available civil remedies.

12 **Article 6. Miscellaneous Provisions.**

13 **Sec. 08.57.800. Legal actions by home inspector.** An individual may not
14 bring an action in a court of this state for the collection of compensation for the
15 performance of a home inspection or for breach of a contract for which a license or
16 registration is required under this chapter without proving that the individual was a
17 licensed home inspector or registered associate home inspector at the time of
18 contracting for the performance of the work.

19 **Sec. 08.57.810. Legal actions against home inspector.** A person may not
20 bring an action against an individual licensed or registered under this chapter based on
21 a written home inspection report prepared by the inspector if the report is more than
22 180 days old or was unlawfully disclosed to the person bringing the action.

23 **Article 7. General Provisions.**

24 **Sec. 08.57.900. Prohibited acts.** (a) An individual licensed or registered
25 under this chapter, a company that employs an individual licensed or registered under
26 this chapter, or a company that is controlled by a company that also has a financial
27 interest in a company employing an individual licensed or registered under this
28 chapter may not

29 (1) perform or offer to perform, for an additional fee, repairs to a
30 subject property on which the home inspector or the home inspector's company has
31 prepared a home inspection report in the past 12 months;

1 (2) inspect for a fee any property in which the home inspector or the
2 home inspector's company has a financial interest or an interest in the transfer of the
3 property;

4 (3) offer or deliver compensation, an inducement, or a reward to the
5 owner of the inspected property, the broker, or the agent, for the referral of business to
6 the home inspector or the home inspector's company;

7 (4) without the written consent of the home inspection client or the
8 client's legal representative, disclose information from a home inspection report
9 prepared by the home inspector or the home inspector's company unless the disclosure
10 is made

11 (A) more than 180 days after the date of the report;

12 (B) to a subsequent client who requests a home inspection of
13 the same premises; or

14 (C) by the home inspector in an administrative or judicial
15 proceeding in which disclosure of the home inspection report is relevant to
16 resolution of the legal issues in the proceeding;

17 (5) without the written consent of all interested parties, accept
18 compensation from more than one interested party for the same services;

19 (6) accept from a person who has other dealings with a home
20 inspection client a commission or allowance, directly or indirectly, for work for which
21 the home inspector or the home inspector's company is responsible;

22 (7) accept an engagement to make an inspection or to prepare a report
23 in which the employment itself or the fee payable for the inspection is contingent upon
24 the conclusions in the report, preestablished findings, or the close of escrow.

25 (b) Contractual provisions that purport to limit the liability of a home
26 inspector to the cost of the home inspection report are contrary to public policy and
27 void.

28 **Sec. 08.57.910. Limitation on activities.** A license or registration issued
29 under this chapter does not authorize the holder to perform an activity for which a
30 license is required under provisions of this title that are outside of this chapter.

31 **Sec. 08.57.920. Exemptions.** Notwithstanding other provisions of this

1 chapter, an individual who inspects a home is not required to be licensed or registered
2 under this chapter if the individual is

3 (1) employed by the federal or state government, a political
4 subdivision of the state, or a municipality or unincorporated community and the
5 employee is performing only duties that are within the employee's official duties;

6 (2) performing a home inspection only with respect to property that is
7 the individual's residence or in which the individual has a financial interest;

8 (3) registered as an engineer or architect under AS 08.48, prepares a
9 written report after the inspection, and either

10 (A) affixes the individual's seal to the home inspection report;

11 or

12 (B) signs the report and puts the individual's registration
13 number on the report;

14 (4) engaged as an engineer in training or architect in training who
15 works for and is supervised by a person described in (3) of this section and the person
16 described in (3) of this section affixes the person's seal to the home inspection report
17 or signs and puts the person's registration number on the report;

18 (5) licensed as a pesticide applicator by the Department of
19 Environmental Conservation and is performing only activities within the scope of that
20 license;

21 (6) registered as a general contractor with a residential contractor
22 endorsement under AS 08.18 and is performing only activities within the scope of that
23 registration;

24 (7) certified as any type of real estate appraiser under AS 08.87 and is
25 performing only activities that are authorized under that certification; or

26 (8) only determining whether a building complies with the thermal and
27 lighting energy standards required by AS 46.11.040.

28 **Sec. 08.57.990. Definitions.** In this chapter,

29 (1) "board" means the Board of Home Inspectors;

30 (2) "department" means the Department of Community and Economic
31 Development;

1 (3) "home inspection" means a visual examination, performed in
2 accordance with standards of practice adopted by the board, of the readily accessible
3 parts of one or more of the following systems and components of a residence or
4 intended residence:

5 (A) heating and air-conditioning systems;

6 (B) interior plumbing and electrical systems;

7 (C) built-in appliances;

8 (D) roof, attic, and visible insulation;

9 (E) walls, ceilings, floors, windows, and doors;

10 (F) foundation and basement;

11 (G) visible structure;

12 (H) other systems or components as specified by the board in
13 regulations;

14 (4) "home inspector" means a person who performs or offers to
15 perform a home inspection;

16 (5) "joint license" means a license that authorizes an individual to
17 inspect both new construction and previously occupied residences;

18 (6) "knowingly" has the meaning given in AS 11.81.900;

19 (7) "real estate transaction" means the transfer or attempted transfer of
20 an interest in a unit of real property or an act conducted as a result of or in pursuit of a
21 contract to transfer an interest in a unit of real property;

22 (8) "residence" means

23 (A) a single-family home;

24 (B) a duplex, triplex, or four-plex; or

25 (C) a residential townhouse or residential condominium unit.

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

27 (37) Board of Home Inspectors (AS 08.57.010).

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

29 (22) Board of Home Inspectors (AS 08.57.010) -- June 30, 2005.

30 * Sec. 4. AS 18.56.300(b) is amended to read:

31 (b) As a condition of a commitment to purchase or approve a loan under this

1 section for residential housing the construction of which begins after June 30, 1992,
2 the corporation shall require inspection of the unit of residential housing that is the
3 subject of the loan. The inspection must be performed by a municipal building
4 inspector, by a person who is approved or certified to perform residential inspections
5 by the International Conference of Building Officials or the International Association
6 of Electrical Inspectors, by an individual who is licensed or registered under
7 AS 08.57.050 to perform home inspections for new construction [OR, WHEN THE
8 UNIT OF RESIDENTIAL HOUSING IS LOCATED IN A RURAL AREA], by an
9 architect licensed under AS 08.48, by an engineer licensed under AS 08.48, or by
10 another person approved by the corporation. When the unit of residential housing is
11 located in a rural area, the person who makes the inspection may use methods other
12 than a personal physical inspection to make the inspection if the method is approved
13 by the corporation, and variations from the applicable code may be accepted at the
14 corporation's discretion, if the person authorized to inspect the unit under this
15 subsection satisfies the corporation that the variation does not adversely affect the
16 structural integrity of the unit or the health and safety of the residents. The person
17 who makes the inspection shall determine whether the construction conforms to
18 relevant provisions of the construction codes of the municipality or of the state
19 building code, as applicable, at each of the following stages of construction:

- 20 (1) plan approval;
- 21 (2) completion of footings and foundations;
- 22 (3) completion of electrical installation, plumbing, and framing;
- 23 (4) completion of installation of insulation;
- 24 (5) final approval.

25 * **Sec. 5.** AS 18.56.300(b) is amended to read:

26 (b) As a condition of a commitment to purchase or approve a loan under this
27 section for residential housing the construction of which begins after June 30, 1992,
28 the corporation shall require inspection of the unit of residential housing that is the
29 subject of the loan. The inspection must be performed by a municipal building
30 inspector, [BY A PERSON WHO IS APPROVED OR CERTIFIED TO PERFORM
31 RESIDENTIAL INSPECTIONS BY THE INTERNATIONAL CONFERENCE OF

1 BUILDING OFFICIALS OR THE INTERNATIONAL ASSOCIATION OF
2 ELECTRICAL INSPECTORS,] by an individual who is licensed or registered under
3 AS 08.57.050 to perform home inspections, by an architect licensed under AS 08.48,
4 by an engineer licensed under AS 08.48, or by another person approved by the
5 corporation. When the unit of residential housing is located in a rural area, the person
6 who makes the inspection may use methods other than a personal physical inspection
7 to make the inspection if the method is approved by the corporation, and variations
8 from the applicable code may be accepted at the corporation's discretion, if the person
9 authorized to inspect the unit under this subsection satisfies the corporation that the
10 variation does not adversely affect the structural integrity of the unit or the health and
11 safety of the residents. The person who makes the inspection shall determine whether
12 the construction conforms to relevant provisions of the construction codes of the
13 municipality or of the state building code, as applicable, at each of the following
14 stages of construction:

- 15 (1) plan approval;
- 16 (2) completion of footings and foundations;
- 17 (3) completion of electrical installation, plumbing, and framing;
- 18 (4) completion of installation of insulation;
- 19 (5) final approval.

20 * Sec. 6. AS 44.62.330(a) is amended by adding a new paragraph to read:

- 21 (60) Board of Home Inspectors.

22 * Sec. 7. AS 45.50.471(b) is amended by adding a new paragraph to read:

- 23 (43) violating AS 08.57.320, 08.57.330, or 08.57.900.

24 * Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to
25 read:

26 REGULATIONS. The Board of Home Inspectors may proceed to adopt regulations to
27 implement this Act. A regulation adopted under this section takes effect under AS 44.62
28 (Administrative Procedure Act) but not before the effective date of the law implemented by
29 the regulation.

30 * Sec. 9. The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 TRANSITIONAL BOARD PROVISIONS. (a) Notwithstanding AS 08.57.010,
2 added by sec. 1 of this Act,

3 (1) the three home inspectors appointed to the initial Board of Home
4 Inspectors are not required to be licensed as home inspectors before appointment but must be
5 licensed as home inspectors in order to be appointed or reappointed after expiration of their
6 first term in office;

7 (2) the executive director of the Alaska Housing Finance Corporation, or the
8 designee of the executive director, serves ex officio as a voting member of the Board of Home
9 Inspectors until July 1, 2002.

10 (b) Notwithstanding AS 08.57.030, added by sec. 1 of this Act, four voting members
11 constitute a quorum of the Board of Home Inspectors until July 1, 2002.

12 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
13 read:

14 TRANSITIONAL LICENSING PROVISIONS. (a) Notwithstanding AS 08.57,
15 added by sec. 1 of this Act, the Board of Home Inspectors shall issue a joint license that is
16 valid until January 1, 2003, to an individual who submits to the board satisfactory evidence of
17 being in the business of home inspection in the state at the time of application for a license
18 under this subsection and of having

19 (1) been in the business of home inspection in the state on October 1, 2000; or

20 (2) passed the building inspector examination or property maintenance and
21 housing inspector examination given by the International Conference of Building Officials.

22 (b) Notwithstanding AS 08.57, added by sec. 1 of this Act, the Board of Home
23 Inspectors shall issue a license to practice home inspection of previously occupied residences
24 that is valid until January 1, 2003, to an individual who submits to the board satisfactory
25 evidence of being in the business of home inspection in the state at the time of application for
26 a license under this subsection and of having passed

27 (1) the national home inspector examination given by the American Society of
28 Home Inspectors; or

29 (2) the examination of the Examination Board of Professional Home
30 Inspectors.

31 (c) Notwithstanding AS 08.57, added by sec. 1 of this Act, the Board of Home

1 Inspectors shall issue a license to practice home inspection of new construction that is valid
2 until January 1, 2003, to an individual who submits to the board satisfactory evidence of being
3 in the business of home inspection in the state at the time of application for a license under
4 this subsection and of having passed the combination inspector examination or the
5 combination dwelling inspector examination given by the International Conference of
6 Building Officials.

7 (d) Notwithstanding AS 08.57, added by sec. 1 of this Act, the Board of Home
8 Inspectors shall grant registration as an associate home inspector that is valid until January 1,
9 2003, to an individual who submits to the board satisfactory evidence of being employed by
10 an individual who is in the business of home inspection and is licensed under this section or
11 under AS 08.57.

12 (e) A license or registration issued under this section may not be renewed or
13 extended.

14 (f) Except as provided in (e) of this section, a license or registration issued under this
15 section is considered to be a license or registration issued under AS 08.57, added by sec. 1 of
16 this Act.

17 (g) In this section, "joint license" has the meaning given in AS 08.57.990, added by
18 sec. 1 of this Act.

19 * **Sec. 11.** AS 08.57.050, 08.57.300 - 08.57.330, 08.57.430(a), 08.57.800 - 08.57.810,
20 enacted by sec. 1 of this Act, and the amendment of AS 18.56.300(b), made by sec. 4 of this
21 Act, take effect July 1, 2002.

22 * **Sec. 12.** Section 5 of this Act takes effect January 1, 2003.

23 * **Sec. 13.** Except as provided in secs. 11 and 12 of this Act, this Act takes effect
24 immediately under AS 01.10.070(c).

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

JUDICIARY COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &
TOURISM, MEMBER

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Representative Norman Rokeberg

e-mail: Representative_Norman_Rokeberg@legis.state.ak.us

February 1, 2001

Franco Venuti
PO Box 3652
Homer, AK 99603

FAX: 907-235-7480

Dear Mr. Venuti:

Thank you for your letter of January 31st and for your testimony concerning House Bill 27.

First, the Board of Home Inspectors has not yet been put into state law. When, and if, my bill passes and it becomes state law, the Governor would be making appointments to the Board and you would need to, at that time, indicate your interest to the Governor in being appointed to the Board.

As to your questions:

1. **If this bill passes, it appears that the liability exposure or the inspector will be drastically changed from the existing statement regarding limitations of liability in AS 18.56.300(c), which says that, "a person may not bring an action for damages against an ICBO inspector who inspected a residential unit unless the action is for damages caused by gross negligence or intentional misconduct of the inspector." Will this bill repeal that law?**

Is not the intent of AS 18.56.300(c) to permit an inspector to make an impartial assessment of a condition or issue without fear of retribution?

AS 18.56.300(c) does indeed hold an ICBO inspector harmless unless there is gross negligence or intentional misconduct on the part of the inspector. In its current version, HB 27 does not repeal this statute; however, I am sure that this will be discussed as the bill moves through the process. It would seem to me that this blanket liability exclusion is very unfair especially in light of the fact that there is no grievance or complaint procedure within AHFC to address consumer concerns about home inspections. In any event, under HB 27, the Board of Home Inspectors would be where complaints would be filed and the Board would then determine if any disciplinary action needed to be taken against a licensee.

Most, if not all, businesses have to stand behind their work and most are proud to do so. The many home inspectors that I have talked to are willing to stand behind their work. I

think that your concern about "fear of retribution" would be addressed by any disciplinary action considered by the Board.

2. **It would be interesting to see some statistics regarding complaints about Home Inspectors. In Homer's small market, these types of issues would be very loud and clear, yet I see very few scenarios that cannot be resolved.**

I don't have any hard statistics about complaints about home inspections. I do know that there are concerns in your area, Homer, about certain home inspections. My office has also received complaints from individuals living in the Wasilla area about home inspections as well as from those in the real estate profession in the Anchorage area. One of the problems is that since the only recourse is to take a home inspector to court, many people just will not pursue a complaint against a home inspector over a \$300 report.

3. **I do not understand why the movement to regulate inspectors is not coming from the Home Inspection industry. If this bill applies to any projects encompassed by existing AHFC regulations, we already have a set of very clear standards to work with. From my viewpoint, which is, in part, based on conversations I have had with other inspectors about this bill, the general consensus appears to be that the existing system is working fine.**

The impetus for this bill seems to be coming from the Real Estate Industry.

As it stands now, the Real Estate Industry has a very clever way of dealing with less than competent inspectors.

They simply don't get any work.

In point of fact, the people who originally approached me during 1999 about the need for legislation were and are active home inspectors in Southcentral Alaska. They helped me develop the legislation and have worked closely with me as the bill has been considered by the legislature, as well as, members of the real estate industry. (That includes the head of the federal VA lending in the State.)

4. **Why not license all inspectors, why is there an associate inspector sub-class? If we all do the same work, we should all be held to the same standards.**

The home inspectors I have been working with view the associate home inspector as a kind of an apprentice program. Without the associate home inspector, for example, a problem could arise about new people getting into the business. The associate home inspector would allow for training and supervision by a licensed home inspector and thus let the associate "get his or her feet wet" in the actual business.

Additionally, the associate is held to the same standard as the licensee because the licensee is held responsible for the associate's work, which must be done to any standard adopted by the Board.

5. **Why not require an inspector license for municipal inspectors? If we all do the same work, we should all be held to the same standards.**

Franco Venuti
February 1, 2001
Page Three

It is very common to exempt state, federal, and municipal employees from any licensing program for work that they accomplish through employment with that governmental entity and that is why it is done in this bill. Additionally, municipal employees, for example, have in place certain building standards that they must inspect to and there is also recourse for a consumer -- complain to the appropriate municipal official or department.

6. **Why are General Contractors exempt from this bill?**

Based on the wording of the bill, it appears that as long as a contractor does not call it an inspection, they can inspect a property without being regulated by the bill. This is inspecting. What's to prevent them from calling an inspection a "professional opinion" and charging for it? Why not require the licensing of everybody involved.

Cannot this bill assure that all entities within the inspection process hold the same requirements to practice the same discipline. Why single out Home Inspectors?

Not all general contractors are exempt from licensure -- only those with the specialty endorsement for residential construction. I have worked closely with the Alaska Homebuilders Association regarding this exemption and I agreed with their concerns and thus placed this exemption in the proposed legislation.

7. **Exception (2) of Sec. 08.57.902 which permits an individual to inspection [sic] a property in which he or she has a financial interest places that individual in a direct conflict of interest situation. This should not be allowed.**

The wording you refer to is on page 9, lines 6-7 and basically says that an individual inspecting his or her own residence or something in which they have a financial interest does not have to be licensed as a home inspector. However, if you will look at pages 5, line 31 through page 6 line 4, you will find that a licensed home inspector must disclose a conflict of interest "at the time of initial substantive contact". A "conflict of interest" is then defined on page 6, lines 9-15 and includes disclosing that the licensed home inspector has a financial interest in the property or that a relative of the licensee has an interest in the property. These provisions should work to protect any consumer.

8. **It is rare to find an engineer that has enough practical experience in the home construction industry who can make the same kind of common sense observations about a home's condition as those of us who have worked at length in this field.**

Most successful engineers make their living working on commercial or civil project.

You cannot hold the typical 70s era Neo-Alaska Bungalow to the same standards as a \$50 Million Dollar High School. It's really impractical to suggest that one could be a specialist in both fields. If an Engineer is doing home inspectors, he should be held to the same licensing and testing standards as a Home Inspector.

While I do not disagree with your statements, I would also point out that engineers are regulated by the Board of Registration for Architects, Engineers and Land Surveyors. That Board has a complaint and disciplinary procedures as well as standards that

Franco Venuti
February 1, 2001
Page Four

engineers must abide by and thus a consumer has a place to file a complaint. Additionally, my bill requires that an engineer or architect, while exempt from licensing, cannot hold themselves out as a "licensed home inspector" and must sign any report, thus placing their architect or engineer license "on the line". I think that this gives adequate protection to any consumer and would cause an engineer or architect to think twice about doing something he or she may not be qualified to accomplish. Moreover, engineers and architects perform most of the current home inspections in some areas of the state (such as Juneau and Fairbanks).

9. **Since this bill is directly aimed toward Home Inspectors, you might consider that during a typical existing home inspection, there is a reasonable limit of time that can be spent on site. Some issues may not be readily noticeable at the time of inspection (ex. A dry crawlspace in July but wet in September, concealed electrical wiring or hot (unventilated) roof assemblies that cannot be observed. If the bill is about liability, it should address concealed defects.**

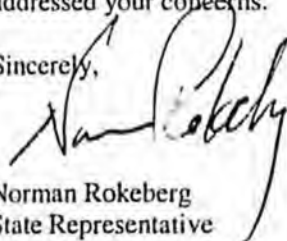
These items should be covered and set forth in any written home inspection report or written pre-inspection document. That would be the way to cover part of the liability. Additionally, my legislation limits the life of the report to 180 days and this provides some protection for the home inspector -- which might not be enjoyed at the present time.

10. **Existing home inspections and new construction inspections are separate issues. They are handled differently in the field. On new construction, an inspector is on site to insure that minimum code standards are met and they must already be approved by AHFC. Typically, there is never a written report. The pre-inspection document should not be required on new construction or should a written report unless specifically requested by the homeowner. Signing the AHFC Summary of inspections PUR 101 & 102 should be adequate.**

This proposed legislation recognizes the difference between pre-existing and new construction by providing for different licenses: joint license, new construction license, or pre-existing license. As a home inspector, whether one is required or not, I would think that a written report would protect me and my home-inspecting business. The pre-inspection document is meant to set out an understanding between the home inspector and the client concerning what the scope of the inspection will be as well as how any notification of defects will be handled. This is meant to protect both the home inspector and the consumer. My legislation does allow an oral report (see page 6, line 17). I would think, however, that a prudent home inspector would also want to present a written report and that a prudent consumer would insist on one.

I appreciate you taking the time to communicate with me concerning this legislation. I hope that I have addressed your concerns.

Sincerely,



Norman Rokeberg
State Representative
House District 11

Franco Venuti
February 1, 2001
Page Five

cc: Rep. Lisa Murkowski, Chair
House Labor & Commerce Committee

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS:

JUDICIARY COMMITTEE, CHAIRMAN
LABOR & COMMERCE COMMITTEE, MEMBER
LEGISLATIVE COUNCIL, MEMBER
SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT &
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Representative Norman Rokeberg

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MEMORANDUM

TO: Ron Johnson, Broker
Real Estate Professionals, Inc.
Fax: 907-283-8103

FROM: Rep. Norman Rokeberg *Norman R.*

DATE: January 31, 2001

RE: Your fax of January 26, 2001

In response to your questions:

1. CAN AN ASSOCIATE HOME INSPECTOR BILL FOR SERVICES WITHOUT THE KNOWLEDGE OF THE LICENSED HOME INSPECTOR OR OWNER OF A BUSINESS THAT IS IN THAT BUSINESS?

Under the proposed AS 08.57.050(b) [see page 2, lines 21-27], an associate home inspector must be employed and supervised by a licensed home inspector. That licensed home inspector is liable for the work of the associate home inspector (see page 2, lines 28-30). Therefore, the associate is an "employee" of the licensed home inspector and should not be billing or accomplishing anything without the knowledge of the licensed home inspector, who is responsible for that associate's work.

2. SHOULD NOT THE "ASSOCIATE HOME INSPECTOR" BE INCLUDED IN THE DEFINITIONS LIST?

Not necessarily. The parameters of the "associated home inspector" are described in AS 08.57.050(b) [see pages 2, lines 21-27] and thus it would not appear to be necessary to redefine this position again.

3. COULD THIS BE CONSTRUED AS A VIOLATION OF FAIR TRADE?

Yes.

4. DOES AN ASSOCIATE HOME INSPECTOR NEED TO BE AN EMPLOYEE OF A HOME INSPECTOR OR ANY INDIVIDUAL THAT IS IN THE BUSINESS? HOW ABOUT A FRANCHISE THAT IS OWNED BY A REAL ESTATE COMPANY, FOR EXAMPLE?

As stated above, an "associate home inspector" must be employed by a licensed home inspector who supervises the associate's work. Even if a corporation or other form of business is involved, a licensed home inspector must be in charge of any associate home inspector and responsible for that person's work. A "franchise" would have a licensed home inspector that would have to do the work and be responsible for any work done by that inspector or any supervised associate.

The bottom line is that a licensed home inspector must supervise and be responsible for and liable for any work done by the associate home inspector. If this bill passes, in order to be in the "home inspection" business, one must be licensed as a home inspector or be registered as an associate under the supervisor or a licensed home inspector.

I find no conflict or ambiguity in the relationship between a licensed home inspector and an associate home inspector. The licensed person supervises the associate, is responsible for the associate's work and is liable for the associate's work, period.

As to your question about corporations -- if you read my legislation, since an associate home inspector must be employed and supervised by a licensed home inspector, a corporation [which cannot be licensed as a home inspector] would have to employ a licensed home inspector who would then supervise any associates -- in any event under my legislation any and all associate home inspectors MUST be employed and under the supervision of a LICENSED home inspector.

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSHB 27(), Draft Version "F"

1 Page 1, line 14, following "broker":

2 Insert ", associate broker,"

3

4 Page 3, lines 10 - 13:

5 Delete all material.

6 Insert "examination must include a written portion; the examination may, as
7 determined by the board,

8 (A) use testing methodologies in addition to the written
9 portion;

10 (B) test for competency in relation to Alaska construction
11 techniques and other matters;

12 (C) be based on a recognized national examination or other
13 methodology;"

14

15 Page 6, line 7:

16 Delete "commission"

17 Insert "board"

18

19 Page 10, line 6:

20 Delete "interior"

21

22 Page 12, following line 23:

23 Insert new bill sections to read:

24 **** Sec. 8. AS 18.56.300(c) is repealed.**

1 * **Sec. 9.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 APPLICABILITY. The change made by sec. 8 of this Act applies to causes of action
4 that accrue on or after July 1, 2003."
5

6 Renumber the following bill sections accordingly.
7

8 Page 13, line 19:

9 Delete "or"

10 Insert "and"

11

12 Page 14, following line 22:

13 Insert a new bill section to read:

14 **** Sec. 15.** Sections 8 and 9 of this Act take effect July 1, 2003."
15

16 Page 14, line 23:

17 Delete "11 and 12"

18 Insert "13 - 15"

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE ROKEBERG

TO: CSHB 27(), Draft Version "L"

1 Page 3, line 11, following "Qualifications.":

2 Insert "(a)"

3

4 Page 3, line 26:

5 Delete "section"

6 Insert "subsection"

7

8 Page 4, following line 3:

9 Insert a new subsection to read:

10 "(b) A person may register with the board as an associate home inspector upon
11 application, payment of the required fee, and determination by the board that the
12 person

13 (1) within the seven years preceding the date of application, has not
14 been under a sentence for an offense related to forgery, theft in the first or second
15 degree, extortion, or defrauding creditors or for a felony involving dishonesty;

16 (2) has not had the authority to perform home inspections revoked in
17 this state or in another jurisdiction; and

18 (3) is not the subject of an unresolved complaint or disciplinary action
19 before a regulatory authority in this state or in another jurisdiction."

20

21 Page 4, line 16, following ".":

22 Insert "A license that has been suspended expires at the end of the period for which the
23 license was issued, regardless of whether the period of suspension has expired."

24

1 Page 7, line 3:

2 Delete "An"

3 Insert "In addition to the written inspection report required under this section, an"

4

5 Page 7, line 16:

6 Delete "AS 08.57.060(4)"

7 Insert "AS 08.57.060(a)(4) or (b)(1)"

ALASKA STATE LEGISLATURE

House of Representatives

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Representative Norman Rokeberg

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HB 27

CHANGES BETWEEN VERSION "F" AND VERSION "L"

Prepared by Rep. Norman Rokeberg's Office, February 8, 2001

- Page 1, line 14: After "broker", added "associate broker,"
- Page 2, lines 4-7: New language added.
- Page 2, line 13: after "include" DELETED "Alaska or northern".
- Page 3, lines 14: after: "examination;", sentences are reworded through line 22.
- Page 3, line 29: after "extortion," language is reworded through end of line 29.
- Page 3, lines 30-31: New language added.
- Page 4, lines 1-2: New language added.
- Page 4, line 3: "(5)" changed to "(7)" due to addition of new sections.
- Page 4, lines 5-7: After "fee for" DELETED "the intervening time period" and INSERTED: "the period for which the reinstated license will be valid,"
- Page 5, line 8: After "other name" DELETED "unless the individual is also licensed or registered under that name".
- Page 6, lines 17-22: After "private person." Language reworded through line 22.
- Page 6, line 31: After "a written" DELETED "oral"
- Page 7, line 1: After "inspection. The" added "written".
- Page 7, line 3: After "AS 08.57.310(1)." Added "An oral inspection report may be given by the home inspector during or after the inspection."
- Page 7, lines 12-16: Subsections (3) is broken into (3) and (4). (5) is new language.
- Page 7, lines 17-19: Section 08.57.410 has been reworded.
- Page 7, lines 20-22: Language has been reworded.

Page 8, lines 12-13: Language concerning "company" or "companies" has been deleted.

Page 10, line 22: DELETED "interior" in front of "plumbing"

Page 10, lines 27-28: ADDED subsections (G) and (H)

Page 11, lines 12-15: ADDED subsection (9)

Page 13, line 14-18: ADDED new sections 8 and 9

Page 13, lines 25-31: Language changed due to advice of legal counsel. See T. Lauterbach's memo of February 6, 2001, concerning Bradner v. Hammond

Page 14, lines 5, 14, 23, 30: Changed "2003" to "2004"

Page 15, line 12: Changed "2003" to "2004"

Page 15, line 13: ADDED new section 13.

Page 15, line 14: Sectional references changed to reflect new section numbers

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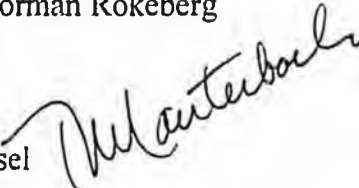
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MEMORANDUM

February 6, 2001

SUBJECT: New Draft CS, version "J"; (CSHB 27(), Home Inspections)

TO: Representative Norman Rokeberg
Attn: Janet Seitz

FROM: Terri Lauterbach
Legislative Counsel 

Enclosed is the new draft CS you requested. I have one question about your drafting instructions and one legal issue to bring to your attention.

The drafting question involves your instruction #14, concerning page 7, line 24. I was unsure if the references to "companies" should be removed throughout this subsection or only in specific places. In this draft, I have removed all references to "companies" in AS 08.57.900(a). Would you prefer to keep the references to "companies" that appeared in paragraphs (1) - (4) and (6) on page 7 - 8 of the "F" version? I'm not sure if they necessarily had to be removed just because the reference to companies was removed on page 7, lines 25 - 28, of draft "F".

As to the legal issue in the draft, it is my opinion that it is likely that sec. 11(a)(2) in the draft, if challenged, would be found by a court to be unconstitutional. This provision allows the executive director of the Alaska Housing Finance Corporation to be a voting member of the Board of Home Inspectors until July 1, 2003. As you know, the Alaska Supreme Court, in *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976), identified the confirmation power of the legislature under art. III, sec. 26, Constitution of the State of Alaska, as the outside limit on the legislature's ability to encroach on the governor's power to appoint subordinate executive officers. Members of boards like the Board of Home Inspectors are subordinate executive officers. By designating that the executive director of AHFC serves on the Board of Home Inspectors, the legislature would be encroaching directly on the governor's appointment power in a way not authorized by the constitution.

I believe a credible argument can be made that AS 08.57.010 is not unconstitutional because the AHFC executive director is not a voting member of the board under that provision. The governor's power of appointment is probably not infringed when a person serves only in an advisory capacity.

Representative Norman Lockeberg

February 6, 2001

Page 2

To avoid the risk of a court finding that part of the bill is unconstitutional, sec. 11(a)(2) and 11(b) would need to be deleted from this draft. In my judgment, AS 08.57.010 may remain in the draft without raising constitutional problems.

I have enclosed a copy of your drafting instructions with margin notes indicating, when not otherwise clearly evident, where the enclosed draft implements your instructions. If I may be of further assistance, please advise.

TML:glc
01-099.glc

Enclosure

22-LS0136\L
Lauterbach
2/8/01

CS FOR HOUSE BILL NO. 27()

**IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION**

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE ROKEBERG

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the licensure and registration of individuals who perform home**
2 **inspections; relating to home inspection requirements for residential loans purchased or**
3 **approved by the Alaska Housing Finance Corporation; relating to civil actions by and**
4 **against home inspectors; and providing for an effective date."**

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

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

7 **Chapter 57. Home Inspectors.**

8 **Article 1. Board of Home Inspectors.**

9 **Sec. 08.57.010. Creation and membership of board; expenses.** (a) There is
10 created the Board of Home Inspectors consisting of five voting members and one
11 nonvoting member. Three voting members shall be licensed under this chapter and
12 shall have been engaged in the practice of home inspection in the state for three years
13 immediately preceding appointment, one voting member shall be a licensed real estate
14 broker, associate broker, or certified real estate appraiser, and one voting member shall

1 be a public member. The executive director employed by the Alaska Housing Finance
2 Corporation under AS 18.56.052, or a designee of the executive director, shall serve
3 ex officio as a nonvoting member of the board.

4 (b) The transportation expenses and per diem to which the nonvoting member
5 is entitled under AS 08.01.040 are the responsibility of the Alaska Housing Finance
6 Corporation and are not a regulatory cost of the board or the department under
7 AS 08.01.065(c).

8 **Sec. 08.57.020. General duties; powers.** (a) The board shall

- 9 (1) administer and enforce this chapter;
10 (2) regulate the practice of home inspection;
11 (3) establish education and experience requirements that must be met
12 for licensure under this chapter; the requirements established by the board must
13 include education or experience in Arctic construction or building;
14 (4) establish standards for continuing education of licensed home
15 inspectors;
16 (5) adopt a code of ethics for licensed home inspectors; and
17 (6) in addition to the meeting required under AS 08.01.070(2), meet
18 when requested by a majority of the voting members of the board.

19 (b) The board may adopt regulations to implement this chapter.

20 **Sec. 08.57.030. Meetings; quorum.** The board may meet by teleconference.
21 Three voting members constitute a quorum of the board.

22 **Article 2. Licensure.**

23 **Sec. 08.57.050. Licensure required.** (a) Unless exempt under AS 08.57.920
24 or serving lawfully as an associate home inspector under (b) of this section, an
25 individual may not perform a home inspection

26 (1) for new construction unless that individual is licensed as a home
27 inspector for new construction under this chapter;

28 (2) for previously occupied construction unless that individual is
29 licensed as a home inspector for previously occupied construction under this chapter.

30 (b) Notwithstanding (a) of this section, an individual who is not licensed under
31 this chapter may perform a home inspection as an associate home inspector if the