

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 86/2

10348 HOUSE LABOR & COMMERCE

Section 3, page 4 line 23 to page 5, line 1

This part of section 3 allows corporations to stop sending meeting notices, annual reports, or proxy statements to shareholders if an annual report and proxy statements for two consecutive annual meetings or two dividend and interest payments or confirmations are returned undeliverable. Since these must occur in the "preceding 12 months" (see page 4, line 27), it is not likely that the described events would take place in 12 months.

Even if this inconsistency is corrected by changing 12 to 24 months or by associating the 12-month limitation only with returned interest and dividend payments, this issue should be viewed in larger terms. Independent shareholders have long complained that mailing lists they receive from corporations are out of date and result in undeliverable mailings. Corporations often countered this complaint by asserting that their shareholders were very mobile, and, with normal delays, there are always a significant number of them who have moved away from the address on the corporation's record. Assuming the corporations' assertions are true is it wise to stop sending notices and proxy materials to shareholders on the basis of undelivered items. If so, are two enough? We think not.

Also, it appears inconsistent to the division that a bill that seeks to allow corporations to communicate electronically would require shareholders to provide their current addresses only by written notice (see page 4, lines 24-25). While nobody wants to make it easy for third parties to cause an address change on the books of the corporation, it appears inconsistent for corporations to be certain of the recipients on materials they send or of shareholders that vote electronically, yet require written statements to correct an address.

Finally, this raises the question, what if the incorrect addresses are the result of errors made by the corporations? Is that a reason to stop sending materials entirely? We think not. Indeed, if corporations stop sending materials, except as it affects a quorum, it reduces their incentive to get updated address information from shareholders.

Section 4, page 5, lines 8-19

This section allows proxy voting to be conducted electronically, if it includes "information that demonstrates that the shareholder authorized the transmission." What information would that be? Presumably it would be left up to corporations to cover that in their bylaws, and each one could be different. Depending on how the bylaws read, this requirement could make it impossible for independent shareholders to conduct proxy solicitations electronically. Independents are not in a position to establish PIN (Personal Identification Numbers) systems to allow for receiving electronic proxies. PINs are useless if they are widely known, so it would not be likely that corporations would share this information with independent shareholders. Yet, this would give incumbent solicitations the ability to receive proxies at the last possible minute.

The division has had major investigations, though not many in number, in the past concerning allegations of forgery and fraud with respect to proxy voting. It conducted extensive investigations and found in one case that fraud by a hired solicitor was conducted and in another case persons other than the shareholders signed a sizable percentage of proxies, but there was no fraud. In the latter case, it was found that some relatives executed proxies, but with knowledge

and agreement of the shareholders who often were away on fishing or hunting trips. Electronic voting will not mean an end to third-party execution of proxies. But, it will make future investigations of alleged fraud much more difficult.

Section 7, page 6, lines 3-8

The definition of a proxy is amended to include an electronic transmission, but they both must be signed, and the definition of signed requires a manual signature. That appears inconsistent, unless "manual signature" is defined to include a PIN, and electronic digital signature, or some other method.

Section 8, page 6, lines 9-13

The definition of an electronic transmission is very broad, but also defined in terms of transmissions that "may" be retained, retrieved, and reviewed by a recipient and that "may" be directly reproduced in paper form through an automated process. However, there is no guarantee that the corporations will take any steps to ensure individual recipients actually can accomplish those things. The division has long provided forms in various formats on its web site, but still receives calls from people with computers who for some unknown reason cannot download the form.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 418
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title Electronic Proxy Voting & Notification BRU Banking, Securities & Corporations(115)
 Component Banking, Securities & Corporations
 Sponsor House Labor & Commerce by Request
 Requester House Labor & Commerce Component No. 1233

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	59.7					
Travel	26.5					
Contractual	12.0	7.0				
Supplies	1.0					
Equipment	4.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	103.2	7.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 RSS	103.2	7.0				
TOTAL	103.2	7.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time	1					
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 10.06 related to domestic and certain foreign corporations related to the delivery of annual reports, proxy and other information to shareholders via most any electronic means. It also allows electronic proxy voting. Since the division regulates proxy solicitations of larger ANCSA corporations, it will need to completely revise its proxy regulations. Extensive meetings with shareholders and corporation officials will be needed. This activity will cost \$23.5 in FY03 and could take two years before final regulations are adopted. The bill will also result in an increase in the number of proxy complaints and in the complexity of the investigations. BSC anticipates at least an additional 10-20 complaints a year. This increased workload will require an additional Investigator III for a total annual cost of \$79.7, bringing the total cost to \$103.2. In FY04, notice costs of the final regulations and printing will total \$7.0.

Prepared by: Franklin T. Elder, Director Phone 465-2521
 Division Banking, Securities & Corporations Date/Time 2/27/02 12:08 PM
 Approved by: Deborah B. Sedwick, Commissioner Date 2/27/2002
 Agency Department of Community & Economic Development

AMENDMENT

OFFERED IN THE HOUSE LABOR AND COMMERCE COMMITTEE BY _____
TO: HB 418

1. Page 2, line 13:

Delete “, in the absence of fraud,”

2. Page 2, line 29, following “share an address”:

Insert “and who reside at the same physical location”

3. Page 4, lines 26-27:

Delete “during the immediately preceding 12 months”

4. Page 4, line 31, before “at least”:

Insert “over a 12-month period,”

5. Page 4, line 31, following “or”:

Insert “two”

6. Page 5, following line 19, insert a new section (5) to read as follows:

Insert “AS 10.06.420 is amended by adding a new subsection to read: (j) If the corporation adopts rules to provide for the voting by proxy executed by electronic transmission, the rules shall provide that all legally qualified proxies may be voted in the same manner as the corporation’s proxy.”

Renumber the following bill sections accordingly.

7. Page 5, lines 20-22:

Delete all material.

Renumber the following bill sections accordingly.

8. Page 5, line 27, following "person;":

Insert " or"

9. Page 5, line 28 through page 6, line 2:

Delete all material and replace with "(3) by electronic transmission, or by a posting on an electronic network together with a separate notice of the specific posting to the shareholder, if the corporation has received from the shareholder a writing or an electronic transmission that includes information demonstrating that the electronic transmission was authorized by the shareholder authorizing delivery of annual reports by electronic transmission or electronic posting."

10. Page 6, lines 6-8:

Delete " "signed" for the purpose of this paragraph, means the placing of the shareholder's name on the proxy by manual signature by the shareholder or the shareholder's attorney-in-fact;"

11. Page 6, following line 13, add a new section (9) to read:

"(50) "signed" as it relates to proxies in this chapter means the placing of the shareholder's name on the proxy by manual signature by the shareholder or the shareholder's attorney-in-fact, or by electronic means that clearly demonstrate that the shareholder has authorized the placing of the shareholder's name or the name of the shareholder's attorney-in-fact on the proxy."

12. Page 6, following the new section above, add a new section (10) to read:

"The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. Notwithstanding sec. 11 of this Act, the Department of Community and Economic Development may immediately proceed to adopt regulations necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedures Act), but not before the effective date of the statutory changes."

13. Page 6, following the new section above, add a new section (11) to read:

"This Act takes effect January 1, 2003"

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CS HB 418 (L&C)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title Electronic Proxy Voting & Notification BRU Banking, Securities & Corporation (115)
Component Banking, Securities & Corporation
Sponsor House Labor & Commerce by Request
Requester House Labor & Commerce Component No. 1233

Expenditures/Revenues (Thousands of Dollars)

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

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Equipment						
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Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 10.06 related to domestic and certain foreign corporations related to the delivery of annual reports, proxy and other information to share holders via most any electronic means. It also allows electronic proxy voting. This bill has no fiscal impact on the operations of the division.

Prepared by: Franklin T. Elder, Director Phone 907-465-2521
Division Banking, Securities & Corporations Date/Time 3/4/02 2:56 PM
Approved by: Deborah B. Sedwick, Commissioner Date 3/4/2002
Agency Department of Community & Economic Development

HB

424

ALASKA STATE LEGISLATURE

HOUSE JUDICIARY COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Scott Ogan, Vice-Chairman
Representative John Coghill
Representative Jeannette James
Representative Kevin Meyer
Representative Ethan Berkowitz
Representative Albert Kookesh



State Capitol
Juneau, AK 99801-1182
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Fax: (907) 465-2040

Heather M. Nobrega
Counsel to Committee

Sponsor Statement for HB 424

HB 424 has been introduced by the House Judiciary Committee to clarify several issues in the title insurance industry.

Currently, a title insurance company is required to own and maintain a "title plant." A title plant consist of adequate maps and fully indexed records showing all instruments of record affecting all land within a recording district for a period of at least 25 years. AS 21.66.200 sets out the requirements for a title plant.

In order to be efficient and cost effective, several title companies may work together and create one title plant where each title company can access the records to research the title for a piece of property. This is called a "joint title plant." At present, the requirements for a joint title plant are not as clearly set out in statute as they could be.

HB 424 sets out three changes to the title plant provisions:

1. Increases the period of years for the retention of title plant records from 25 years to 40 years.

Now that the state has gotten older, it makes sense to better protect the public from older interests in real estate that might otherwise not be found in the shorter 25-year search formerly required. It also brings Alaska more in line with other states' title plant laws.

2. Allows title insurance agents (limited producers) or the underwriter (title insurer) to own the title plant.

At this point, no title insurer (underwriter) owns 100% of a direct operation here in Alaska. Thus we will not require a title insurer to own a title plant here, as long as their agents do.

3. Requires joint title plants to meet the requirements for title plants set out in AS 21.66.200.

This will clear up any confusion on the issue of whether a title company is required to own a title plant. Whether a title company chooses to operate with a joint title plant, or their own title plant, that title plant must meet the requirements of AS 21.66.200. This also brings Alaska into conformity with the rest of the states with title plant laws.

The committee urges your support of this bill.

ALASKA STATE LEGISLATURE

HOUSE JUDICIARY COMMITTEE

Representative Norman Rokeberg, Chairman
Representative Scott Ogan, Vice-Chairman
Representative John Coghill
Representative Jeannette James
Representative Kevin Meyer
Representative Ethan Berkowitz
Representative Albert Kookesh



State Capitol
Juneau, AK 99801-1182
Telephone: (907) 465-4990
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Heather M. Nobrega
Counsel to Committee

Sectional Analysis for HB 424

Section 1: Allows either a title insurance limited producer (i.e., an agent), or a title insurance company to own and maintain the title plant.

Increases the period of years for retention of title plant records from 25 years to 40 years.

Section 2: Requires joint title plants to meet the same requirements for title plants set out in AS 21.66.200.

Section 3: Allows either a title insurance limited producer, or a title insurance company to invest in a title plant.

Allows either a title insurance limited producer, or a title insurance company to enter into agreements with other title insurance companies to participate in the use, ownership, management or control of a joint title plant.

Subject: Re: Request from Rep. Rokeberg

Date: Wed, 20 Feb 2002 11:22:43 -0900

From: Sharon Young <sharony@dnr.state.ak.us>

To: Heather Nobrega <Heather_Nobrega@legis.state.ak.us>

CC: nicob@dnr.state.ak.us

To: Rep. Rokeberg, Chairman
House Judiciary Committee

Dear Representative Rokeberg:

In response to Ms. Nobrega's inquiry, the Recorder's Office has no authority to indicate whether or not our records can be used for title insurance purposes. It is my understanding that the Division of Insurance has previously taken the position that under Alaska law (AS 21.66.200) a title insurer must own and maintain its own 25-year title plant consisting of adequate maps and fully indexed records of all documents affecting land in the particular district in which it operates. If this is true, then the public record maintained by the State could not be used for title insurance purposes because it is not owned, maintained and fully indexed by the title insurer.

If the Division of Insurance were to consider allowing title insurance companies to utilize the public records as a title plant, there are a number of other factors affecting accuracy and completeness that would have to be considered, including but not limited to the following:

1. Documents are indexed into the public records exactly as they are presented including possible spelling errors or other erroneous information as presented on the document.
2. Until 1996, the location index was a courtesy index only. The official index was the Grantor/Grantee index, and location indexing was only performed when recording offices had sufficient time and resources to do so. Searches involving location indexing should not be relied upon for accuracy due to the many gaps and omissions that appear in the historic data.
3. Many indexing variations occurred over the years, and researchers must check all possible variations of a name, variations in spelling, and other indexing differences. Extensive Search and Index Guidelines are posted in our offices and on our web site in an effort to alert customers to the many indexing variations that appear in the historic data. In the past, some recording offices may have utilized indexing procedures that may or may not have been used in other locations, resulting in inconsistencies in the historic indexing database.
4. Due to system constraints of the private contractor's system utilized prior to 1999, not all grantor/grantee/locations could be physically indexed into the database. The prior system would not allow recorders to index more than 999 lines of legal descriptions or grantor/grantee names on a single document. Many documents, particularly tax foreclosures or other lien documents, containing thousands of names or legals are therefore incompletely indexed in the historic database. In 1999 the state implemented its own indexing system and all incoming documents can now be indexed in their entirety, regardless of the number of names or legals contained in the documents.
5. Alaska's recording system is permissive, not mandatory. Many documents involving real estate are not recorded and do not appear in the public records.

In their own title plants, title companies may arrange records by specific tract or supplement their indexing to correct spellings or reflect additional information not shown in the public record. The public record is a chronology of millions of documents that have been accepted and recorded over the years, and certainly is used for research by tens of thousands of customers each year. However, whether or not it meets the statutory requirements to utilize for title insurance purposes is not an issue we can address and we leave that determination to the Division of Insurance. If you have any questions, do not hesitate to contact me.

17. Indexing cities and towns.

The historical index contains no consistency in indexing such names. The City of Cordova may have been indexed under "The", under "City" or under "Cordova". Exhaust all possibilities in your search. Currently, these names are only indexed one way, under the actual town or city name only (Cordova City of).

18. Names beginning with initials.

AAA Auto may have been indexed into the historical files in many ways: under AAA, under A A A, under A.A.A., under Triple A, etc. Always search all variations. Currently such names are indexed one way only, exactly as it appears on the document. Be sure to check all variations.

20. Names beginning with "Ft.", "St.", etc.

Historically, names beginning with "Ft." or "St." were entered into the index under "Fort" or "Saint". Since 1996, these names are entered exactly as they appear on the document, and could appear in the index under either location.

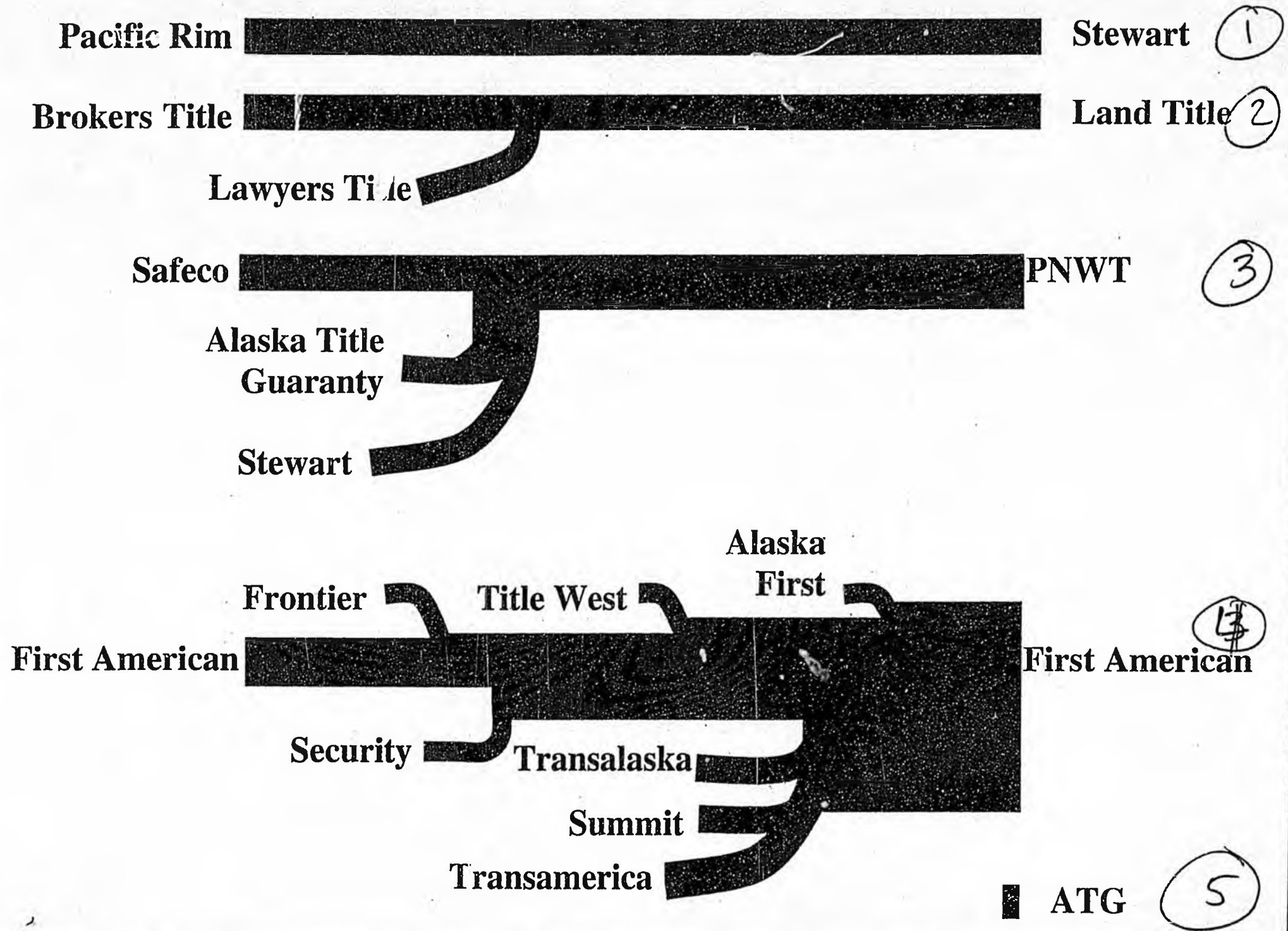
SEARCHING THE LOCATION INDEX

NOTE: THE LOCATION INDEX HAS HISTORICALLY BEEN A COURTESY INDEX ONLY. LEGISLATION TO MANDATE LOCATION INDEXING TOOK EFFECT JULY 1, 1996. SEARCHES INVOLVING THE LOCATION INDEX SHOULD NOT BE RELIED UPON FOR ACCURACY DUE TO THE MANY GAPS AND OMISSIONS THAT APPEAR IN THE HISTORIC DATA. LOCATION INDEX INFORMATION IS ENTERED EXACTLY AS IT APPEARS ON THE DOCUMENT. ANY INFORMATION OBTAINED FROM THE LOCATION INDEX SHOULD BE VERIFIED BY REVIEWING THE ACTUAL DOCUMENT IMAGE.

CAVEAT: Many local recording offices implemented indexing guidelines from time to time that may or may not have been used in other locations throughout the state. The above represents our best effort at consolidating and itemizing these many indexing variations that were used over the years. We hope this information is helpful to you.

State Recorder's Office
Department of Natural Resources
550 W 7th Ave, Suite 1210
Anchorage AK 99501-3564

Evolution of the Anchorage Title Industry



THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

CURRENT NAME

First American Title of Alaska
3035 C Street
Anchorage, AK 99503
(907) 561-1844

McKinley Title
TransAmerica Title (Valley)
1st American Title (Wasilla)
Alaska 1st Title
Valley Title
Lawyers Title Agency (Valley)

Pacific Northwest Title
3201 C Street #110
Anchorage, AK 99503
(907) 561-5122

Land Title
3150 C Street #220
Anchorage, AK 99503
(907) 563-5263

Stewart Pacific Rim Title
307 E. Northern Lights
Anchorage, AK 99503
(907) 274-2562

Mat-Su Title
951 E. Bogard Road
Wasilla, AK 99654
(907) 376-5294

McKinley Title
1700 E. Parks Hwy
Wasilla, AK 99687
(907) 376-2220

Kachemak Bay Title
3691 Ben Walters Lane #1
Homer, AK 99603
(907) 235-8196

Fairbanks Title
714 3rd Avenue
Fairbanks, AK 99701
(907) 456-6626

Yukon Title
714 Gaffney Road
Fairbanks, AK 99701
(907) 452-2193

Alaska Title
P.O. Box 5040
Ketchikan, AK 99901
(907) 225-9077

Southeastern Title
210 Lake Street
Sitka, AK 99835
(907) 747-3278

FORMER NAMES

Alaska First Title Insurance Agency, Inc.
Alaska Title & Escrow Agency
Alaska Title Guaranty Agency, Inc. (Palmer & Kenai Peninsula)
Alaska Title Guaranty Company (Palmer)
Bay Title
Beluga Title Insurance Agency, Inc.
Cook Inlet Title Insurance Agency, Inc.
Credit Union Title Insurance
Forget-Me-Not Reconveyance
Homer Title Insurance Agency, Inc.
Juneau Title & Escrow Agency, Inc.
North Pacific Title
Northwest Title
Peninsula Title Insurance Agency, Inc.
Pioneer Title Insurance Agency, Inc.
Security Title and Trust Agency of Alaska
Security Title and Trust Company of Alaska
Seward Title Insurance Agency, Inc.
Summit Title Insurance Agency, Ltd.
Title Insurance & Trust Company of Alaska
Title West, Inc.
TransAlaska Summit First American Title Insurance Agency
TransAlaska Summit Title Insurance Agency
TransAlaska Title Insurance Agency, Inc.
TransAmerica Title Insurance Company (Anchorage)
Valley Abstract Company
Valley Title Insurance Agency, Inc.

Alaska Title Guaranty Agency, Inc. (Anchorage)
Pioneer National Title Insurance Company
Safeco Title Insurance Company, Inc.
Safeco Title Agency, Inc.
Stewart Title Company of Alaska (up to November 1998)
Ticor Title Insurance Company

Brokers Title, Inc.
Lawyers Title Insurance Agency, Inc. (Anch.)

Pacific Rim Title Insurance Agency, Inc.
Stewart Title Company of Alaska (after November 1998)

Chicago Title Insurance

Frontier Title & Trust Company
TransAmerica Title Insurance Company (Mat-Su Valley)

Alaska Title Guaranty Agency, Inc. (Homer)
Alaska Title Guaranty Title Company (Homer)
Ticor Title Insurance Company

Alaska Guaranty Agency, Inc. (Fairbanks)
Triad Title, Inc.

Denali Title & Escrow Company
TransAlaska Title Insurance Agency, Inc. (Fairbanks)
TransAmerica Title Insurance Company (Fairbanks)

Dock Street Title
TransAmerica Title (Ketchikan)

Alaska Title Guaranty Agency, Inc. (Southeast)
Pioneer National Title Insurance
Ticor Title Insurance Company (Southeast)

Linda Kelley
@ M.S. Perez
745-9635

* = First American = 5
O = partner of FA
in AJTP . 2
7
out of 13

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*

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Fx: 907-561-1948

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BYLAWS-Mark Tomlinson-Bryan Merrell-Mike Jausoro
WAYS AND MEANS/PUBLIC RELATIONS-- Tim Hurley- Chris Rodriguez
LEGISLATIVE-Mary Ann Rowe, Jeff Blake, Bryan Merrell, Terry Bryan-
CONVENTION-Sheila Bader, Crystal Peltola, Colleen Gordon
EDUCATION-Crystal Peltola, Bryan Merrell, Sheila Bader
TITLE CHAT NEWSLETTER-Denise Croghan, Mark Tomlinson, Jeff Blake
NOMINATIONS-Jeff Blake, Chris Rodriguez Bryan Merrell
WEB SITE-Wes Keller-Chris Rodriguez
SCHOLARSHIP-Mary Ann Rowe-Bryan Merrell-Sheila Bader-Tim Hurley
MEMBERSHIP-Mark Tomlinson-Mike Jausoro-Crystal Peltola
ASSOCIATE INDUSTRY REPS-Terry Bryan-Jeff Blake

3 of 4

Alaska Land Title Association
P.O. Box 241811
Anchorage AK 99524-1811

Mary Ann Rowe
Secretary Treasurer

Website: alaskalandtitle.com

EXHIBIT 1

EXAMPLES OF TITLE PLANT ISSUES

1. First Americans' Security Title Plant uses the state recorder's tract book location index exclusively for subdivided land from 1915 through 1968, without a backup grantor/grantee index.

2. The old Transamerica Anchorage plant used by Transalaska (First American), is known for its many indexing variations, not the least of which was its incomplete and misunderstood Assignment and Reconveyance Index which was its only search method for certain documents recorded for most of the 1980s.

3. First American's Palmer and Talkeetna plants, which are posted in Kenai and accessed over the Internet, are so poor in the section land searches that in my 14 months working as their manager, the examiners always had to back-up their work with a search of the Public Recorder or Motznik indices.

4. McKinley Title's plant is not even posted. It is a paper system in which documents are literally stuffed into file folders and can fall between the cracks.

5. Land Title, which does most of the business in rural areas of the state, only has a plant for Anchorage and relies on Motznik and the public records in all the other areas.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 424
() Publish Date: _____

Revision Date/Time (Note if correction): 4/5/2002 10:21 AM Dept. Affected: DCED
Title An Act relating to title insurance; and providing BRU Insurance (116)
for an effective date _____ Component Insurance Operations
Sponsor House Judiciary
Requester House Labor & Commerce Component No. 354

Expenditures/Revenues (Thousands of Dollars)

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Equipment						
Land & Structures						
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TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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1037 GF/Mental Health						
1156 Receipt Supported Services	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time	0	0	0	0	0	0
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 424 would change the ownership and content requirements for title plants and joint title plants formed under AS 21.66. The proposed changes in the bill would require the Division of Insurance to examine/inspect each title plant Insurance (under authority of AS 21.66.120) to determine compliance with the new provisions of the chapter, and may also require the division to re-certify each title plant. Based on ten physical title plants in Alaska, with each examination/inspection would probably take two examiners three days to prepare, three to five days on-site and three days for preparation of the report, with the draft and final report being reviewed by the examination supervisor. Since some examinees will be "title insurance limited producers", AS 21.06.160 prohibits charging back the examination costs to an "insurance producer" (21.06.130).

The Governor's operating budget includes a new position in Market Conduct. This position is funded in the House-passed budget. Therefore the cost of this fiscal note would be absorbed by the Division.

Prepared by: Robert A. Lohr, Director Phone 269-7300
Division Insurance Date/Time 4/5/02 10:21 AM
Approved by: Deborah B. Sedwick, Commissioner Date 4/5/2002
Agency Department of Community & Economic Development



First American Title Insurance Company

3035 "C" Street Anchorage, Alaska 99503
Telephone (907) 561-1844 Facsimile (907) 561-1948

February 19, 2002

Members of the Alaska Legislature

Re: HB424, Sponsor Letter

First American Title Insurance Company is the largest underwriter of title insurance in the State of Alaska. First American has agents located throughout Alaska, and has been active here since 1965. This letter is written in support of House Bill 424, relating to title insurance, and specifically to title insurance plants. This bill has the support of the title insurance industry in Alaska, and was prepared at the request of the Alaska Land Title Association, which is a trade association consisting of nearly all of the title insurance agents and underwriters active in Alaska.

The bill has two main goals. First, more in accord with other states, it would require that a title plant (that is, the real property records maintained for search and examination by title insurance agents and underwriters) have records for at least 40 years. For the most part, title insurance agents maintain plants with records all the way back to origination of title. The law in its present form is far short of the requirements in other states with such laws (for example, Oregon's law requires 50 years of records, and Washington's law requires complete records from origination of title). This would protect consumers better by requiring that more complete set of records be maintained. Most voluntary mortgage documents (deeds of trust), for example, have 30-year terms, and might not be reflected in a 25-year title plant.

Second, the bill seeks to clarify some ambiguities in the current title insurance code relative to ownership of title plants, and the required contents therein. The new law would allow either a title agent or underwriter to own a title plant, and would clarify that all title plants, whether owned by one entity or jointly by several, would have to have sufficient maps, indices and related documents to meet the industries' understanding and practice in maintenance of such records. This again will protect the public and make the law easier for the Division of Insurance to regulate and enforce.

Member of the Alaska Legislature
February 19, 2002
Page 2

We urge you to support this bill. If there are any questions or concerns, please do not hesitate to contact the undersigned.

Very truly yours,

FIRST AMERICAN TITLE INSURANCE CO.

Bryan S. Merrell
State Counsel & Underwriter

cc:

**Attorneys Title Guaranty Agency, Inc.
3501 Denali St. Suite 205
Anchorage, Alaska 99503**

569-2842

February 27, 2002

Representative Lisa Murkowski
State Capitol, Rm. 408
Juneau, AK 99801-1182

Re: HB 424 Judiciary Committee
Title Insurance

Dear Representative Murkowski:

I represent the two companies that would be put out of business by HB 424 -- Attorneys Title Guaranty Agency, Inc. (ATGA) and Attorneys Title Guaranty Services, LLC (ATGS).

AS 21.66.200 requires title insurance companies to have a "title plant" -- copies of 25 years' worth of public records -- to use in preparing title searches. However the following section, AS 21.66.210, allows title companies, acting together, to create a "joint title plant company," and then authorizes that company to use the public records to perform title searches.

Both statutes were passed in 1974 and have remained essentially unchanged since then. Over the years, the title industry has overlooked Sec. 210 and maintained expensive, redundant title plants. The number of title companies in Anchorage has dwindled, and there is no price competition.

Last summer we created ATGA, a title agency, and ATGS, a joint plant company that uses Motznik and the public records for our title searches pursuant to Sec. 210. Since we did not have the expense of copying and maintaining 25 years' worth of public records (many millions of pages) we asked the Division of Insurance (DOI) for a 10% reduction in our rates, compared to the other title companies. DOI disallowed the reduction until we developed an operating history.

ATGA is fully operational and is underwritten by Old Republic, one of the nation's largest title companies. Pat Lamb, the President, has over 25 years of experience in the Alaska title industry. Like every other title agency, if we make a mistake, our underwriter is there to protect the homeowner. So far we have issued several hundred policies without incident.

Our use of the public records did not sit well with some existing title companies. First American, with over 58% of the Anchorage market, filed a protest with DOI. Then they sued DOI to try to force the state to rescind our certificate of authority. Meanwhile DOI issued a cease and desist order against Old Republic (not ATGA or ATGS), based on the title plant provisions of Sec. 200. Both the lawsuit and the cease and desist order are wending their ways through the court and administrative process, respectively.

In a further effort to put ATGA and ATGS out of business, First American is also pushing HB 424, which would remove the right to use the public records, trump both the lawsuit and the administrative proceeding, and immediately put both companies out of business. This is an attempt to get the legislature to intervene in the role of the courts and the administrative process, in favor of First American.

There is no valid public policy reason to eliminate use of the public records for title searches. The public records work perfectly well. DOI examined our operations and found that we pose no risk to the consumer. Old Republic has examined our operations and found that we meet all their underwriting guidelines.

What if law firms had to maintain a private law library that replicates the public law library at the courthouse? What would happen if you passed a law requiring auto insurance agents to make a copy of 25 years' (the bill would raise it to 40 years') worth of DMV records?

I have conducted a nationwide examination of statutory title plant requirements. A summary is attached. 39 states plus the District of Columbia and Puerto Rico have no title plant requirement. Only five states require the kind of redundant title plant that HB 424 would mandate for Alaska.

In 1974 there were good practical reasons for a title plant. Over the years, the Public Recorder has steadily improved technology and access to the public records. At this point, there is no public policy reason at all for Alaska to still require a title plant. Alaska law should reflect current technology and encourage competition. This bill would be a step backwards, to 1974 technology - a time when the memory typewriter was the state of the art.

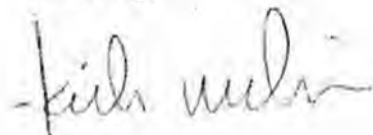
The only reason for this bill is to put our little title agency out of business and ensure that no one will ever be able to afford to enter the business in the future. Based on the track record of the preexisting title companies like First American, if this bill passes the consuming public can expect no price competition in the future.

I urge you to oppose HB 424. The public is fully protected by existing law and our underwriter. The bill is anticompetitive, private interest legislation that is designed only to win First American's lawsuit against the state and protect it from modern, efficient competition.

If you have further questions please contact our lobbyist Tim Kelly at 244-4487, Pat Lamb (the President of both ATGA and ATGS) at 569-2842, or me at the above number. Thank you very much for your attention to this matter.

*Thank you for
taking the time to
meet with us.*

Sincerely,



Kirk Wickersham
Attorney at Law

Enclosure

**Attorneys Title Guaranty Agency, Inc.
3501 Denali St. Suite 205
Anchorage, Alaska 99503**

569-2842

March 4, 2002

Chair,
House Labor and Commerce Committee

Re: HB 424 Judiciary Committee
Title Insurance Plants
Sponsor Summary Reply

Dear Madam Chair:

I have been asked to respond to the sponsor statement for HB 424 and explain the role and use of a title plant in issuing title insurance.

I have 25 years' experience as a title examiner, escrow officer, manager and owner of title agencies in Alaska. I have built¹ title plants for several title companies. I have used a wide variety of title plants throughout Southcentral Alaska, including the Alaska Joint Plant used by First American. As President of ATGA and its title plant company, Attorneys Title Guaranty Services, since their inception last August, I have exclusively used the Anchorage Public Recorder's office for over two hundred title searches that resulted in title insurance policies.

The first step in the title process is to look up the documents that affect title to the property, using Motznik, the Public Recorder's on-line index system, or the index system in a title plant. Then a clerical person makes copies of those documents – either at the Recorder's Office or at the title plant. Then an experienced title examiner reviews the documents and prepares a preliminary commitment for title insurance – a "prelim" – that is delivered to the buyer.

If title is acceptable to the buyer, the transaction closes and the escrow officer pays off the seller, the seller's mortgage and other encumbrances. Then we go to the Recorder's Office, check to make sure nothing new has been recorded against the property, and record the buyer's deed and mortgage. Finally, we issue the new title policy to the buyer and his lender.

This is an insurance policy, not merely an abstract of title. If the title examiner has made a mistake, the underwriter would have to defend and/or pay the homeowner's

¹ "Building" a title plant means making a copy of each document going back 25 years. In Anchorage, that is 10,800,000 pages. The bill would extend that to 40 years.

claim. If the title examiner makes too many mistakes, the underwriter can fire the title agency, but the underwriter is still liable for the policies it issued.

There are only two steps in this process where other title companies use their title plants and we use the public records. The first is finding the documents. We use Motznik. About 1984 the Division of Insurance examined Motznik and found that it met state standards.

In my opinion Motznik is acceptable when used by an experienced title examiner. Most importantly, our underwriter, who is taking the financial risk, also agrees that Motznik is acceptable, as does DOI. Most other title agencies either use, or supplement their own index with, Motznik.

The other use of a title plant is to make Xerox copies of the documents. While First American values its 1/3 interest in the Alaska Joint Plant at over \$1,000,000, in fact is basically nothing more than a copy of the public records and a facility for making Xerox copies. The Public Recorder's Office is just as good as the Alaska Joint Plant for making Xerox copies,² and costs 25 cents per page.

With Motznik, and improvements in the Public Recorder's Office, at this point there is absolutely no reason for the state of Alaska to require a title plant at all. 39 other states have no such requirement.

Until last summer, all the title companies in Alaska followed AS 21.66.200 and maintained title plants at the cost of millions of dollars. This cost has prohibited new competition and kept rates unnecessarily high. We entered business last summer under AS 21.66.210, using Motznik and the Public Recorder. By not investing \$1,000,000 in a redundant copy of the public records, we will be able to offer lower rates to the consumer.³ Again, there is no risk to the public. If we make too many mistakes, our underwriter will put us out of business.

With specific reference to the sponsor statement for the bill:

1. Increases the period of years for the retention of title plant records from 25 years to 40 years. The sponsor claims that this provision will protect the public from "older" interests in real estate that may not be found in a shorter 25-year search, and that this brings us in conformance with other states' title plant laws. The sponsor confuses title plant requirements with title search requirements found in AS 21.66.170. Only one company has attempted to build a 25-year title plant since this law was passed in 1974. In truth, this proposal has only one purpose: to pile on a few million more redundant copies and ensure that no one could ever again afford to build a title plant, leaving the market to First American and its sister companies.

² But parking is not as good!

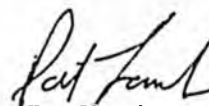
³ We have already put in for a rate reduction and been turned down by DOI, but we will try again.

2. Allows title insurance agents or the underwriter to own the plant. This happens in practice already. DOI has never made an issue of it, this issue is irrelevant.

3. Requires joint plants to meet the requirements for title plants set out in AS 21.66.200. The sponsor claims this will clear up confusion. In fact, the sole purpose of this provision is to create a victory for First American in its litigation and the administrative proceeding, and make our company illegal. By precluding use of the public records, this proposal sends the industry backwards, mandating old technology and reducing competition, and precluding price competition. It only serves the existing title companies and hurts new agencies like us, and the consuming public. Contrary to the sponsor statement, this would not bring us into conformance with the rest of the states. 39 states, the District of Columbia and Puerto Rico have no title plant requirement at all. Only five states place this degree of burden on their title agencies.

Thank you for your consideration. Please contact me if you have any questions about this bill.

Sincerely,

A handwritten signature in cursive script, appearing to read "Pat Lamb".

Pat Lamb
President

ALASKA LAND TITLE ASSOCIATION

P.O. Box 241811 • Anchorage, Alaska 99524

MAR 04 2002

February 27, 2002

Honorable Norman Rokeberg
Room 118
State Capitol
Juneau, Alaska 99801-1182

Re: House Bill 424 (Title Insurance and providing an effective date)

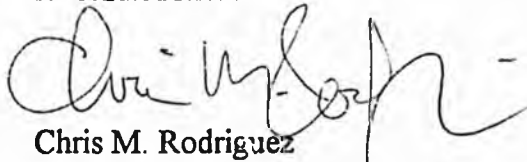
Dear Representative Rokeberg:

The Alaska Land Title Association consists of the vast majority of all active title insurance agents and underwriters of real property title insurance in the State of Alaska. This letter is written in support of House Bill 424, relating to title insurance. We have prepared House Bill 424 for the purpose of improving the quality of service we provide as an industry to our consumers, and to clarify certain aspects of the law relating to title insurance plants.

We offer our full support of House Bill 424. If you have any questions or concerns, please do not hesitate to contact the undersigned.

Very truly yours,

ALASKA LAND TITLE ASSOCIATION



Chris M. Rodriguez
President



ALASKA ASSOCIATION OF REALTORS, INC.
741 Sesame Street, Suite 100 • Anchorage, Alaska 99503
Telephone 907-563-7133 • Fax 907-561-1779

February 25, 2002

FEB 27 2002

Representative Norm Rokeberg
State Capitol
Juneau, Alaska 99801-1182

RE: HB 424 – An Act relating to title insurance

Dear Representative Rokeberg,

The Alaska Association of REALTORS with over 1,100 members statewide supports House Bill 424 which would require that a title plant have records for at least 40 years. We believe this would protect consumers better by requiring that a more complete set of records is maintained by the title plant.

The Association believes that the bill would clarify some ambiguities in the current title insurance code relative to ownership of title plants and the required contents therein. We are in agreement that the title plants should have sufficient maps, indices and related documents to meet the industries understanding and practice in maintaining the records.

The Alaska Association of REALTORS encourages the passage of House Bill 424.

Sincerely,

A handwritten signature in cursive script that reads 'Don McKenzie'.

Don McKenzie
President



TIM KELLY & ASSOCIATES

(907) 333-1179

(907) 244-4487

HB 424 (JUD) TITLE INSURANCE

Attorneys Title Guaranty Services OPPOSES HB 424.

- 1) HB 424 is attempting to resolve a current lawsuit against the State of Alaska in favor of the plaintiff, First American Title.
- 2) HB 424 is attempting to shut down Attorneys Title to avoid potential price competition.
- 3) HB 424 is attempting to artificially inflate title insurance premiums by institutionalizing a 1974 business model. Improved technology in Public Records has made title plants obsolete.
- 4) HB 424 would stop Old Republic Title (one of the nation's largest title insurance carriers) from underwriting in the Anchorage market.

HB

429

TONY KNOWLES
GOVERNOR
governor@gov.state.ak.us



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 429
P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500
Fax (907) 465-3532
www.gov.state.ak.us

February 13, 2002

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

Dear Speaker Porter:

This bill I am transmitting today is designed to reduce the importation of black market cigarettes into Alaska by requiring each pack of cigarettes sold in the state be clearly marked with a tobacco tax stamp.

On October 1, 1997, Alaska increased its tobacco tax rate on cigarettes from 29 cents per pack to \$1 per pack. The impetus for the tax increase was to promote public health. The Legislature and the Administration believed that if cigarettes were more expensive, fewer people would smoke. Our particular hope was that the increase in cost would cause fewer young people to take up the unhealthy habit in the first place.

The tobacco tax increase has had a significant effect on the sale of taxable cigarettes in Alaska. In the five fiscal years before the tax increase, cigarette sales averaged 53 million packs per year. In the three complete fiscal years since the increase, cigarette sales have averaged 42.1 million packs per year — a drop of more than 20 percent. Much of this decrease can be attributed to reduced smoking. And yet, we also believe an unknown quantity of untaxed cigarettes are imported into the state. Existing laws make it difficult to track just how many untaxed cigarettes are coming into Alaska.

The Department of Revenue believes a very simple measure — a tax stamp on each package — would help close our borders to the importation of untaxed cigarettes. This bill would require a stamp affixed to all packs of cigarettes on which the tax has been paid. The stamps would be heat-applied so they could not be transferred to untaxed packs and would be difficult to counterfeit. The colorful stamp would be easily recognizable so that Department of Revenue personnel, law enforcement agents, and consumers would immediately know whether the tax had been paid on any given pack of cigarettes. In addition, the bill would require the tax be paid before the cigarettes are imported into the state.

The Honorable Brian Porter
February 13, 2002
Page 2

The bill also would place considerable weight behind the state's ability to enforce the stamp requirement. The Department of Revenue and law enforcement agencies would have the authority to seize and destroy unstamped cigarettes, and violators could be subject to significant civil penalties and criminal liability.

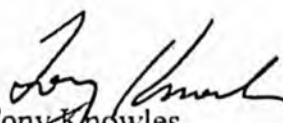
Other states, many of which have much lower cigarette taxes than Alaska, have long recognized the benefit of a tax stamp on cigarettes. At this time, 46 states require a stamp on cigarettes. This bill draws from the statutes and experience of those other states. States that recently adopted a cigarette tax stamp program have significantly increased their tobacco tax revenues. Michigan reported an 8.7 percent increase in cigarette taxes in the first year of its program, 1999. Initial reports from Hawaii — a state that, like ours, doesn't have bordering states but does have a high tax rate — indicate an amazing 25 percent increase in tax collection.

Although these results from other states are encouraging, we do not have a reliable basis to predict the size of the effect of cigarette tax stamps here in Alaska. Given that cigarette tax revenue is about \$40 million per year, each one percent increase in tax collected would raise about \$400,000 per year.

Stamps do not come free and distributors will incur costs when affixing stamps to individual packs of cigarettes. In recognition of the cost, the bill provides a tax discount for distributors of two percent for the first one million stamps and one percent for all additional stamps.

I urge your support of this important bill. It will enhance compliance with the state's revenue laws while providing an important public health benefit.

Sincerely,


Tony Knowles
Governor

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 429
 (H) Publish Date: 2/15/02

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Tobacco Tax Stamp BRU Revenue Operations
 Component Tax Division
 Sponsor Rules Committee
 Requester Governor Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	109.5	109.5	109.5	109.5	109.5	109.5
Travel	5.0	5.0	5.0	5.0	5.0	5.0
Contractual	41.0	38.0	38.0	38.0	38.0	38.0
Supplies	2.0	2.0	2.0	2.0	2.0	2.0
Equipment	21.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	178.5	154.5	154.5	154.5	154.5	154.5

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	178.5	154.5	154.5	154.5	154.5	154.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	178.5	154.5	154.5	154.5	154.5	154.5

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

** There will be a decrease in state revenues due to the higher commission paid to licensees (in the form of a discount on the state cigarette tax remittance) to compensate them for the cost of affixing the stamp to cigarette packages, collecting the tax and remitting it to the department.

However, there will be an indeterminate revenue gain to the state from this legislation, likely equal to or greater than the lost revenue.

The department anticipates that a cigarette stamp program would increase compliance with the state's cigarette tax laws, and therefore would result in higher tax revenues to the state. Unfortunately, it is not possible to predict how much additional revenue might be generated for the state from the tax stamp program. (See second page for additional analysis)

Prepared by: Johanna Bales Phone 269-6628
 Division: Tax Division Date/Time 2/9/02 1:46 PM
 Approved by: Larry Persily, Deputy Commissioner Date 02/09/2002
 Agency: Department of Revenue

Department of Revenue
Tobacco Tax Stamp - Bill Analysis (January 29, 2002)

Assumptions: The fiscal effect assumes that 40 million to 50 million packs of cigarettes will be sold each year.

Program Summary: The program will consist of the annual purchase of tax stamps from a stamp manufacturer. The stamps will be secured in fireproof safes by the Department of Revenue.

Positions: The department expects that it will need 2.0 additional positions to handle the purchase, sale, administration and enforcement of the new tax stamp program. Enforcement includes conducting audits and other investigations to ensure that stamps are properly affixed to cigarettes. These positions will also be responsible for the seizure and security of unstamped product and its ultimate destruction. For this type of work, the department expects it will need a full-time Revenue Auditor III (Range 18) at an expected annual cost of \$62,100 and a full-time Tax Technician III (Range 14) at an expected annual cost of \$47,400.

Other Operating Expenditures: In the first year, approximately \$10,000 will be needed for two fireproof safes; \$11,000 for two computers, software and work stations; \$5,000 for travel expenses; \$2,000 for supplies; \$3,000 for advertising costs and IT charges; and \$38,000 for stamp design and printing. Printing of stamps in all future years will cost approximately \$35,000; with supplies at \$2,000; travel at \$5,000; and IT and phone charges at \$3,000.

Revenue: The department is unable to estimate the amount of additional revenue that may be generated as a result of the tax stamp. Other states that have recently adopted a cigarette tax stamp program have found that the stamps significantly increased their tax revenues. Michigan reported an 8.7 percent increase in cigarette tax revenues in the first year of its program, 1999. Initial reports from Hawaii indicate an amazing 25 percent increase in tax collections. Although these results from other states are encouraging, we do not have a reliable basis to predict the size of the effect of cigarette tax stamps on revenue in Alaska. However, for every 1% increase in cigarette tax collections, Alaska revenue would increase by approximately \$400,000. An increase of 1-1/4 percent in tax collections would be enough to cover the Department of Revenue costs of this legislation.

Commission (discount to licensees): All other states, except Hawaii, allow licensees to purchase stamps at a discount. The current national average discount is 3.05%. This bill allows for a discount of 2% on the first 1 million stamps purchased by each licensee and 1% on all purchases over 1 million stamps. The current tobacco statute allows a commission of 0.4% to licensees as compensation for collecting the tax and remitting it to the department. Based on Fiscal Year 2001 tax filings, we estimate that the increase in the discount as a result of this bill would be approximately \$359,000 annually.

Cost Increase to Licensees: Licensees will incur increased costs to place stamps on cigarette packages. It is estimated that licensees could incur costs between \$2,000 and \$30,000 annually, after taking into consideration the discount, to comply with this bill.

Alaska Department of Revenue
 Cigarette Tax Stamp
 Fiscal Note
 Estimated Cost to DOR for Stamps

Prepared by: J. Bales
 Feb. 9, 2002

Currently, there is only one vendor in the U.S. that manufactures the heat-applied cigarette tax stamps. That manufacturer is Meyercord. The Department received the following estimate for the design and purchase of cigarette tax stamps from Tom Letizia of Meyercord. These costs are for stamps with the most up-to-date security features. Stamps with less security features can be ordered for about \$6,000 less per year, but are easier to counterfeit.

	1st Year	2nd Year and thereafter
Stamp design fee	\$ 1,500	\$ -
Cylinder cost (extra security features)	\$ 1,500	\$ -
Annual cost to print and deliver 40,000,000 to 50,000,000 stamps for all cigarette packages	\$ 35,000	\$ 35,000
Total Stamp Cost	\$ 38,000	\$ 35,000
 Program Costs		
Additional Personnel		
1 Revenue Auditor III	\$ 62,100	\$ 62,100
1 Tax Technician III	\$ 47,400	\$ 47,400
Travel expenses	\$ 5,000	\$ 5,000
Supplies	\$ 2,000	\$ 2,000
Advertising, phone, and IT charges	\$ 3,000	\$ 3,000
	\$ 119,500	\$ 119,500
 Equipment		
Computers, workstations & software for new personnel	\$ 11,000	\$ -
2 safes to secure stamps	\$ 10,000	\$ -
Total Program Costs	\$ 21,000	\$ -
 Total DOR Costs	 \$ 178,500	 \$ 154,500

Alaska Department of Revenue
Cigarette Tax Stamp
Fiscal Note
Effect of Discount Allowed Licensees

Prepared by:

J. Bales
Feb. 9, 2002

Alaska currently has 61 cigarette licensees. Of the 61, 49 are distinct companies that would be entitled to a 2% discount on the first 1,000,000 cigarettes sold. The following estimated decrease in cigarette revenue due to the increase in the discount is based on FY 2001 cigarette tax filings. The calculation shows what the discount would have been if the new discount rates had been in effect.

Effect on Revenue	Total Taxable Cigs	Total Taxable Cig Packages	Total Discount
Cigs eligible for 2% disc	226,753,180	11,337,659	\$ 226,753
Cigs eligible for 1% disc	591,124,800	29,556,240	\$ 295,562
Total discount based on 2001 data	817,877,980	40,893,899	\$ 522,316
Less 0.4 percent commission currently allowed			\$ (163,576)
Effect on allowing 2% / 1% discount on stamp purchases			\$ 358,740

NOTE: Other states give discounts between .3% up to 10% of the value of the stamp. Hawaii actually charges licensees a 1.7% fee to purchase the stamps. The average discount allowed by all states is 3.05%.

Alaska Department of Revenue
Cigarette Tax Stamp
Fiscal Note
Estimated Cost to Licensees to Stamp

Prepared by: J. Bales
Feb. 9, 2002

Stamp Equipment	Monthly Cost ⁽¹⁾	Annual Cost ⁽¹⁾		
Automatic Stamp Machine	\$ 413.92	\$ 4,967.04		
Semi-Automatic Stamp Machine	\$ 326.56	\$ 3,918.72		
Manual Stamp Machine	\$ 131.00	\$ 1,572.00		
Personnel needed to run equipment 1 full-time for all equipment types (larger licensees may need 2 or more depending upon volume)	\$ 1,733.33	\$ 20,800.00	(Estimated using 2080 hours @ \$10/hour)	
Estimated Annual Cost⁽²⁾	Small Licensee	Medium Licensee	Large Licensee	
Automatic Stamp Machine			\$ 14,901.12	
Semi-Automatic Stamp Machine		\$ 11,756.16		
Manual Stamp Machine	\$ 1,572.00			
Personnel costs	\$ 20,800.00	\$ 62,400.00	\$ 124,800.00	
Total estimated annual costs	22,372.00	74,156.16	139,701.12	
Stamp Discount Allowed	Small Licensee	Medium Licensee	Large Licensee	
Number of stamps purchased annually	\$ 1,000,000.00	\$ 5,000,000.00	\$ 10,000,000.00	
2% on first 1,000,000	\$ 20,000.00	\$ 20,000.00	\$ 20,000.00	
1% on all stamps over 1,000,000	\$ -	\$ 40,000.00	\$ 90,000.00	
Total Discount Allowed	\$ 20,000.00	\$ 60,000.00	\$ 110,000.00	
Total estimated actual costs incurred by licensees to stamp cigarettes	\$ 2,372.00	\$ 14,156.16	\$ 29,701.12	

⁽¹⁾2001 estimates received from Meyercord, a cigarette tax stamp manufacturer.

⁽²⁾On average, medium and large Alaska cigarette licensees have three distinct geographical locations from where stamping might occur: Anchorage, Fairbanks and Juneau. Estimate is based on three stamping locations, with one individual needed for medium licensees at each location and two individuals needed for large licensees at each location.

AMENDMENT

OFFERED IN THE HOUSE

BY _____

LABOR AND COMMERCE COMMITTEE

TO: HB 429

1 Page 1, following line 8:

2 Insert a new bill section to read:

3

4 **** Section 1.** The uncodified law of the State of Alaska is amended to read:

5 FINDINGS. (a) The legislature finds that evasion of the state's tobacco tax on
6 cigarettes is a serious concern to the state because it reduces revenue and creates a public
7 health risk by increasing the supply of inexpensive cigarettes. Although Alaska's
8 problem with importation of untaxed cigarettes appears small at the current time,
9 enforcement is very difficult without a means to immediately verify that the tax has been
10 paid. Almost all other states have addressed this same problem and 46 of them have
11 required that a stamp be affixed to each pack of cigarettes on which tax has been paid.
12 This Act establishes this same solution as a deterrence to tax evasion.

13 (b) The legislature further finds, however, that to be effective a cigarette stamp
14 program must be carefully monitored and controlled. Alaska is unique among the states
15 because it is both geographically large and remote. The Department of Revenue must
16 have access to stamping locations, to oversee stamping operations, count stamps on hand,
17 and check inventories. Given the state's remoteness, and the lack of a reciprocal
18 relationship with other states, such inspections must take place within the state's
19 jurisdiction. Thus, to avoid making the state vulnerable to counterfeiting of stamps and
20 to provide for orderly auditing and refund procedures, the legislature finds that all
21 stamping must take place in the jurisdiction of the state and that the Department of

1 Revenue shall conduct regular inspections of stamping premises."

2

3 Renumber the following bill sections accordingly.

4

5 Page 6, following line 12:

6 Insert "(1) within the jurisdictional boundaries of the state;"

7

8 Page 6, line 13:

9 Delete "(1)"

10 Insert "(2)"

11

12 Page 6, line 14:

13 Delete "and"

14

15 Page 6, line 15:

16 Delete "(2)"

17 Insert "(3)"

18

19 Page 7, line 3:

20 Following "state;":

21 Insert "or"

22

23 Page 7, lines 4 - 5:

24 Delete all material

25

26 Page 7, line 6:

27 Delete "(4)"

28 Insert "(3)"

29

1 Page 8, following line 18:

2 Insert the following new material:

3 "(i) A licensee must inform the department in writing of the physical
4 location of each stamping facility. At the time of purchasing stamps, a licensee
5 with multiple stamping locations must inform the department in writing of the
6 destination for the stamps, and must notify the department when transferring
7 stamps between locations."
8

9 Page 12, following line 6:

10 Insert the following new material:

11 "(d) The department may inspect the stamping location premises of a
12 licensee to monitor the stamping operation, count stamps, inspect inventory, or
13 conduct any other inspection activity necessary to control and regulate stamping.
14 The department shall inspect each location at which stamping occurs at least once
15 each calendar year."
16

17 Page 14, line 24:

18 Delete "sec. 20"

19 Insert "sec. 21"
20

21 Page 15, line 2:

22 Delete "sec. 14"

23 Insert "sec. 15"
24

25 Page 15, line 6:

26 Delete "sec. 14"

27 Insert "sec. 15"
28

29 Page 15, line 12:

30 Delete "Section 16"

1 Insert "Section 17"

2

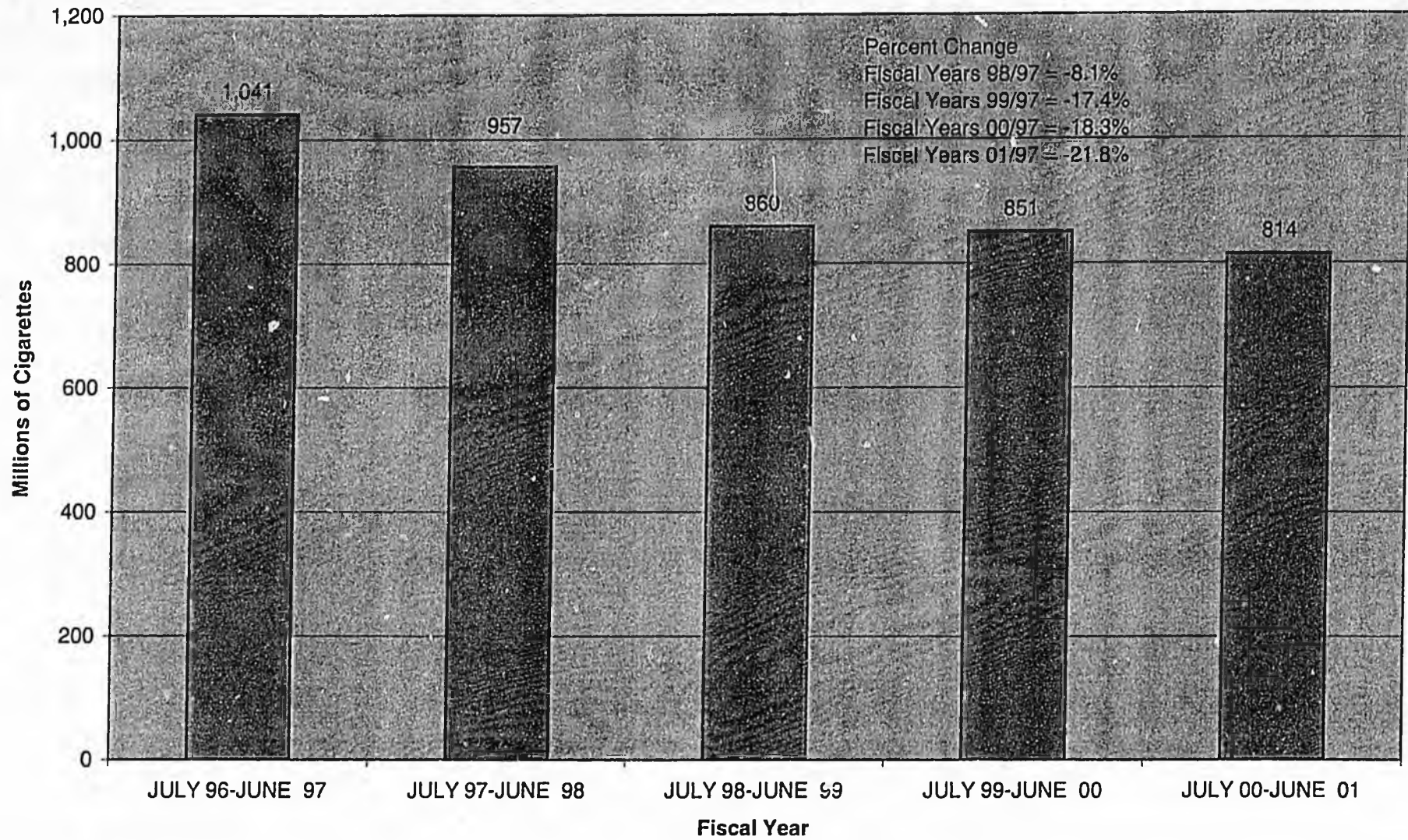
3 Page 15, line 13:

4 Delete "sec. 19"

5 Insert "sec. 20"

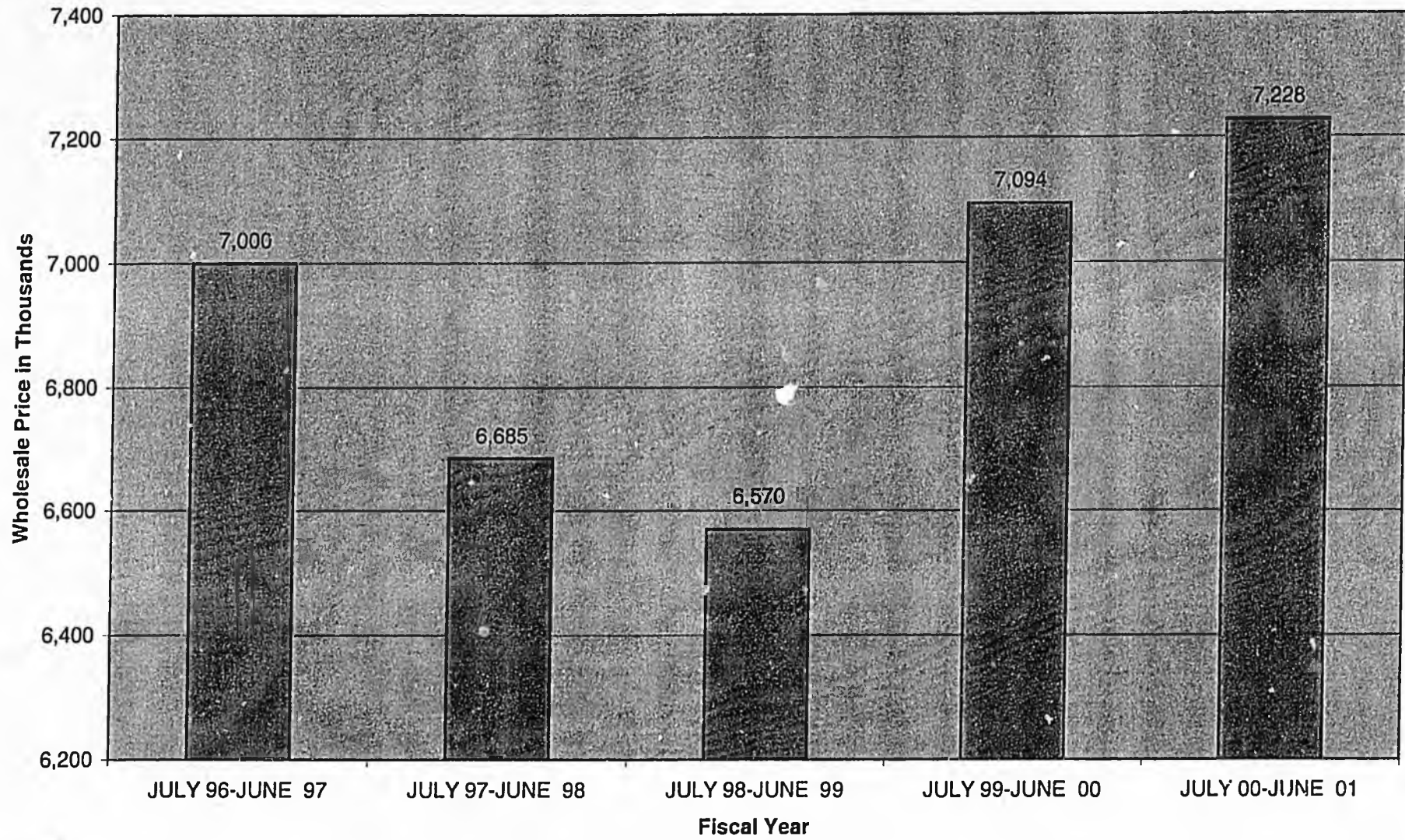
Reported Taxable Cigarettes

Note: Tax increased from \$.29/pack to \$1.00/pack on 10/1/97



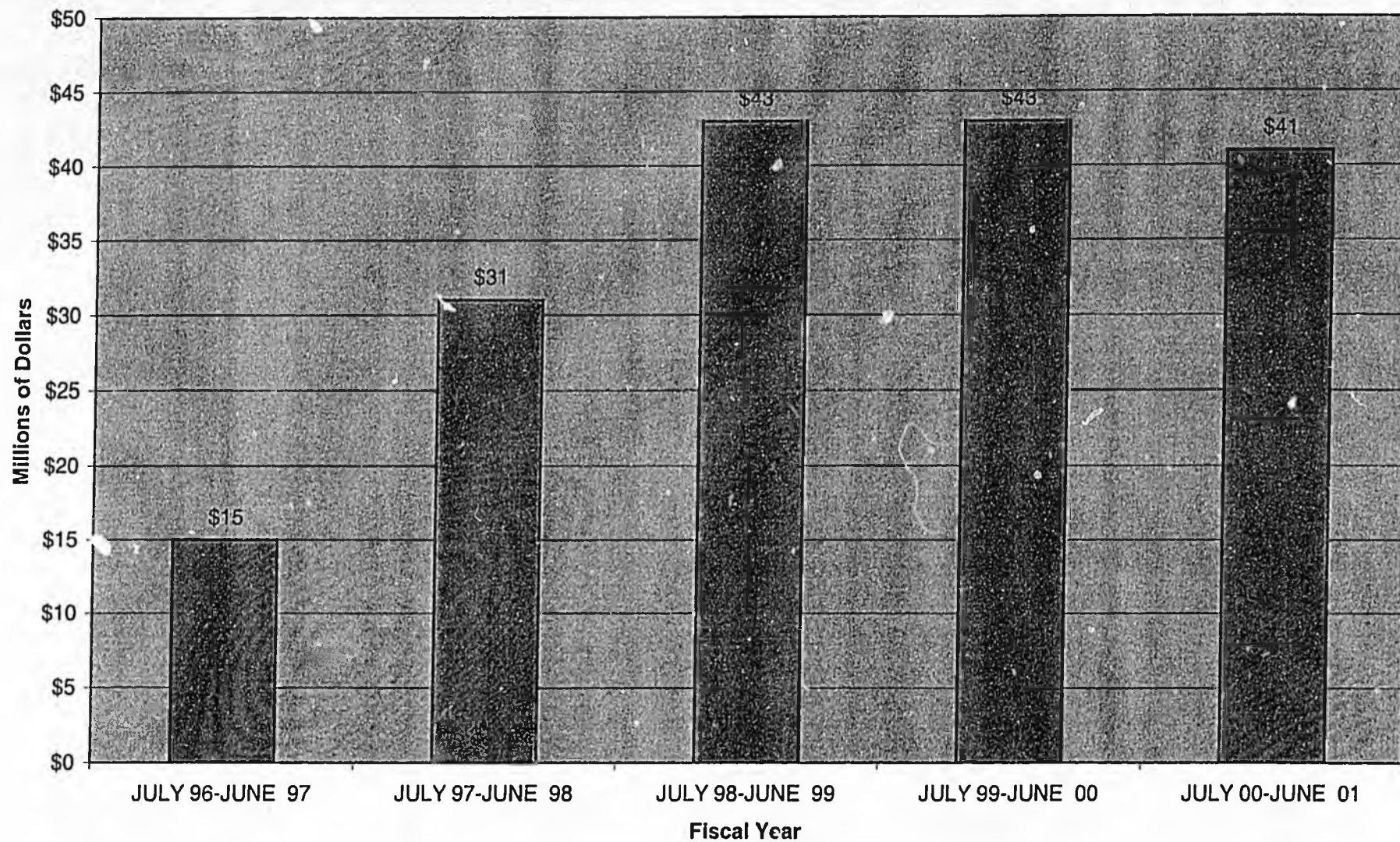
Reported Taxable Value of Other Tobacco Products (OTP)

Note: Tax increased from 25% to 75% of Wholesale Price on 10/1/97



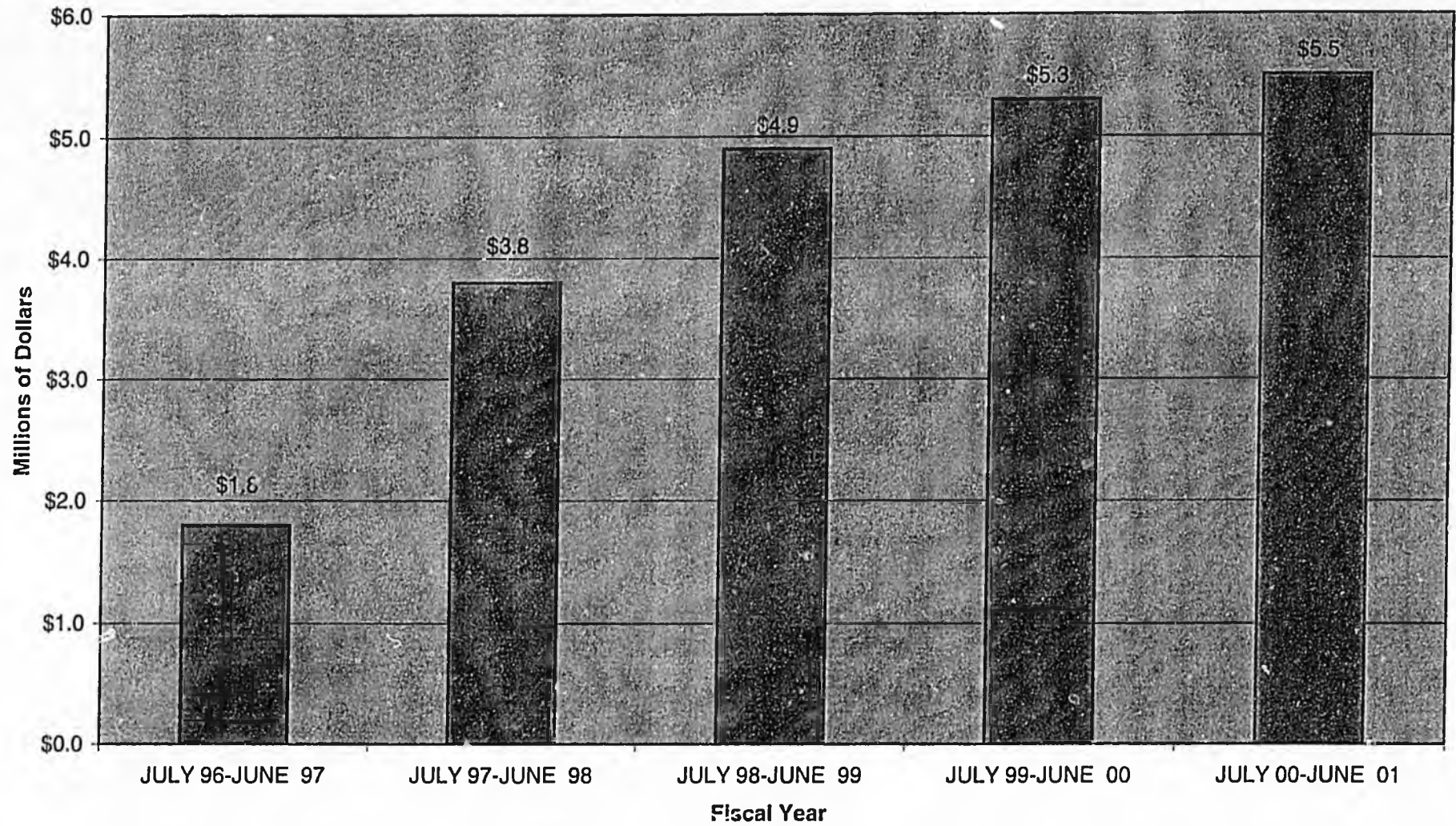
Actual Cigarette Excise Tax Revenues

Note: Tax increased from \$.29/pack to \$1.00/pack on 10/1/97

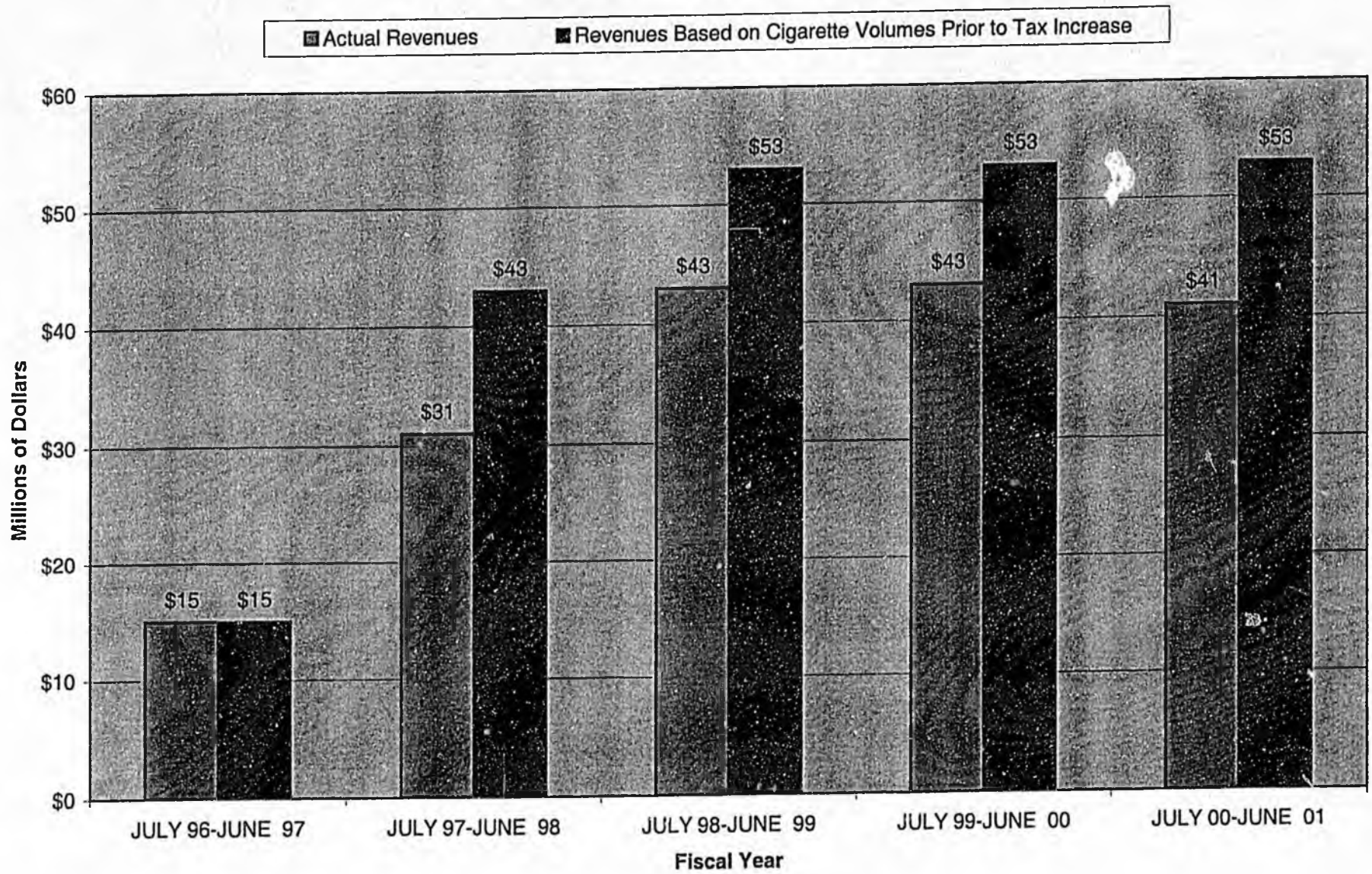


Actual Other Tobacco Products (OTP) Excise Tax Revenues

Note: Tax increased from 25% to 75% of wholesale price on 10/1/97



Comparison of Cigarette Excise Tax Revenues





JAN'S DISTRIBUTING, INC.

1807 W. 47th Avenue
Anchorage, Alaska 99517-3164
(907) 243-5267
(907) Fax 243-5744
Toll Free in AK. 1-800-478-9898

April 10, 2002

Representative Lisa Murkowski
House Labor & Commerce Committee
Alaska State Legislature
Juneau, Alaska 99801-1182

Re: HB 429 – Tobacco Taxation

Dear Representative Murkowski:

This correspondence is to convey vehement opposition to Governor Knowles' House Bill 429 (and companion legislation, Senate Bill 298). HB 429 is currently before the House Labor & Commerce Committee which you chair.

I am the co-owner and vice-president of Jan's Distributing. Jan's began operating in 1981. I have resided in Anchorage for over 31 years. Our president, Jan Marquiss, was born in Alaska in 1947 and has lived here his entire life. We are Alaskans. We are local businessmen.

HB 429 adversely affects small business in Alaska. As a cigarette distributor, our company barely survived the 300% increase in tobacco tax to \$10 per carton in 1997. Reports indicate that the State is collecting over 173% more tax revenue since the increase, while cigarette sales (by carton) have declined 22%. In FY 2001 the State collected \$41 million in excise tax on 4,070,000 cartons of cigarettes. The State's objective to raise revenue and deter underage smoking has therefore been a success.

Conversely, the imposition on local wholesale distribution companies - should a tax stamp be mandated, is counter-productive to the State's objectives. A stamp machine costs at minimum \$25,300, not including freight fees and a required maintenance agreement, in addition to limitations for repair because of out of state servicing - which could be devastating to a local company should delay time to repair exceed a day.

Our company has 36 employees. Our current inventory count is 7,802 cartons of cigarettes, which equates to \$78,020 in taxes at \$10 per carton. The total value of our cartons on hand is 290,961. Our company's gross sales in 2001 were \$11.6 million. Cigarettes sales in 2001 totaled approximately \$10 million. 84% of our business sales

are derived from tobacco products. 85% of our tobacco sales are delivered outside the Municipality of Anchorage. The majority of local retailers opt to purchase their tobacco products at Costco and Sam's Club because the larger distributors can charge less than local wholesale companies like Jan's. A stamp requirement will force further increases, resulting in more business lost to out of state corporations.

At least four Alaskan wholesale distributors will be dramatically affected by this legislation. That equates to over 150 Alaskan employees. In addition, 20% of adults in Alaska use tobacco, therefore a significant populace will bear yet another burden of taxes by paying the heightened cost of a carton of cigarettes after respective cost hikes are imposed to cover the cost of the stamp machines and added employees.

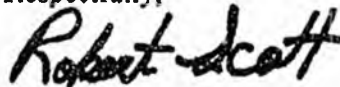
More importantly, and in conflict with the Alaskan spirit, HB 429 hurts local distributors who compete for customers against juggernaut corporations who have the resources, labor and stamp machines to fulfill a mandated stamp law as referenced above. Local companies not only lack this luxury, but also will face employee reductions and layoffs as a result of such legislation.

Jan's Distributing urges you to reflect on the history of anti-smoking reform in Alaska, including the 1997 tax increase, past tobacco settlements, new municipal smoking ordinances and other punitive legislation, and recognize that enough is enough. Particularly in view of the hardship on local businesses and additional costs passed to the consumer.

Please prevent the passage of HB 429 until an equitable and fair plan can be formulated to prevent small businesses in Alaska from being debilitated by extra costs and expenses imposed through a stamping requirement.

Thank you for your attention. Your public service and dedication in the Alaska State Legislature is appreciated.

Respectfully,



Robert Scott Sr., Vice President
Jan's Distributing

APR-08-2002 TUE 11:37 AM KETCHIKAN NORTHERN SALES FAX NO. 907 225 2231

P. 04/05



April 4, 2002

Representative Bill Williams
 Alaska House of Representatives
 State Capitol
 Juneau, AK 99801-1182

RE: HB 429

Dear Representative Williams:

HB 429 is an act requiring cigarette distributors to place a State of Alaska tax stamp on all cigarettes sold in the state. This is a bill requested by the governor and supported by the Department of Revenue. The rationale for the tax stamp is that the state has a potential enforcement problem which may result in lost tax revenue. At present a visual inspection of a pack of cigarettes does not reveal if the State excise tax has been paid or not. If a State of Alaska tax stamp was imprinted on each pack of cigarettes then it would be easy to discern if the state excise tax had been paid. Those cigarettes located in the state without a State of Alaska tax stamp would be contraband and could be confiscated and destroyed by revenue officers.

In October 1997 the State increased the excise tax on a carton of cigarettes from \$2.90 to \$10.00 per carton. At that time of the enactment of this tax Alaska had the distinction of having the highest state excise tax in the nation. Since that time six other states have joined Alaska in increasing their excise tax on cigarettes to \$10.00 or more per carton. The stated intention behind the October 1997 tax increase was to reduce cigarette consumption and to raise revenues. In FY 97, which was the last year of the \$2.90 per carton excise tax the state collected \$15 million in cigarette excise tax on sales of 5,207,000 cartons of cigarettes. In FY 2001 the state collected \$41 million in excise tax on carton sales of 4,070,000. Clearly the states effort to raise the excise tax on cigarettes accomplished their goal of decreased consumption and increased tax revenue.

In the states written testimony before the House's Labor and Commerce Committee regarding HB 429 the state testified that they could not quantify the amount of revenue that is being lost as a result of contraband cigarettes being imported into the state. However, even though the state cannot quantify the dollar amount of the lost tax revenue the state wants to implement a tax stamp bureaucracy and create two new full time state jobs to administer this program. Even though the state has experienced substantial revenue gains since the implementation of the \$10.00 per carton excise tax in 10/97 the state feels it needs a cigarette tax stamp. The state tax stamp will give law enforcement authorities a tool to chase down lawbreakers illegally importing cigarettes into the state and the stamp will provide revenue officers with a tool to collect the "unquantifiable" lost tax revenue from the importation of black market cigarettes.

The problem that I have with the proposed act is that it will adversely impact my business and it will create an incentive to export Alaskan jobs to the lower 48. Northern Sales Co. of Alaska is wholesale cigarette distribution company. We employ a full time Alaskan staff of 90 people; 32 in Juneau, 32 in Ketchikan, 15 in Sitka, 4 in Kodiak and an administrative staff of 7. We operate a small consolidation warehouse in Kent Washington with 7 full time employees. In 2001 we had annual sales of \$33.5 million of which 43% represented cigarette sales. 100% of our cigarette sales are to Alaska businesses licensed to sell cigarettes in the state.

APR-09-2002 TUE 11:38 AM KETCHIKAN NORTHERN SALES FAX NO. 907 225 2231

P. 05/05



Corporate
P.O. Box 8112, Ketchikan, AK 99901
(907) 225-7060 (907) 225-2231 fax

Because of the logistics involved in supplying our Alaska warehouses in order to be compliant with the tax stamping provisions of HB 429 we would be required to operate 4 separate tax stamping facilities in Ketchikan, Sitka, Juneau and Kodiak. The initial start up costs and the ongoing operating costs of these facilities would create expenses over and above the proposed discount offered to cigarette wholesalers in HB 429 intended to offset the cost of the stamping operations. At present our gross profit margin on cigarettes is a razor thin 4.4%. The competitive forces in the marketplace prevent us from raising our price to cover the increase costs that stamping would entail. And because our current margin is so small, we cannot absorb these increased costs created by the tax stamping operations and remain profitable. If we were required to provide tax stamping services as outlined in the existing legislation we would be forced out of the cigarette business. This would mean the loss of full time Alaskan jobs and the loss of revenue to our company. The impact of the loss of this revenue would force us to dramatically rethink our entire business operation in Alaska.

The problem for Northern Sales Co with HB 429 is that we would be forced to amortize the initial start up costs for a stamping operation and the ongoing operating costs of a stamping operation on a relatively small and continually declining number of carton sales. Because of the logistics, the remote geography with no established ground transportation system between our existing facilities, and a declining population base we are the only company providing local cigarette distribution services in this region. If we stop distributing cigarettes the related loss of Alaskan jobs will migrate to the lower 48. Big companies like Costco and Wal*Mart who sell millions of cartons of cigarettes have existing stamping operations in regional centers located in the lower 48. Because of the large volume of cigarette these companies move through their regional stamping centers they are able to more efficiently amortize the operating cost of stamping operation outside the state of Alaska. And once these jobs and local services are gone they will not come back.

It seems pretty basic to me, if the state is presently generating more revenue on fewer cigarette sales than they were before they raised the cigarette excise tax then, why does the state want to jeopardize the viability of an existing long-time Alaska business to create a tax stamping bureaucracy? Why does the state want to export Alaskan jobs to the lower 48?

The tax-stamping concept is not wholly without merit. I have shared several ideas with the Department of Revenue, which would make the burden of tax stamping less onerous to the wholesale distribution community in general and our company in particular. I stand ready to work with the Department of Revenue and the State Legislature to fashion a cigarette excise tax stamp act that will create a level playing field for all Alaska cigarette distributors operating within the state.

Sincerely yours,

Michael J. Elerding
President

AMENDMENT

OFFERED IN THE HOUSE

BY _____

LABOR AND COMMERCE COMMITTEE

TO: HB 429

1 Page 7, lines 23 - 27:

2 Delete: "For the first \$1,000,000 in denominated value of stamps purchased by a licensee
3 under this section in a calendar year, the discount to the licensee is equal to two percent of the
4 stamps' denominated value. The discount on additional stamps purchased by the licensee under
5 this section in the same calendar year is equal to one percent of the denominated values of the
6 additional stamps."
7

8 Page 7, line 31, following "AS 43.50.500 - 43.50.700.":

9 Insert: "The discount under this subsection is equal to the sum of the amounts calculated
10 using the following percentages of denominated value of stamps purchased by a licensee under
11 this section in a calendar year:

12 (1) \$1,000,000 or less, three percent;

13 (2) the amount that is more than \$1,000,000, but not more than \$2,000,000, two
14 percent;

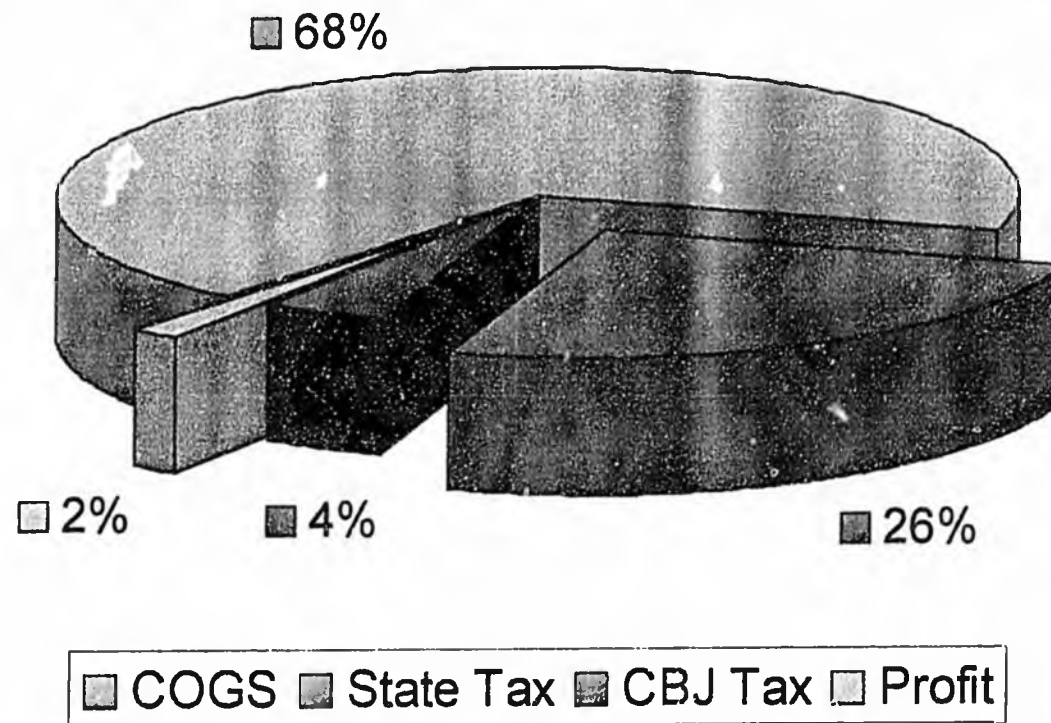
15 (3) the amount that is more than \$2,000,000, but not more than \$5,000,000, 0.5
16 percent;

17 (4) the amount that is over \$5,000,000, zero percent."

Juneau, Alaska – April 2002

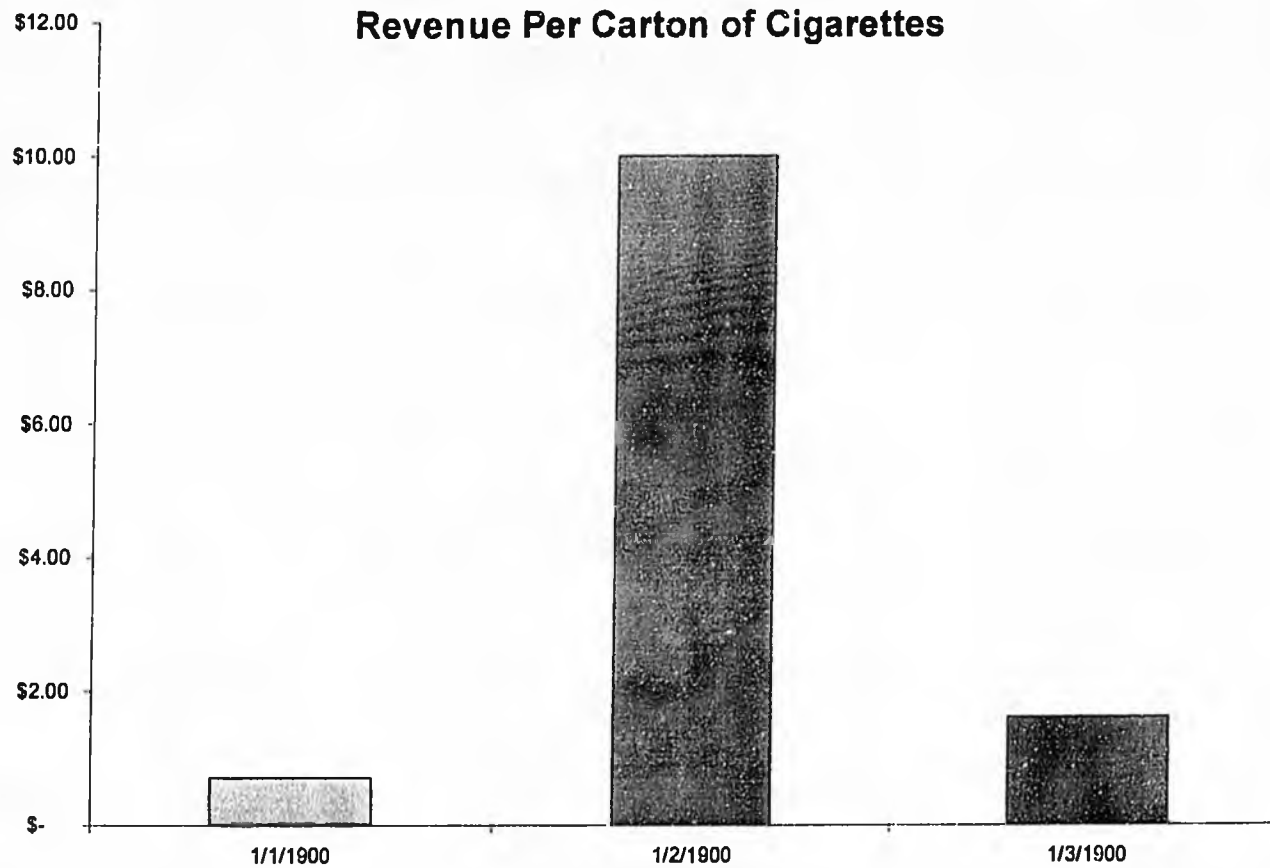
Wholesale List Price \$39.12

Cost of Goods – Net of discounts	\$26.81
State of Alaska Cigarette Excise Tax	\$10.00
City & Borough of Juneau Excise Tax	\$ 1.61
Wholesale Distributor Profit	\$.70



Juneau, Alaska – April 2002

Wholesale List Price \$39.12



	NSC GP	State Excise Tax	CBJ Tax
Carton	\$0.70	\$10.00	\$1.61

CORRECTION

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

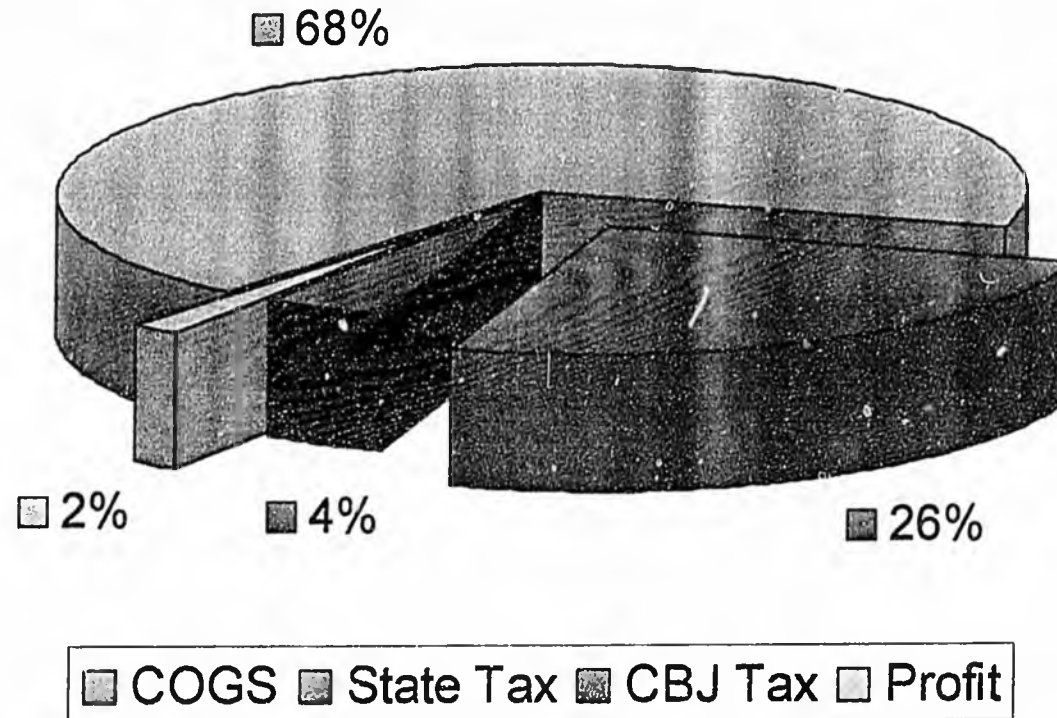


Central Microfilm Services
Department of Education & Early Development
State of Alaska

Juneau, Alaska – April 2002

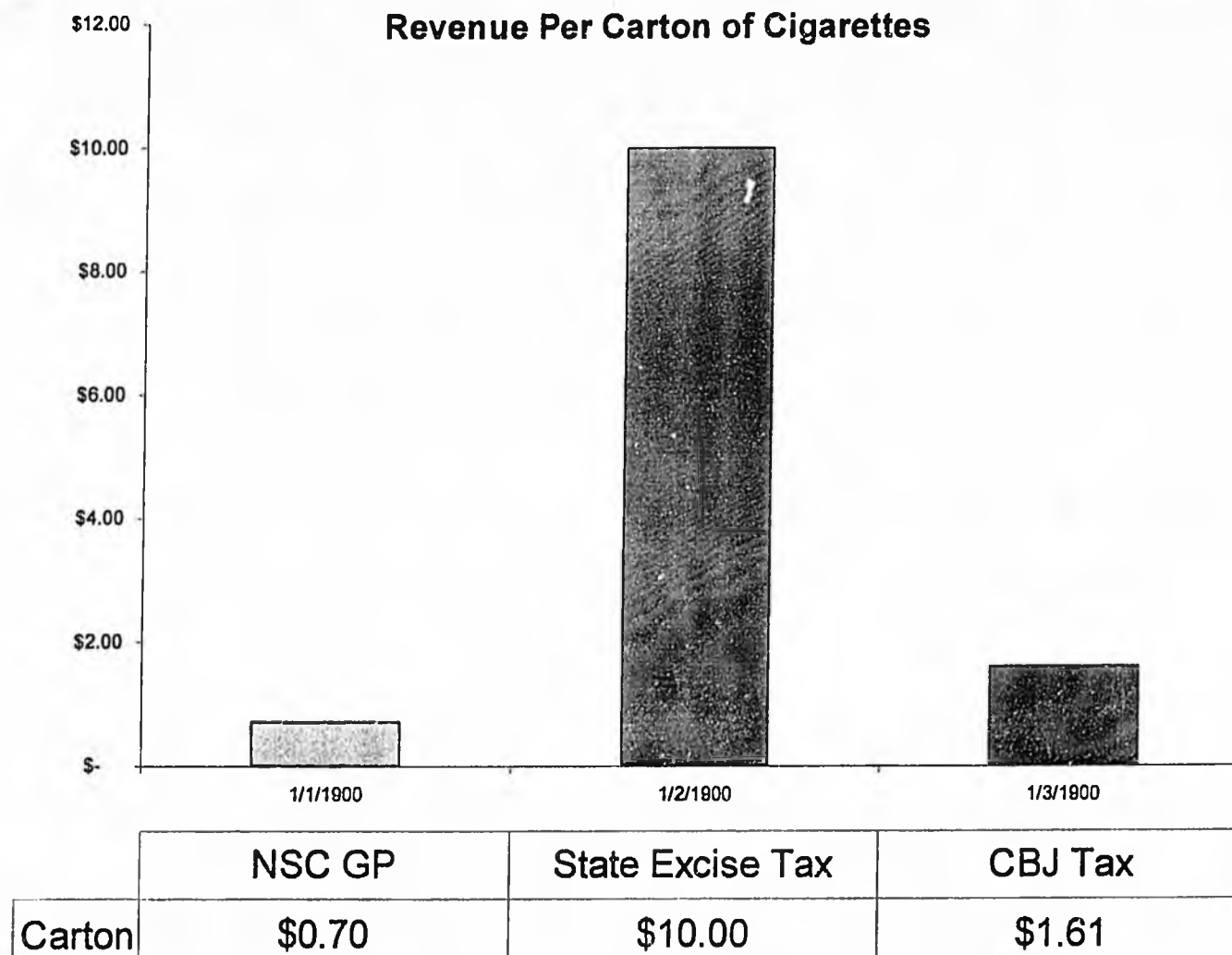
Wholesale List Price \$39.12

Cost of Goods -- Net of discounts	\$26.81
State of Alaska Cigarette Excise Tax	\$10.00
City & Borough of Juneau Excise Tax	\$ 1.61
Wholesale Distributor Profit	\$.70



Juneau, Alaska – April 2002

Wholesale List Price \$39.12



HB

435



ALASKA STATE LEGISLATURE
REPRESENTATIVE JOHN HARRIS
STATE CAPITOL 513, JUNEAU, ALASKA 99801-1182 (907) 465-4859

Sponsor Statement
HB 435

“An Act relating to the prices paid by milk processing plants to suppliers of fluid milk.”

HB 435 will help dairy farmers receive fair pricing for the milk fat content of the milk they supply to processing plants. Milk pricing has become fairly complex in today's marketplace, and is based on a combination of factors including how much the milk contains of protein, butterfat, non-fat solids and bacteria.

Milk fat, because it is used in high-value products such as ice cream, is more valuable to the processor, and farmers should be encouraged to manage their herds for higher milk fat content.

In Alaska, if the fat content of a particular dairy farmer's milk drops below a rate established by the processor, the creamery will take a deduction in the amount the farmer is paid. On the other hand, if the fat content rises above the established rate, the creamery does not pay the farmer extra.

In the Lower 48, federal and state laws have devised a system of milk marketing orders, which ensure the farmer gets a fair price for the milk he produces. Milk fat content is an important part of those marketing orders and, for example, when Matanuska Maid purchases bulk milk (from other states or from Canada) for its processing plant in Anchorage, the percentage of milk fat is a consideration.

HB 435 simply injects this fairness into the milk marketplace in Alaska by stipulating that if a milk processor opts to penalize a dairy farmer for low milk fat content, it must also reward those farmers who produce a high milk fat content.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES



Reissue Date:
January 1, 2001

**To: All Matanuska/Susitna Area Producers Selling Milk to
Matanuska Maid Dairy**

Subject: Milk Quality Program

This notice defines the current policies concerning quality bonus, butterfat, antibiotics and added water.

QUALITY BONUS

Every pickup at producing farms will be tested for bacteria using both Standard Plate Count and Coliform Count methods. We will discard the highest and lowest test results of both SPC and Coliform testing during each semi-monthly pay period and your quality performance will be measured on the arithmetic average of the remaining tests during the half-month period.

Quality Bonus payments for milk will be as follows:

1. Twenty-five cents (\$0.25) per cwt bonus if your SPC averages 20,000 or under AND your Coliform Count averages 200 or under.
2. Fifty cents (\$0.50) per cwt total bonus if your SPC averages 15,000 or under AND your Coliform Count averages 150 or under.
3. Seventy-five cents (\$0.75) per cwt total bonus if your SPC averages 10,000 or under AND your Coliform Count averages 100 or under.
4. One dollar (\$1.00) per cwt total bonus if your SPC averages 6,000 or under AND your Coliform Count averages 50 or under.

The Quality Bonus is available only to full-time producers who supply us with raw milk through a complete semi-monthly pay period. A new producer will be eligible at the start of the first regular pay period after he/she is on a regularly scheduled daily or every other day pickup.

In addition to the quality bonus program, we have established a minimum acceptable bacterial standard for Grade A milk purchased by Matanuska Maid. That minimum acceptable standard is 70,000 Standard Plate Count and/or 750 Coliform Count. As with the Quality Bonus testing, we will drop the high and low tests each pay period, and quality will be measured by the arithmetic average of the remaining tests.

We will make the following deductions from our base price for Grade A raw milk if the minimum acceptable standard is not met during a pay period:

1. Fifty cents (\$0.50) per cwt deduction if your SPC averages over 85,000 OR if your Coliform Count averages over 1,000.
2. One dollar (\$1.00) per cwt deduction if your SPC averages over 100,000 OR your Coliform Count averages over 1,500.

In addition, if a producer's average count is in excess of 70,000 SPC or 750 Coliform through two consecutive pay periods, that producer's milk will be refused by Matanuska Maid until there has been sufficient improvement at the farm to assure us continued milk quality.

Raw milk quality is a must for Matanuska Maid to be able to produce extended shelf-life products. The lower the bacteria and coliform counts in the raw milk, the longer the product will retain its integrity, and the less chance of an off-flavor product. We are constantly striving, with good results, to improve finished product quality. Unfortunately, even though we can pasteurize the bacterial load from the milk, any off-flavor imparted or other negative conditions caused by high pre-pasteurization counts cannot be eliminated.

We hope to see every producer consistently earn the \$1.00 per cwt Quality Bonus. It is our intent to provide assistance with working a quality problem as long as we see sincere desire at the farm to improve quality.

This Quality Bonus Plan has been in effect since April 1, 1986.

BUTTERFATS

The base price for Grade A milk with 3.3% or higher butterfat content currently is \$19.75 per cwt FOB your farm. We will assess a penalty for each 1/10th of 1% butterfat content under 3.2%. The charge will be based on the market cost of butterfat, FOB Anchorage, from the previous month's USDA Market Report. We will discard the highest and lowest butterfat tests each pay period and calculate butterfat content for the period by the arithmetic average of the remaining tests.

This Butterfat Plan has been in effect since October 1, 1985.

ANTIBIOTICS/INHIBITORS

In order to provide maximum assurance that our raw milk supply is free from antibiotics/inhibitors and to provide incentive to producers to prevent pickup of contamination milk:

It will be the producer's responsibility to prevent antibiotic/inhibitor-contaminated milk from being loaded into the transport tanker at the farm that would contaminate milk from other farms. If you suspect a mistake has been made at your farm, you must not let your milk be picked up until it has been tested. If you do not already have the equipment and training to do your own testing, we will make the equipment available to you at cost.

If your milk tests positive for antibiotic/inhibitor content at the farm, and we have verified your test either through our lab or the state lab in Palmer, the contaminated milk must be dumped. The milk transport driver or telephone agreement with management at the plant can provide the record for us of the quantity to be dumped. Not to exceed once in six months, we will pay one half the current base price per cwt for milk that you dumped if such a mistake occurs and you catch it before it contaminates other milk.

In the event you do ship antibiotic/inhibitor-contaminated milk, and we discover it through routine tests run at our lab, the following penalties will be assessed:

1. You will not be paid for your contaminated milk.
2. You will be charged for the freight we pay on your contaminated milk.
3. You will be charged our cost, including freight, on any other producer's milk that has been contaminated by your milk in the transport vehicle. It is not our intent that milk from a single producer be transported in more than one trailer so the maximum quantity that such a mistake can contaminate and be a producer liability is one 45,000 lb. (approximate) trailer load.
4. You will not be eligible for Quality Bonus payment for the half-month pay period during which you shipped antibiotic-contaminated milk. Conversely, if you do have a mistake that you catch and do not ship per the intent of this program, your uncontaminated shipments during that pay period will not be disqualified from the Quality Bonus Program.

We sincerely hope you never have an accidental antibiotic contamination. If you should, we trust you will be able to avoid the major mistake of shipping it. We sample from each farm and test each trailer load before combining it with other milk. None of us can afford to risk antibiotics in our product.

We'll do everything we reasonably can to work with you if you should have an antibiotic/inhibitor problem - or problems of any kind.

This Antibiotic Plan has been in effect since October 1, 1985.

ADDED WATER

The legal definition for Grade A raw milk includes the following requirements:

- Butterfat 3.25% minimum by weight
- Milk non-fat solids 8.25% minimum by weight
- Somatic cell count < 750,000 / mil.
- Standard Plate count < 100,000 / mil.
- Antibiotic/Inhibitor residue negative
- Added water 0%

Because of herd and testing variations, the State of Alaska recognizes 0-3% added water by test to be acceptable. Should we see regular incidents of added water, we will reduce the milk weight by the percentage of added water over 3%. Additionally, DEC routinely monitors for added water. Consistent results over 3% will trigger the DEC into a compliance mode that possibly could include suspension of the Grade A permit.

This Added Water Plan has been in effect since October 1, 1985.

If you have any questions about these programs, please contact Lab Technician Arethia Hudson or Plant Manager Gary Nelson.

Regular lab hours are Sunday - Thursday, 9:00 a.m. - 6:00 p.m.

HB

436



ALASKA STATE LEGISLATURE
REPRESENTATIVE JOHN HARRIS
STATE CAPITOL 513, JUNEAU, ALASKA 99801-1182 (907) 465-4859

Sponsor Statement

HB 436 – “An Act relating to construction, plumbing, mechanical, electrical, fire safety, and other safety codes adopted by state agencies and municipalities.”

In the world of safety codes, there are two competing tracks – the uniform code group and the international code group. The uniform codes, which the State of Alaska has followed for many years, are approved by the American National Standards Institute (ANSI). The codes put forth and adopted through this particular process are written by a wide range of interested parties, including design professionals, building contractors, trade unions, and others. These codes have served the design, building and construction trades—and the public they are intended to protect—well over many years. Tradesmen and contractors prefer the ANSI codes because they are proscriptive, specific, and are therefore easier for people doing the actual construction work to know how things should be installed or constructed.

The second track, referred to as the International Code “family,” is an outgrowth of the North American Free Trade Agreement (NAFTA) and was published by the International Conference of Building Officials. It is preferred by some design professionals and government building officials. It is generally perceived to allow more latitude in interpretation and advocates claim it saves money in construction.

HB 436 comes down on the side of the ANSI codes, by requiring that safety codes adopted in Alaska by the state or a municipality be those in which the development of the code was open to all interested parties and not just to design professionals and bureaucrats. It also requires that codes comply with ANSI standards, as much as practicable.

Advocates of the International Code group have surreptitiously gotten the International Mechanical Code adopted through the State Fire Marshal’s office, in contradiction to state statute. Other legislation (HB 399 and HB 437) address this problem. HB 436 complements either of those two bills by assuring that unlawful code adoptions do not take place in the future.



ALASKA STATE LEGISLATURE
REPRESENTATIVE JOHN HARRIS
STATE CAPITOL 513, JUNEAU, ALASKA 99801-1182 (907) 465-4859

Sectional Summary

HB 436 – “An Act relating to construction, plumbing, mechanical, electrical, fire safety, and other safety codes adopted by state agencies and municipalities.”

HB 436 has only one section, with two subsections, adding a new provision to AS 18.60 (Safety).

Subsection (a) prohibits state agencies or municipalities from adopting a safety code unless the process under which it was developed was open to all interested parties and, to the extent practicable, the code complies with standards of the American National Standards Institute.

Subsection (b) provides definitions for “adopt,” “safety code,” and includes the Alaska Housing Finance Corporation in the definition of “state agency.”

22-LS1346\L
Bannister
3/14/02

CS FOR HOUSE BILL NO. 43b()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES HARRIS, Hayes

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to construction, plumbing, mechanical, electrical, fire safety, and other**
2 **safety codes adopted by state agencies and municipalities; and providing for an effective**
3 **date."**

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

5 *** Section 1. AS 18.60 is amended by adding a new section to read:**

6 **Article 14. Miscellaneous Provisions.**

7 **Sec. 18.69.900. Safety codes. (a) Unless otherwise required by federal law**
8 **and notwithstanding any other law to the contrary, a state agency or municipality that**
9 **has the authority to adopt a safety code may not adopt a safety code unless**

10 **(1) all deliberations related to development of the code are open to all**
11 **interested parties and are not limited to or qualified by a specific professional status or**
12 **occupational role; and**

13 **(2) to the extent practicable, the code complies with the requirements**
14 **and standards recommended by the American National Standards Institute.**

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(b) In this section,

(1) "adopt" includes revision of a safety code;

(2) "safety code" means rules related to the construction standards, plumbing standards, mechanical standards, electrical standards, fire safety standards, or any other procedures or requirements that relate to the safety of structures; "safety code" does not include thermal and lighting standards adopted by the Alaska Housing Finance Corporation under AS 46.11.040;

(3) "state agency" includes the Alaska Housing Finance Corporation.

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

APPLICABILITY. This Act only applies to the adoption of safety codes, as that term is defined in AS 18.60.900(b), added by sec. 1 of this Act, if the adoption occurs on or after the effective date of this Act.

* Sec. 3. This Act takes effect July 1, 2004.

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American National Standards Institute

Via E-mail only

January 4, 2002

Mr. Richard P. Kuchnicki
Executive Vice President
International Code Council, Inc.
5203 Leesburg Pike, Suite 600
Falls Church, VA 22041

Re: ANSI Appeals Board decision relative to the International Code Council's (ICC) appeal of the ANSI Executive Standards Council's (ExSC) appeals decision to uphold the accreditation of the International Association of Plumbing and Mechanical Officials (IAPMO) as a developer of American National Standards

Dear Mr. Kuchnicki:

The appeal statement that you submitted in connection with ICC's above-referenced appeal to the ANSI Appeals Board, along with all of the appeals documentation previously before the ANSI Executive Standards Council (ExSC), was provided to the members of the ANSI Appeals Board via letter ballot. Said letter ballot was issued in accordance with clause 11 (Appeals process) of the *ANSI Appeals Board Operating Procedures* in order for the members to determine "whether the appellant has established a prima facie case that the decision appealed from was clearly erroneous."

Please be advised that the ANSI Appeals Board decided, based on the record before it, that a prima facie case was not established. Accordingly, IAPMO remains an ANSI-accredited standards developer.

This decision completes the ANSI processes available to ICC. If you have any questions, or if I may be of further assistance to you, please call me at (212) 642-4914 or send an E-mail to caldas@ansi.org.

Sincerely,

Janie Caldas
Secretary, ANSI Appeals Board

cc: Case File
Appeals Board Members
ExSC Appeals Participants

February 20, 2002:

To all Alaska Legislators:

Following is a re-print of a press announcement from the International Conference of Building Officials (ICBO) website. IAPMO efforts to gain veto power over the State regulatory process has already been defeated at the State Supreme Court level in California. All indications are that IAPMO special interests are trying the same tactics in Alaska.

California Supreme Court Denies IAPMO's Petition

August 13, 1997

On August 13, 1997, the California Supreme Court denied the International Association of Plumbing and Mechanical Officials (IAPMO) Petition for Review. The court's action makes final the May 23, 1997, decision of the California Court of Appeals, Third District, that the California Building Standards Commission has been delegated by the legislature to select the model codes to be used as the basis for the California Code of Regulations (Title 24). IAPMO had asked the court to determine that because its model codes were listed in the statute, the legislature intended to mandate IAPMO's model codes for use in California. The court held that "acceptance of IAPMO's position would be inconsistent with the statutory scheme and would effectively give IAPMO, a private organization, veto power over the state regulatory process and would thus constitute an unlawful delegation of legislative authority." IAPMO filed its lawsuit against the California Building Standards Commission and ICBO after the Commission's 1995 action adopting the 1994 ICBO Uniform Mechanical Code™. Arguing that the statute mandated the adoption of a Uniform Mechanical Code jointly published by IAPMO and ICBO, IAPMO sought a writ of mandate to compel the Commission to revert to the 1991 Uniform Mechanical Code which was the last jointly published version of that work. "The court's decision is important for all model code organizations, as well as the Commission and state agencies charged with regulatory authority in California," said Jon Traw, President of ICBO. "The Commission and other state agencies may now select model codes based on merit in order to provide the public with safe and cost effective building standards."

Following is the entire URL where the article resides:

<http://www.icbo.org/wsnas.dll/showprsr1s.w?stateInfo=OT1hn|idba|meklk6838|2&blobid=0000060>

**Please consider this critical case before making a decision on
House Bills 436 and 437**

Ron Watts
Building Official
Municipality of Anchorage, Building Safety Division
907-343-8301
wattsrk@ci.anchorage.ak.us

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB436
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Mechanical Code BRU Alaska Housing Finance Corp.
 Component Operations
 Sponsor Representative Harris
 Requester House Labor and Commerce Component No. 110

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

100? Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

AHFC is included under the definition of "state agency" on page 2, line 5, as is interpreted to apply toward energy efficiency standards adopted by AHFC under AS 18.56.089 and AS 46.11.040. Current requirements for adopting changes to energy efficiency and thermal standards are limited to notice and hearing requirements for regulations under the Administrative Procedures Act (AS 44.62). HB 436 requires "all deliberations related to development of the code" to be open "to all interested parties". It is unclear to what extent this would create notice and publication requirements in addition to present requirements under AS 44.62, but it appears some additional effort and expense will occur in order to comply with increased outreach efforts.

The requirement for codes to comply with the requirements and standards of ANSI will require some research and inquiry into any effects this will have on requirements for energy efficiency standards. Minor expenses may result from changes in curriculum for builder education classes, information bulletins, and basic outreach and notification.

Prepared by: John W. Bitney, Legislative Liaison Phone 330-8445
 Division Alaska Housing Finance Corp. Date/Time 2/27/02 11:10 AM
 Approved by: Larry Persily, Deputy Commissioner Date 02/27/2002
 Agency Department of Revenue

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 436
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
 Title An Act relating to construction, plumbing, BRU: Occupational Licensing (117)
mechanical, electrical, fire safety and other safety codes Component Occupational Licensing
 Sponsor Representative Harris
 Requester House Labor & Commerce Component No. 2360

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual	40.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	40.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
CHANGE IN REVENUES ()	40.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (1007 Interagency Receipts)	40.0					
TOTAL	40.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

If the effect of this bill is to require a change from the International Code to the Uniform Code, the licensing tests will need to be rewritten. The testing contractor has advised that rewriting the tests will cost \$40.0 which can be completed within approximately 4 months. The interagency funding source is the Department of Public Safety.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144
 Division Occupational Licensing Date/Time 2/28/02 5:16 PM
 Approved by: Deborah B. Sedwick, Commissioner Date 2/28/2002
 Agency Department of Community & Economic Development



ASSOCIATED GENERAL CONTRACTORS of ALASKA

8005 SCHOON STREET, SUITE 100 • ANCHORAGE, ALASKA 99518
TELEPHONE (907) 561-5354 • FAX (907) 562-6118

March 12, 2002

Representative Lisa Murkowski
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Re: House Bills 399, 436, and 437

Dear Representative Murkowski:

The issues addressed in the three bills before your committee raise concerns that may be due more to a flawed adoption process than the ultimate decision reached. Even though the issues identified in the three bills deal with specialty trades, they are important to AGC because they define the safety standard for building construction in the state.

AGC attended the hearing called by Representative McGuire in August to address concerns raised regarding the impending adoption of the new codes effective September 15, 2001. For some reason, AGC had not been part of the process that led to the development of the new code and we were eager to learn more about the recommendation. After the hearing we were very concerned about the flawed process of adopting the code. However since the adoption of the new code seemed preordained, we believed that we would have to adapt to whatever mandated code covered the design and construction of a project and proceeded accordingly.

We were ill prepared to address the issues in August, and, because we assumed that the issue was previously resolved, we were not prepared when these bills were introduced. Attempts to learn about the issues have given us a basic understanding of the differences, and we have learned that both sides believe strongly and passionately in their positions. Guiding us through our deliberations was a quote from the Building Performance Research Institute in their Direct Comparison of the Uniform Building Code and the International Building Code. In their introduction they say, "It is difficult to justify adopting a lower level of safety in a community. In order to warrant changing a state's building codes, the adopting body must, at minimum, conclude that the old and new codes will provide equivalent levels of protection." Until we learn differently, AGC must assume that those recommending adoption of the international code were guided by the same principles.

AGC still has some questions that we believe must be addressed before we can support one side or the other. Our principle concerns have focused on the following items:

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TELEPHONE (907) 452-1809

SOLDOTNA
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