

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11275 SENATE LABOR & COMMERCE

HB

418

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# SENATE COMMITTEE REPORT

TE: 04/22/04

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

and Commerce Committee considered CS FOR HOUSE BILL NO. 418(FIN)

## HB 418 EXTEND REAL ESTATE COMMISSION

an Act extending the termination date of the Real Estate Commission; relating to real estate; relating to real estate inspectors; relating to real estate licensees; and providing for an effective date."

and recommends:

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

**Senate Bill:**

- Same Title
- New Title

**House Bill:**

- Same Title
- Technical Title Change
- New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Ralph DeLeon</i>	✓			
<i>Bettye Davis</i>	X			
<i>[Signature]</i>			✓	
CHAIR: <i>[Signature]</i>	✓			

A M E N D M E N T

OFFERED IN THE SENATE  
TO: CSHB 418(FIN)

BY SENATOR BUNDE

1 Page 3, following line 11:

2 Insert a new bill section to read:

3 **\*\*Sec. 6.** AS 08.88.470 is amended to read:

4 **Sec. 08.88.470. Findings and payment.** At the conclusion of the  
5 commission's consideration of a claim made under AS 08.88.460, it shall make written  
6 findings and conclusions on the evidence. If the commission finds that the claimant  
7 has suffered a loss in a real estate transaction as a result of fraud, misrepresentation,  
8 deceit, or the conversion of trust funds or the conversion of community association  
9 accounts under the control of a community association manager on the part of a real  
10 estate licensee, the commission may award a claimant reimbursement from the real  
11 estate surety fund for the claimant's loss up to \$20,000 [\$10,000]. Not more than  
12 \$20,000 [\$10,000] may be paid for each transaction regardless of the number of  
13 persons injured or the number of parcels of real estate involved in the transaction."

14

15 Renumber the following bill sections accordingly.

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE ASSIGNMENTS:

RULES COMMITTEE, CHAIRMAN  
LABOR & COMMERCE COMMITTEE, MEMBER  
LEGISLATIVE COUNCIL, MEMBER  
SPECIAL COMMITTEE ON OIL & GAS, MEMBER  
LEGISLATIVE ETHICS COMMITTEE, MEMBER

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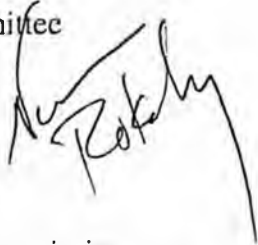
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ALASKA STATE CAPITOL  
JUNEAU, AK 99801-1182  
PHONE: (907) 465-4968  
FAX: (907) 465-2040

## Representative Norman Rokeberg

e-mail: [Representative\\_Norman\\_Rokeberg@legis.state.ak.us](mailto:Representative_Norman_Rokeberg@legis.state.ak.us)

### MEMORANDUM

TO: Senator Con Bunde, Chairman  
Senate Labor & Commerce Committee

FROM: Representative Norman Rokeberg 

DATE: May 3, 2004

RE: CSHB 418 (FIN) – Real Estate Commission

Thank you for hearing CSHB 481 (FIN) earlier today. I am sorry that I could not attend but the House was in session.

You have asked why the bill does not adopt two of the recommendations suggested by the Legislative Audit:

1. Increase the limits on reimbursement of claims. [Item 1 in the Audit Recommendations]

While the Real Estate Commission has filed a letter supporting the increased limits, many of the licensees that I have talked with do not support the proposed increase. The purpose of the surety fund is to provide a method to compensate consumers who might be wronged by the action of a licensee. Many in the industry, and I share this view, feel that if the reimbursement amount were raised that unwarranted claims would be filed. Consumers also have the ability to file a small claims action if they so desire. (Note: HB 227 to revise limits on small claims jurisdiction raises the limit to \$10,000. If a case of action is for more than \$10,000, it should go to court [i.e., district court or superior court]). The licensees, when applying for or renewing a real estate license and in lieu of obtaining a corporate surety, pay surety fund fee that is not to exceed \$125. If the limits of reimbursement were raised, it could impact the licensing fees of the industry.

The Alaska Association of REALTORS® does not support this recommendation of the Audit.

Senator Con Bunde, Chairman  
May 3, 2004  
Page Two

I would encourage the Committee not to increase the reimbursement limit of claims.

2. Specify mobile home transactions are subject to RESF [Real Estate Surety Fund] claims. [Item 3 in the Recommendations]

The Real Estate Commission strongly disagreed with this recommendation and I support the Commission in this instance. The response to the Audit outlines the problems with this proposed amendment.

As stated by the Commission in the response to the Audit, a mobile home by itself is personal property. The Commission compared a mobile home to an automobile, a comparison I find understandable. In many transactions, there is no "real estate" (i.e., land) attached to the sale and thus this is not a true "real estate" transaction. It is a personal property transaction.

The Real Estate Commission, in its response to the Audit, indicated a willingness to take up the problem and offer some suggestions. Until such time as the Commission has had time to review the matter, I urge the Committee not to adopt Audit Recommendation Item 3.

Again, I would reject both Audit Recommendations Item 1 and Item 3 and would ask the Committee to also reject these amendments.

Thank you for your consideration.

**Subject: attached spreadsheet**

**Date: Mon, 03 May 2004 12:33:32 -0800**

**From: Pat Davidson <pat\_davidson@legis.state.ak.us>**

**To: Jane Alberts <Jane\_Alberts@legis.state.ak.us>**




Hi Jane,

Attached is a spreadsheet that identifies some states that have a state administered real estate recovery fund (i.e. Real Estate Surety Fund). For the selected states we have identified the maximum payment per real estate transaction and the maximum payment per licensee.

This is not a complete list of states that may have recovery funds. Please let me know if you have any questions.

Pat Davidson

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 <u>surety fund.xls</u>	<b>Name:</b> surety fund.xls <b>Type:</b> EXCEL File (application/msexcel) <b>Encoding:</b> base64
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## A Selection of Other States with State Administered Real Estate Recovery Funds

State	Maximum Payment per Transaction	Maximum Payment per Licensee
Alabama	25,000.00	50,000.00
Alaska	10,000.00	50,000.00
Arizona	30,000.00	90,000.00
Arkansas	15,000.00	50,000.00
California	20,000.00	100,000.00
Colorado	50,000.00	150,000.00
Georgia	15,000.00	
Hawaii	25,000.00	
Idaho	10,000.00	
	\$10,000, plus atty fees up to 15 % of award	
Illinois		50,000.00
Indiana	20,000.00	50,000.00
Kansas	15,000.00	
Kentucky	10,000.00	50,000.00
Montana	25,000.00	
Nevada	10,000.00	20,000.00
New Mexico	10,000.00	30,000.00
North Carolina	25,000.00	50,000.00
North Dakota	15,000.00	
Ohio	40,000.00	
Oklahoma	15,000.00	50,000.00
Pennsylvania	20,000.00	100,000.00
Rhode Island	50,000.00	
South Dakota	15,000.00	
Tennessee		
Texas	50,000.00	100,000.00
Utah	10,000.00	
Virginia	20,000.00	50,000.00
Wyoming	4,000.00	

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**Date:** Mon, 03 May 2004 12:33:32 -0800

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**To:** Jane Alberts <Jane\_Alberts@legis.state.ak.us>




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	\$10,000, plus atty fees up to 15 % of award	
Illinois		50,000.00
Indiana	20,000.00	50,000.00
Kansas	15,000.00	
Kentucky	10,000.00	50,000.00
Montana	25,000.00	
Nevada	10,000.00	20,000.00
New Mexico	10,000.00	30,000.00
North Carolina	25,000.00	50,000.00
North Dakota	15,000.00	
Ohio	40,000.00	
Oklahoma	15,000.00	50,000.00
Pennsylvania	20,000.00	100,000.00
Rhode Island	50,000.00	
South Dakota	15,000.00	
Tennessee		
Texas	50,000.00	100,000.00
Utah	10,000.00	
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Wyoming	4,000.00	

# ALASKA STATE LEGISLATURE

## House of Representatives

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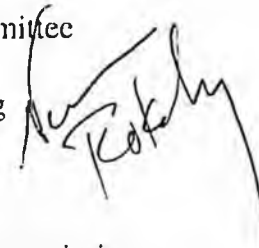
SESSION:  
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JUNEAU, AK 99801-1182  
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## Representative Norman Rokeberg

e-mail: [Representative\\_Norman\\_Rokeberg@legis.state.ak.us](mailto:Representative_Norman_Rokeberg@legis.state.ak.us)

### MEMORANDUM

TO: Senator Con Bunde, Chairman  
Senate Labor & Commerce Committee

FROM: Representative Norman Rokeberg 

DATE: May 3, 2004

RE: CSHB 418 (FIN) – Real Estate Commission

Thank you for hearing CSHB 481 (FIN) earlier today. I am sorry that I could not attend but the House was in session.

You have asked why the bill does not adopt two of the recommendations suggested by the Legislative Audit:

1. Increase the limits on reimbursement of claims. [Item 1 in the Audit Recommendations]

While the Real Estate Commission has filed a letter supporting the increased limits, many of the licensees that I have talked with do not support the proposed increase. The purpose of the surety fund is to provide a method to compensate consumers who might be wronged by the action of a licensee. Many in the industry, and I share this view, feel that if the reimbursement amount were raised that unwarranted claims would be filed. Consumers also have the ability to file a small claims action if they so desire. (Note: HB 227 to revise limits on small claims jurisdiction raises the limit to \$10,000. If a case of action is for more than \$10,000, it should go to court [i.e., district court or superior court]). The licensees, when applying for or renewing a real estate license and in lieu of obtaining a corporate surety, pay surety fund fee that is not to exceed \$125. If the limits of reimbursement were raised, it could impact the licensing fees of the industry.

The Alaska Association of REALTORS® does not support this recommendation of the Audit.

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May 3, 2004  
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I would encourage the Committee not to increase the reimbursement limit of claims.

2. Specify mobile home transactions are subject to RESF [Real Estate Surety Fund] claims. [Item 3 in the Recommendations]

The Real Estate Commission strongly disagreed with this recommendation and I support the Commission in this instance. The response to the Audit outlines the problems with this proposed amendment.

As stated by the Commission in the response to the Audit, a mobile home by itself is personal property. The Commission compared a mobile home to an automobile, a comparison I find understandable. In many transactions, there is no "real estate" (i.e., land) attached to the sale and thus this is not a true "real estate" transaction. It is a personal property transaction.

The Real Estate Commission, in its response to the Audit, indicated a willingness to take up the problem and offer some suggestions. Until such time as the Commission has had time to review the matter, I urge the Committee not to adopt Audit Recommendation Item 3.

Again, I would reject both Audit Recommendations Item 1 and Item 3 and would ask the Committee to also reject these amendments.

Thank you for your consideration.

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February 23, 2004

The Honorable Norm Rokeberg  
Alaska House of Representatives  
State Capitol Building  
Juneau, Alaska 99801

RE: House Bill 418, extending the termination date of the Real Estate Commission

Dear Representative Rokeberg,

The Alaska Association of REALTORS is in favor of extending the termination date of the Real Estate Commission to June 30, 2008, rather than June 30, 2004.

The Association does not concur with the Division of Legislative Audit recommendations that the limits of reimbursement on surety fund claims increase from \$10,000 to \$20,000 per transaction and the associated maximum payment per licensee be increased to \$100,000.

Sincerely,

A handwritten signature in cursive script that reads 'Kathryn Clark'.

Kathryn Clark  
President





## Alaska Division of Legislative Audit Audit Digest #08-20023-03



\* Requires Acrobat Reader Get Acrobat Reader

**SUMMARY** A Sunset Review of the Department of Community and Economic Development, OF: Division of Occupational Licensing, Real Estate Commission.

### PURPOSE OF THE REPORT

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes, we have reviewed the activities of the Real Estate Commission (REC) to determine if the termination date for the commission should be extended. As required by AS 44.66.050(a), the legislative committee of reference shall consider this report as part of the oversight process in determining if REC should be reestablished. Currently, AS 08.03.010(c)(19) specifies that REC will terminate on June 30, 2004, and will have one year from that date to conclude its administrative operations.

### REPORT CONCLUSIONS

In our opinion, the termination date for REC should be extended. The commission serves a public purpose and has demonstrated an ability to operate in a satisfactory manner. The regulation and licensing of real estate professionals provides necessary public protection in the buying and selling of residential and commercial properties.

The commission carries out its responsibilities to educate both the public and REC licensees in a professional, competent, and efficient manner. Additionally, active investigation of complaints and licensure actions, when appropriate, provides assurance that licensed professionals are competent and ethical. We recommend that legislation be enacted to extend the commission's termination date to June 30, 2008

### FINDINGS AND RECOMMENDATIONS

1. The legislature should amend the statutes related to the Real Estate Surety Fund (RESF) to provide more complete, effective, and efficient consumer protection to claimants.

RESF provides consumers reimbursement for financial losses they may have suffered from a real estate transaction attributable to "fraud, misrepresentation, deceit, or the conversion of trust funds..." on the part of an REC licensee. Claims for reimbursement are subject to a hearing process administered in accordance with the state's administrative procedures act. In order to make the RESF operate in a manner consistent with the fund's evident purpose, we recommend the legislature amend state laws related to the fund in order to:

- o Increase the limits on reimbursement of claims to \$20,000 per transaction and the associated

maximum payment per licensee to \$100,000.

- o Only require the Division of Occupational Licensing (OccLic) to make reasonable efforts to provide right-of-appeal notification.
- o Specify that mobile home transactions are subject to RESF claims.



\* Requires Acrobat Reader 

October 16, 2003

Members of the Legislative Budget  
and Audit Committee:

In accordance with the provisions of Title 24 and Title 44 of the Alaska Statutes (sunset legislation), the attached report is submitted for your review.

DEPARTMENT OF COMMUNITY AND  
ECONOMIC DEVELOPMENT  
DIVISION OF OCCUPATIONAL LICENSING  
REAL ESTATE COMMISSION SUNSET REVIEW

October 16, 2003

Audit Control Number

08-20023-03

This audit was conducted as required by AS 44.66.050 and under the authority of AS 24.20.271(1). Alaska Statute 44.66.050(c) lists criteria to be used to assess the demonstrated public need for a given commission, commission, agency, or program subject to the sunset review process. Currently under AS 08.03.010(c)(19), the Real Estate Commission is scheduled to terminate on June 30, 2004. If the legislature takes no action to extend the termination date, the commission would be allowed one year in which to conclude its administrative operations.

In our opinion, the termination date for REC should be extended. The regulation and licensing of real estate professionals provides necessary public protection in the buying and selling of residential and commercial properties. We recommend that legislation be enacted to extend the commission's termination date to June 30, 2008.

The audit was conducted in accordance with generally accepted government audit standards. Fieldwork procedures utilized in the course of developing the findings and discussion presented in this report are discussed in the Objectives, Scope, and Methodology.

Pat Davidson, CPA  
Legislative Auditor

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## OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with the intent of Titles 24 and 44 of the Alaska Statutes, we have reviewed the activities of the Real Estate Commission (REC) to determine if the termination date for the commission should be extended. As required by AS 44.66.050(a), the legislative committee of reference shall consider this report as part of the oversight process in determining if REC should be reestablished. Currently, AS 08.03.010(c)(19) specifies that REC will terminate on June 30, 2004. If no action is taken by the legislature, the commission will have one year from that date to conclude its administrative operations.

### Objectives

The three central, interrelated objectives of our report are:

1. To determine if the termination date of the commission should be extended.
2. To determine if the commission is operating in the public interest.
3. To determine if the commission has exercised appropriate regulatory oversight of real estate licensees.

The assessment of the operations and performance of the commission was based on criteria set out in AS 44.66.050(c). Criteria set out in this statute relate to the determination of a demonstrated public need for the commission.

### Scope and Methodology

Under the direction and supervision of the Division of Legislative Audit, another auditor conducted the majority of this review. We followed professional standards to determine that the other auditor was independent and that their work was competent and sufficient.

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

- Applicable statutes and regulations.
- Files and documentation related to individuals licensed as real estate salespersons, associate brokers, and brokers, including those who have been issued a courtesy license to practice within Alaska.
- Files and documentation related to individuals who applied for licensing as a salesperson, associate broker, or broker; testing of licensing candidates, and continuing education necessary for an individual to maintain their license in good standing.

- Minutes of commission meetings, budget documents, and annual reports related to, or issued by REC.
- Complaints filed with the Division of Occupational Licensing, the Alaska State Commission for Human Rights, the Office of the Ombudsman, the Office of Victims' Rights, and the Federal Equal Employment Opportunity Commission.
- Financial information relating to the REC and the Real Estate Surety Fund (RESF). claims handling process.

Additionally, we conducted interviews with Division of Occupational Licensing staff and members of the REC.

## ORGANIZATION AND FUNCTION

### Commission Membership

Alaska Statute 08.88.011 establishes the Real Estate Commission (REC). REC is a regulatory commission consisting of seven members, specified in statute to consist of five real estate brokers or associate brokers who have been licensed as such in Alaska for at least three years prior to appointment, and two public members in accordance with AS 08.01.025. The statute further specifies that one of the five members of the commission who must be real estate brokers or associate brokers should be from each of the four Judicial Districts, and one from the state at large. However, if no licensed real estate broker or licensed associate broker is eligible or available for appointment from the Second Judicial District, then two licensed real estate brokers or licensed associate brokers shall be appointed from the state at large. Currently, the Office of the Governor has exercised this option, and has appointed to REC two members from the state at large.

---

#### REAL ESTATE COMMISSION (As of October 14, 2003)

Jeannie Johnson, Broker - 1<sup>st</sup> Judicial District -  
Chairperson

Lottie M. Michael, CCIM, Broker - Member at Large

Barbara Parker-Ramsey, Associate Broker -  
3<sup>rd</sup> Judicial District

Susan Rainey, Associate Broker - 4<sup>th</sup> Judicial District

David B. Somers, Broker - Member at Large

Bradley J Fluetsch, CFA - Public Member

Vacant - Public Member

---

### Statutory Authority of the Commission

Alaska Statute 08.88.071 defines the commission's authority, purpose, and scope of work. Under this statute, REC must perform the following duties:

1. Determine whether applicants meet requirements for licenses under this chapter and issue licenses to those who qualify.
2. Prepare and grade examinations.
3. Prosecute, through the Department of Law, violations of real estate statutes and regulations.
4. After a hearing, REC has the authority to suspend or revoke the license of a licensee or impose other disciplinary sanctions authorized under AS 08.01.075 on a licensee who violates real estate statutes and regulations.
5. Prosecute, through the Department of Law, violations of the provisions of this chapter or lawful regulations adopted under this chapter.

6. Release for publication in a newspaper of general circulation (in the locale of the offending person's principal office registered with the commission) notice of disciplinary action taken by REC against a licensee.
7. Issue a temporary permit to the personal representative of the estate of a deceased or legally incompetent real estate broker (or to another person designated by the commission, with the approval of the personal representative of the estate) in order to secure proper administration in either:
  - A. concluding the affairs of the decedent broker's real estate business (if deceased); or
  - B. temporarily managing the real estate business of the broker (if legally incompetent).
8. Establish and periodically revise the form of the seller's property disclosure statement required by AS 34.70.010.
9. Have the authority to levy civil fines as established under AS 08.88.
10. Revoke the license of a broker or associate broker who is convicted of forgery, theft, extortion, conspiracy to defraud creditors, or a felony involving moral turpitude committed while licensed under AS 08.88.

#### License Requirements

REC licenses real estate brokers, associate brokers, and salespersons. In order to obtain initial licensure, real estate brokers and associate brokers must pass an examination and have a minimum of 24 months of active and continuous experience as a real estate salesperson. A broker differs from an associate broker in that a broker must be an owner of a real estate business, or must be employed as a broker by a corporation or partnership. An associate broker is an individual who has met the statutory requirements of a broker, but does not meet the ownership criteria for a broker.

A real estate salesperson must pass an examination, be at least 19 years old, must not be under indictment for any felony involving moral turpitude, or, if convicted for an offense, the person must have completed the imposed sentence; and be employed by a real estate broker.

REC also conducts a variety of educational activities such as holding clinics, meetings, and seminars, as well as publishing educational pamphlets for the purpose of raising the standards of the real estate profession and improving the competency of its various licensees.

Real estate licenses are renewed biennially. The next biennial renewal date is January 31, 2004. In order to renew their license, real estate licensees must complete a renewal application, provide evidence of continuing education, and remit a license fee.

### Duties of the Department of Community and Economic Development

The Department of Community and Economic Development (DCED), Division of Occupational Licensing (OccLic) provides administrative and investigative assistance to REC. This includes budgetary services and functions such as collecting fees, maintaining files, receiving and issuing application forms, and publishing notice of examinations and meetings.

Alaska Statute 08.01.065 mandates that DCED, with the concurrence of the board, adopt regulations to establish the amount and manner of payment of application fees, examination fees, license fees, registration fees, permit fees, investigation fees, and all other fees as appropriate for the occupations covered by the statute.

Alaska Statute 08.01.087 empowers OccLic with the authority to act on its own initiative, or in response to a complaint. The division may:

1. Conduct an investigation if it appears a person is engaged in, or is about to engage in, a prohibited professional practice.
2. Bring an action in superior court to enjoin the act.
3. Examine the books and records of an individual.
4. Issue subpoenas for the attendance of witnesses and records.

### Real Estate Surety Fund

The real estate surety fund (RESF) operates under Article 4 of AS 08.88. REC administers the fund and sets the surety fee paid by all licensees. The fund was established in 1974 to serve as a substitute for corporate surety bonds, which licensees were previously required to obtain; and to fund the education of licensees and the public.

By law, the fund is to be used for reimbursement of losses suffered as a result of fraud, misrepresentation, deceit, or the conversion of trust funds on the part of any real estate licensee. Claims for reimbursement require a \$250 filing fee and claim payments are limited to \$10,000 per transaction, up to a maximum of \$50,000 per licensee. The statutes grant REC the following authority when considering a claim for payment from the RESF:

1. Take and hear evidence pertaining to the claim.
2. Administer oaths and affirmations.
3. Compel, by subpoena, the attendance of witnesses and the production of books, papers, and documents pertaining to the claim.

4. Engage the services of an investigator, accountant, or other expert necessary to process the claim.

However, the commission currently exercises its option under AS 08.88.472(c) to contract under AS 36.30 (State Procurement Code) with a hearing officer employed by OccLic to perform the above hearing and legal services for REC.

In order to facilitate the management of the RESF and the fee setting process, DCED is required by statute to provide the commission every three months with a financial statement that includes the following information regarding the RESF:

- the activities of the fund.
- balances in the fund.
- interest earned.
- interest returned to the fund.

## BACKGROUND INFORMATION

The Alaska Real Estate Commission (REC) was created in 1964. In one of its earliest actions, REC required all licensees to carry a surety bond. Salespersons were required to maintain a \$1,000 bond while brokers had to carry bonding for \$5,000. The purpose of these bonds was to provide consumers some protection from malfeasance on the part of REC licensees.

### At the request of REC, the Legislature established a state-administered surety fund in 1974

Although there were few claims against these bonds, the real estate profession and REC realized the required bonding levels were too low to adequately protect the public. Following the example of 12 other states, the industry together with REC, actively lobbied the 1974 legislature to create a state-administered surety fund that is funded by licensee fees. The fund was to serve a two-fold purpose:

1. To provide indemnification up to \$10,000 per transaction for judgments awarded by the courts to persons who suffered financial loss because of a licensee's actions that involved fraud, deceit, misrepresentation, or conversion of trust funds.
2. To provide funding for real estate education of both the public and REC licensees.

### Originally, the surety fund only paid court-ordered judgments against real estate licensees

The 1974 legislation, which was patterned after the California model, required a court judgment against a licensee prior to any disbursement from the Surety Fund. Under the original 1974 law there was no requirement that the fund be reimbursed by the licensee whose actions resulted in a claim payment, nor did the law provide for any review by REC prior to payment from the fund. From the 1976 license renewal cycle (when the first fees were paid into the surety fund), judges were able to order payment to the successful complainant directly from the fund to satisfy a judgment.

### In 1980, surety fund statutes were amended to provide for an administrative hearing process

The legislature responded to a recommendation in a 1980 REC sunset review by amending the surety fund statutes. We recommended that REC take on the responsibility of not only hearing cases involving RESF claims, but also approving awards from the fund. The use of hearing officers, in accordance with the Administrative Procedures Act, began in late 1982. At that time, the commission adopted regulations that became effective in early 1983.

Under these regulations, claims are filed directly with REC. A \$250 filing fee is required; however, the fee is refunded if the complainant prevails. Once a complaint is received the administrative hearing process begins. The hearing consists of presentations by the claimant and the licensee(s) involved. The hearing officer has the power to subpoena evidence and to require the attendance of witnesses. Both parties are allowed legal counsel if they so choose.

Administrative hearings provide all of the due process protections, with the exception of a jury trial, that are afforded through the civil court system. The rules of evidence are more informal than in court; although, as a practical matter, most of the evidence that is presented in administrative hearings would be allowed in a civil court proceeding.

At the conclusion of the hearing, a document titled Findings of Fact and Conclusions of Law is prepared by the hearing officer. This document summarizes the hearing officer's findings and recommended action as to whether REC should approve payment of the claim from the fund. Once a hearing officer has made a recommended decision, the commission reviews the case and decides if the claim should be paid from the RESF. After the final decision is made, the licensee or the claimant has the option to appeal to the Superior Court.

Statute requires the surety fund maintain a minimum balance and also sets the maximum level

Alaska Statute 08.88.450 establishes the floor of the fund at \$250,000 and the ceiling at \$500,000. The funds in RESF may be used to pay claims and fund education for real estate professionals. The surety fee is set by REC and is capped at \$125. This fee may be adjusted downward by REC as long as the fund is maintained at a level that can pay claims against it without going below the minimum fund balance of \$250,000. REC is also responsible for approving education expenditures and all consumer claim payments charged to the fund.

## REPORT CONCLUSIONS

In accordance with AS 08.03.010(c)(19), the Real Estate Commission (REC) is scheduled to terminate by statute on June 30, 2004. If no action is taken by the legislature, the commission will have one year in which to conclude its affairs and will be dissolved on June 30, 2005.

REC is responsible for licensing and regulating individuals who hold themselves out to the public as real estate salespersons, associate brokers, or brokers. The commission accomplishes this by establishing: (1) qualifications for licensure; (2) the scope and extent of continuing education necessary for real estate professionals to remain licensed; and, (3) evaluating and approving payment of claims from the real estate surety fund to consumers seeking reimbursement for a loss suffered in a real estate transaction attributable to fraud, misrepresentation, or deceit on the part of a REC licensee.

In our opinion, the termination date for REC should be extended. The commission serves a public purpose and has demonstrated an ability to operate in a satisfactory manner. The regulation and licensing of real estate professionals provides necessary public protection in the buying and selling of residential and commercial properties. The commission carries out its responsibilities to educate both the public and REC licensees in a professional, competent, and efficient manner. Additionally, active investigation of complaints and licensure actions, when appropriate, provides assurance that licensed professionals are competent and ethical. We recommend that legislation be enacted to extend the commission's termination date to June 30, 2008.

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## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

The legislature should consider amending the statutes related to the Real Estate Surety Fund to provide more complete, effective, and efficient consumer protection to claimants.

The Real Estate Surety Fund (RESF) provides consumers reimbursement for financial losses they may have suffered from a real estate transaction attributable to "*fraud, misrepresentation, deceit, or the conversion of trust funds...*"<sup>1</sup> on the part of an REC licensee. Claims for reimbursement are subject to a hearing process administered in accordance with the state's administrative procedures act.

In reviewing the administration of the fund in recent years, we have noted instances or circumstances that are not consistent with the evident purpose of the fund. That is, the fund is not operating in a manner that provides individuals with a less cumbersome alternative to formal litigation in the courts when they have been financially injured in a real estate transaction. Towards the end of making RESF operate in a manner consistent with this evident purpose, we recommend the legislature consider amending state laws related to the fund in order to:

1. Increase the limits on reimbursement of claims. Under current state law, RESF claim payments are capped at \$10,000 per transaction,<sup>2</sup> up to a maximum of \$50,000 per licensee.<sup>3</sup> The current limits were set in 1974 when RESF was first established in statute.

The mandate for licensees to pay a fee (set by REC) to fund the RESF was also set out in the 1974 statute. The statute was amended in 1998 limiting this fee to no more than \$125.<sup>4</sup> Currently, the license fee is set by REC at \$30 per licensee. The amount paid by licensees is primarily determined by how close the balance of the fund is to \$500,000 (the maximum set in statute) or to \$250,000 (the statutory minimum). During our audit period, the RESF has fluctuated close to the \$500,000 ceiling; at no time did the balance approach the \$250,000 minimum floor.

Given the soundness of the fund, we suggest the legislature consider increasing the claim limit. The following observations indicate a need to reconsider the claim limit:

- Each of the last five RESF claim payments was for the maximum \$10,000. The alleged losses associated with each of these successful, and presumably valid, claims exceeded the \$10,000 limit (although all but one was less than \$20,000).

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<sup>1</sup> AS 08.88.460(a)

<sup>2</sup> AS 08.88.470

<sup>3</sup> AS 08.88.475(a)

<sup>4</sup> am § 36 ch 45 SLA 1998

- If the \$10,000 amount established in 1974 was adjusted by the consumer price index for Anchorage, the current equivalent sum would be \$31,500.
- Compared to other states with similar recovery funds our limit is low. The average per-transaction limit of 26 states surveyed is just over \$21,000. The average per-licensee limit (in states with a two-tiered limit such as Alaska) is just under \$70,000.

Increasing the limits on claim payments would not only cause an increase in the amount of funds paid out of the fund, but also may increase the number of claims made on the fund. However, considering the balance of the fund over the past eight years, it is unlikely that this will have a material affect on the fund balance or cause REC to significantly raise the RESF fees. Given these factors, we recommend the legislature increase the limit on claim payments to \$20,000 per transaction and the associated maximum payment per licensee to \$100,000.

2. Only require the Division of Occupational Licensing (OccLic) to make reasonable efforts to provide right-of-appeal notification. Claims against RESF are administered under the state's Administrative Procedures Act (APA).<sup>5</sup> Under this act, either party may appeal the final decision made by REC. When a RESF "judgment" involving the actions of a REC licensee is made by the commission, the licensee has a right to appeal. Final payment from the RESF is held until the appeal is filed and considered or the individual involved waives their appeal rights.

This has resulted in a situation where a successful claimant has been waiting over nine months to receive a \$10,000 payment and OccLic has not been able to locate or notify the losing respondent of their rights to appeal. It is very likely the individual has left the state, but the Department of Law has advised OccLic to continue their attempts of contacting the respondent in order to afford him full opportunity in exercising his APA appeal rights.

Such notification requirements are inconsistent with the central evident purpose of RESF – allowing consumers an expedited way to recover some, if not all, of their financial loss from the fraudulent actions of real estate licensees. Accordingly, we recommend that the legislature permit REC and OccLic to disburse RESF claim payments after they have made a good faith effort to locate the losing respondent regarding appeal options. If such efforts are unsuccessful, then OccLic should be allowed to presume the individual is waiving their appeal rights – and disburse claim awards to the prevailing plaintiff.

3. Specify mobile home transactions are subject to RESF claims. State law specifies that RESF can be used to reimburse an individual for a loss "*suffered in a real estate transaction as a result of fraud, misrepresentation, deceit ... [emphasis added].*"<sup>6</sup> In two instances, during recent years, attorneys representing REC licensees have sought to have

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<sup>5</sup> AS 44.62

<sup>6</sup> AS 08.88.460

RESF claims dismissed because the claims involved transactions in the purchase of mobile homes. The attorneys argued that since mobile homes are considered personal, rather than real property, their sale do not represent a "*real estate transaction*" as specified in law.

The hearing officer handling the case has always disallowed this argument. However, such procedural rulings made in the course of an administrative hearing do not have any value in establishing recognized precedence. Accordingly, in some future claim hearing, it could be held that the RESF statutes do not cover mobile home sales transactions.

As reasoned by the hearing officer, the intent of RESF is to compensate victims of fraud, misrepresentation, and deceit on the part of REC licensees. Mobile home purchases still represent a large commitment of capital on the part of the buyer and necessary reliance on the performance of a real estate professional. Therefore, we recommend the legislature amend the statute to specify mobile home transactions as being subject to RESF claims.

The implementation of the above recommendations will enhance the consumer protection offered by the RESF as well as the consumer satisfaction in the adjudication of their claims. Further, implementation will streamline the administration of the Fund by increasing the efficiency with which disbursements from RESF are made.

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## A ANALYSIS OF PUBLIC NEED D

The following analyses of commission activities relate to the public need factors defined in AS 44.66.050(c). These analyses are not intended to be comprehensive, but address those areas we were able to cover within the scope of our review.

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

In FY 93, REC implemented a system of electronic testing for licensure examinations required of salespersons and brokers. The passing score report generated upon successful completion of the examination was designed to also serve as the license application, which reduced the processing time involved in issuing the initial license. Since that time, REC has continued to administer and maintain oversight for the licensing exams. Exam times and sites are offered at various locations throughout the state on at least a monthly basis.

REC developed and issued an informational booklet titled *The Landlord and Tenant Act: What it Means to You*. The booklet served as a reference source for both landlords and tenants, explaining the requirements and responsibilities of each party under state law. REC completely rewrote and reissued this booklet in July 2002, incorporating changes in the laws and regulations since the original publication date.

REC also developed and issued revisions to the Property Transfer Disclosure Statement and provided statewide distribution and training on completing the form. In addition, REC periodically publishes a newsletter. This newsletter has articles regarding statutes and regulations, including upcoming changes; highlights from the most recent REC meeting; and, articles of interest to the real estate profession.

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

The table on the next page summarizes the number of claims filed and their disposition during the period of our audit. With respect to surety fund claims, it appears that the timing of claims processing and resolution may be impeded by the availability of only one hearing officer to service the entire OccLic division. This has resulted in extensive delays in the finalization of claims. The initial response to claims appears to be expedient; however, final resolution appears to generally be taking two years or more.

In September 2001, the licensing examiner's position was expanded from part-time to full time. The position was expanded in response to the steady growth in the number of real estate licensees and the resulting increase in workload. In FY 03, there was a dramatic increase in Real Estate Surety Fund (RESF) claims (as shown in the table at right); consequently, in FY 04 we expect a corresponding rise in personnel service costs for the hearing officer.

RESF Claims Filed and Disposition of Claims	FY 00	FY 01	FY 02	FY 03
New Claims Filed	3	5	5	14
<b>Disposition:</b>				
Withdrawn	1	0	2	0
Moved to small claims	0	1	0	0
Dismissed	1	0	0	0
Resulted in payment <sup>7</sup>	1	1	0	0
Pending	0	2	3	14
Appealed to Superior Court	0	1	0	0

Licensing fees and Commission Operating Expenses

State law requires "...that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation." The schedule below summarizes the operating costs and revenues for REC for the period of FY 00 through FY 03. As reflected in this schedule, REC is in material compliance with the law at the end of FY 03.

**Real Estate Commission  
Schedule of License Revenues and Commission Expenditures  
FY 00-FY 03  
(Unaudited)**

	<u>FY 03</u>	<u>FY 02</u>	<u>FY 01</u>	<u>FY 00</u>
Total Revenues	\$ 126,600	\$ 646,700	\$ 84,100	\$ 629,000
Direct Expenditures:				
Personal Services	171,300	142,800	141,700	178,400
Travel	21,200	16,800	11,900	16,700
Contractual	79,300	78,500	45,700	67,100
Supplies	1,600	1,500	2,900	600
Total Direct Expenditures	273,400	239,600	202,200	262,800
Administrative Indirect Costs	102,700	95,700	88,200	93,300
Total Expenditures	376,100	335,300	290,400	356,100
Revenues over (under) Expenditures	(249,500)	311,400	(206,300)	272,900
Cumulative Surplus (deficit)	\$ (800)	\$248,700	\$ (62,700)	\$143,600

<sup>7</sup> FY 00 claim payment made two years after original filing date, FY 01 claim payment authorized 26 months after original filing date (check not disbursed as of audit fieldwork).

In FY 03, total operating expenses for REC increased by 12% from the previous fiscal year; direct expenditures for REC increased markedly by 27%. This is primarily due to significant increases in personnel services, and to a lesser degree, travel expenditures. Even with the increase in costs, the cumulative biennial deficit shown at the end of FY 01 has almost been eliminated.

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

The REC has monitored and revised regulations to comply with statutory changes and administrative needs on an ongoing basis. However, REC has made no recommendations for statutory changes over the last four years.

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

The public received notice of all meetings consistent with the requirements of statute and regulation. The agenda of items to be discussed was available before scheduled meetings. A public comment period has been set aside in the agenda for each commission meeting.

Interested parties can attend meetings in person or by teleconference. In addition to accepting public comment at the meetings, REC regularly discussed correspondence from various individuals, agencies and other interested parties. OccLic forwards public comment and concerns, for consideration during commission meetings to REC.

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

Draft regulations developed by REC were properly advertised for the required amount of time. Public notices of regulatory hearings were published in major newspapers and on the commission's website. The commission accepted public comment at meetings.

*The efficiency with which public inquiries or complaints regarding the activities of the board, commission, or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of victims' rights or the office of the ombudsman have been processed and resolved.*

During the 48-month period from July 1, 1999 through June 30, 2003, OccLic opened 152 investigative cases related to individuals certified by REC. Almost two-thirds (97) of the cases were generated from complaints made by clients, or from the general public. A little less than a third of the complaints (43) involved allegations of negligence, incompetence, or

professional ethics violations. Another one-third of the cases (51) involved alleged misrepresentation or fraud by the licensees.

As of the date of our review, 117 of the 152 cases had been closed. Just over 40% of the cases (48) were closed with a finding of no violation. Of the remaining closed cases, 20 were closed with warning letters issued by the commission, and 16 resulted in some form of licensure action.<sup>8</sup> Seven complaints resulted in the initiation (by OccLic in conjunction with the Attorney General's Office) of a formal disciplinary hearing and 15 were closed for miscellaneous other reasons.

The remaining 11 cases were administratively closed under what was termed the Director's Case Reduction Plan (DCRP). The new director of OccLic established a policy that all division investigations that had been open for more than a year were to be administratively closed if they did not involve a significant public safety concern.

Of the 35 cases still open, as of the date of our review, nine had been opened within the previous 120 days. Seven of the cases have been open longer than one year and were pending closure under DCRP policy. The remaining 19 open cases are in various stages of ongoing investigation. If DCRP is applied to investigations on an ongoing basis, then nearly half of these remaining 19 cases will be closed administratively within 90 days of our report.

The investigative unit of OccLic was directed to close all cases that are: (a) over one-year old, and (b) do not involve a serious public safety issue. These criteria would apply to nearly all REC investigative cases since they rarely involve public safety issues, but rather the protection of Alaska's consumers. The one-year time limit under DCRP appears rather arbitrary, particularly since no consideration is given as to the nature of the complaints received by various boards and commissions. A third of the complaints regarding REC licensees involve allegations of fraud or misrepresentation. Such cases may be dropped, despite the underlying validity, simply because they "timed out."

We reviewed the nature and extent of complaints filed involving REC licensees. Except for the arbitrary nature of the criteria used under the new DCRP policy, we conclude that OccLic (in conjunction with the commission) has proceeded in a manner consistent with the potential threat these complaints posed to the public welfare.

During the period of our review, the office of the Ombudsman received one complaint against the Alaska Real Estate Commission. This complaint was dismissed immediately due to the fact that the complainant would not allow disclosure of his identity. No other complaints were filed with the office of the Ombudsman and no complaints were filed with the Office of Victims' Rights.

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<sup>8</sup> Licensure action includes suspension or revocation of the individual's license to practice, or imposition of a Memorandum of Agreement – which typically limits the individual's practice to some extent.

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

REC is charged with regulating entry into the occupation. To obtain a real estate salesperson license, an individual must submit an application for license (with fee), pass an examination, and obtain 20 hours of pre-licensing education.

New Licenses Issued	FY 00	FY 01	FY 02	FY 03	Total for Period	Current Licenses at June 30, 2003
Salesperson	169	197	224	222	812	1,215
Assoc. Broker	2	6	1	2	11	368
Broker	2	2	5	2	11	475
Total	173	205	230	226	834	2,058

Other provisions exist for individuals previously licensed in other states and additional criteria are required for Broker and Associate Broker licenses. The above table shows the number of licenses issued, by category for each of the listed fiscal years.

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

We found no evidence of REC not complying with state personnel practices, including affirmative action, in the qualifying process of applicants. Each time the commission has denied an applicant's certification the reasoning has been based on requirements set out by statute and regulation, not on the personal attributes of applicants. The reasons for denials are stated in writing, with the applicant always informed of their rights and the process in which they can contest or appeal any denial of licensure.

***The extent to which statutory, regulatory, budgeting, or other changes are necessary to enable the agency, board, or commission to better serve the interest of the public and to comply with the factors enumerated in AS 44.66.050.***

Administrative Hearings

Currently, when an individual pursues a surety fund claim all the way to an administrative hearing, the process often exceeds two years. The purpose of the RESF hearing process is to allow individuals to recover losses without the burden of more formal litigious processes as would be experienced in a court of law. In order to serve the public interest, the RESF claim process should be carried out as expeditiously as possible.

One hearing officer serves the entire Division of Occupational Licensing, or approximately 20 separate professional boards. While the number of investigators has increased over the last few years, there remains only one hearing officer available to handle all administrative

hearings for the boards. This creates difficulties in scheduling both the hearing and the report writing phases. We suggest that OccLic determine whether other boards and commissions are also experiencing significant delays in the administrative hearing process. If so, the division should consider obtaining additional hearing officer services or some alternative relief.

#### Educational Requirements

In order to obtain an Alaska real estate license by endorsement, applicants must show evidence that certain educational requirements have been met as specified in 12 AAC 64.063.

Currently, when applicants with real estate licenses from other states apply for an Alaska license by endorsement, REC accepts the out-of-state license as proof that the applicant has completed the courses required by the commission. Although every state may require completion of courses prior to issuing a license, REC should not rely on the controls of other states. Insisting on proof that applicants have completed the courses specifically required by the commission will ensure that REC is accepting qualified applicants to serve the people of Alaska.

#### Real Estate Surety Fund (RESF)

The legislature needs to consider amending statutes related to the administration of RESF in order to better accomplish the public policy objective behind the fund's operation – consumer protection. Specifically we recommend:

1. Increase the limits on reimbursement of claims.
2. Require that OccLic make reasonable efforts to provide right of appeal notification.
3. Specify mobile home transactions are subject to RESF claims.

#### Adherence to AS 08.01.025 for public members

Earlier this year an individual was appointed to the Real Estate Commission as a public member but did not meet the qualifications of public membership outlined in AS 08.01.025.

Specifically, the statute states a public member of a board may not:

1. Be engaged in the occupation that the board regulates.
2. Be associated by legal contract with a member of the occupation that the board regulates except as a consumer of the services provided by a practitioner of the occupation.
3. Have a direct financial interest in the occupation that the board regulates.

As an attorney, his relationship with various clients who are licensees of the commission put his appointment in violation of AS 08.01.025 (2) and likely (3), as cited above. He has since submitted his resignation from the REC.

To avoid future recurrences the Office of the Governor should consider requiring current and proposed public members of boards and commissions sign an affidavit attesting that they are in compliance with AS 08.01.025.

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## ACCOUNTANT'S REPORT

Members of the Legislative Budget  
and Audit Committee:

We have reviewed the accompanying comparative statements of revenues, expenditures, and changes in fund balance of the Department of Community and Economic Development, Real Estate Surety Fund for the years ending June 30, 2000, 2001, 2002, and 2003, in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. All information included in these statements is the representation of the management of the Department of Community and Economic Development.

A review consists principally of inquiries of department personnel and analytical procedures applied to financial data. It is substantially less in scope than an examination in accordance with generally accepted auditing standards, the objective of which is the expression of an opinion regarding the financial statements taken as a whole. Accordingly, we do not express such an opinion.

As described in Note 1, only the statements of revenues, expenditures, and changes in fund balance have been presented. These statements are not intended to be a complete presentation of the results of operation and the financial position of the Real Estate Surety fund, which would require the presentation of balance sheets.

Based on our reviews we are not aware of any material modifications that should be made to the accompanying statements of revenues, expenditures and changes in fund balance in order for them to be in conformity with generally accepted governmental accounting principles.

Pat Davidson, CPA  
Legislative Auditor

October 16, 2003

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**State of Alaska**  
**Department of Community and Economic Development**  
**Real Estate Surety Fund**  
**Comparative Statements of Revenues, Expenditures, and Changes in Fund Balance**  
**For the Fiscal Years Ended June 30, 2000, 2001, 2002, and 2003**

	<u>FY 03</u>	<u>FY 02</u>	<u>FY 01</u>	<u>FY 00</u>
Revenues				
Licensee Fees, Claim Filing Fees, and Claim Reimbursements	\$ 19,525	\$ 86,475	\$ 21,751	\$ 86,357
Interest Earned	<u>25,361</u>	<u>26,730</u>	<u>48,250</u>	<u>24,439</u>
Total Revenues	<u>44,886</u>	<u>113,205</u>	<u>70,001</u>	<u>110,796</u>
Educational Expenditures				
Personal Services	94,236	82,866	78,503	59,775
Travel	1,550	1,817	- 0 -	1,103
Contractual	29,876	8,685	1,815	4,354
Commodities	- 0 -	- 0 -	- 0 -	2,229
Equipment	<u>- 0 -</u>	<u>- 0 -</u>	<u>- 0 -</u>	<u>1,884</u>
Subtotal educational expenditures	125,662	93,368	80,318	69,345
Hearing, legal, and claims settlements	<u>250</u>	<u>31,544</u>	<u>5,016</u>	<u>- 0 -</u>
Total Expenditures	<u>125,912</u>	<u>124,912</u>	<u>85,334</u>	<u>69,345</u>
Revenues over (under) expenditures	<u>(81,026)</u>	<u>(11,707)</u>	<u>(15,333)</u>	<u>41,451</u>
Transfer in from General Fund	<u>- 0 -</u>	<u>- 0 -</u>	<u>- 0 -</u>	<u>60,698</u>
Net change in Fund Balance	<u>(81,026)</u>	<u>(11,707)</u>	<u>(15,333)</u>	<u>102,149</u>
Fund Balance, beginning of year	<u>548,230</u>	<u>559,937</u>	<u>575,270</u>	<u>473,121</u>
Fund Balance, end of year	<u>\$467,204</u>	<u>\$548,230</u>	<u>\$559,937</u>	<u>\$575,270</u>

See accompanying Accountant's Report and Notes to the Financial Statements.

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**State of Alaska**  
**Department of Community and Economic Development**  
**Real Estate Surety Fund**

**Note 1 – Summary of Significant Accounting Policies**

Alaska Statute 37.05.150 requires the State of Alaska to conform to generally accepted accounting principles (GAAP) as prescribed by the Governmental Accounting Standards Board (GASB). GASB is the accepted standard-setting body for governmental accounting and financial reporting principles which are primarily set forth in GASB's Codification of Governmental Accounting and Financial Reporting Standards.

The statements provided in this report present only the revenues, expenditures, and changes in fund balance of the Department of Community and Economic Development, Real Estate Surety Fund for fiscal years 2000 through 2003. As such, these statements are not intended to be a complete presentation of the fund's results of operations and financial position on the modified accrual basis of accounting. The following is a summary of the significant policies applicable to the Department of Community and Economic Development, Real Estate Surety Fund.

**Real Estate Surety Fund**

The Real Estate Surety Fund (RESF) was established in 1974 as a sub-fund of the State of Alaska General Fund under AS 08.88.450. The fund was created to provide indemnification up to \$10,000 per transaction for persons who have suffered financial loss because of a Real Estate Commission (REC) licensee's actions that involve fraud, deceit, misrepresentation, or conversion of trust funds, and to provide funding for real estate education of both the public and REC licensees.

Alaska Statute 08.88.450 establishes the floor of the fund at \$250,000 and the ceiling at \$500,000. The funds in RESF may be used to pay claims and fund education for real estate professionals. The surety fee is set by REC and is capped at \$125. This fee may be adjusted downward by REC as long as the fund is maintained at a level that can pay claims against it without going below the minimum fund balance of \$250,000. REC is also responsible for approving education expenditures and all consumer claim payments charged to the fund.

**Measurement Focus and Basis of Accounting**

The accounting and financial reporting presentation is determined by measurement focus. Basis of accounting refers to when revenues are recognized in the accounts and reported in the financial statements. These financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting.

**State of Alaska  
Department of Community and Economic Development  
Real Estate Surety Fund**

**Note 1 – Summary of Significant Accounting Policies (Continued)**

Under the modified accrual basis of accounting, revenues are recognized when they become measurable and available to finance operations during the current year or to liquidate liabilities existing at the end of the year (collected within 60 days of fiscal year end). Major revenues that are determined to be susceptible to accrual include:

- A. Surety fund fees paid by real estate licensees when applying for or renewing a real estate license in lieu of obtaining a corporate surety bond.
- B. Filing fees retained from claimants, all of whom must pay \$250 to the commission at the time their claim is filed.
- C. Income earned on investment of the money in the RESF.
- D. Money paid by the public, real estate licensees, or potential real estate licensees to receive an educational item or service that was provided by the commission through money expended from the fund.

Expenditures are recognized when a liability is incurred. However, expenditures related to claims and judgments are recorded only when payment is due and payable. Major expenditures include claims against the fund, hearing and legal expenses directly related to fund operations and claims, and real estate education.

**Note 2 – General Fund Transfer**

Prior to September 1999, real estate surety funds in excess of the \$500,000 ceiling lapsed into the General Fund. At June 30, 1998, \$60,698 lapsed into the General Fund, but was appropriated back to the Real Estate Surety fund by Ch 84, SLA 1999, Sec. 21 in FY 00.

November 17, 2003

Ms. Pat Davidson, Legislative Auditor  
Division of Legislative Audit  
PO Box 113300  
Juneau, AK 99811-3300

RE: REAL ESTATE COMMISSION – PRELIMINARY AUDIT

Dear Ms. Davidson:

Thank you for the opportunity to respond to the Alaska Real Estate Commission Preliminary Audit Report.

**Findings and Recommendations**

**Recommendation No. 1**

**The legislature should consider amending the statutes related to the Real Estate Surety Fund to provide more complete, effective, and efficient consumer protection to claimants.**

**Item 1. Increase the limits on reimbursement of claims.**

The Department concurs with the recommendations to increase the limits on reimbursement of claims.

In addition, we recommend considering increasing the surety fund filing fee required under AS 08.88.460(d); the current fee is \$250. A substantial amount of staff time and resources are involved in processing a claim before it is forwarded to the hearing officer. With an increased limit on the amount reimbursable from the fund, an increased number of claims may result. If the filing fee is increased, it may assist with ensuring frivolous claims are less likely. However, a concern would be to ensure the filing fees is not so high that legitimate parties, who have already suffered a loss, are not further taxed by extremely high filing fees. In accordance with AS 08.88.460(d)(1), if a claimant is successful, he/she is refunded the filing fee.

**Item 2. Only require the Division of Occupational Licensing (OccLic) to make reasonable efforts to provide right-of-appeal notification.**

The Department concurs with the review and analysis of instances where staff has been unable to notify the losing party of the final judgement and appeal rights—therefore, holding up payment of judgments for a substantial amount of time. We support amending the provisions to provide for recognition of reasonable efforts to contact the parties at their last known address.

The Department also recommends an amendment which would allow a claim to proceed to hearing based on records which reflected staff's reasonable effort to contact the parties. Licensees have been known to either surrender their license, or move with no forwarding address, just prior to a surety fund claim being filed. Once a licensee surrenders his/her license, or the license lapses, the licensee has no further obligation to keep the Commission informed of their mailing/service address. In these instances, substantial delays occur while staff try to find the licensee/previous licensee. Once found, obtaining successful service is often a challenge; legal service of claims is often avoided by such persons. If a claimant is eventually successful in being awarded a judgement from the fund, the licensee (or lapsed licensee) may be liable for reimbursement to the fund.

**Item 3. Specify mobile home transactions are subject to the RESF claims.**

The Department supports this recommendation on the basis that all practices and activities as conducted by a real estate licensee, as part of their real estate business and conducted under the auspices of their license/brokerage, should be covered by the Surety Fund for loss suffered from a licensee's fraud, misrepresentation, or deceit. However, such an amendment should clarify that the inclusion of allowing a surety fund claim for mobile home transactions, is not to be interpreted to *require* a real estate licensee for the selling of a mobile home (currently, new or used mobile home dealers are not required to hold a license with the Real Estate Commission). The Department does not support requiring all mobile home dealers (new and used) to be licensed by the Real Estate Commission. If a real estate licensee chooses to conduct transactions and act as an agent for a mobile home seller or buyer, the provisions of the surety fund should apply. The licensee, when acting as a agent would be required to conduct all mobile home transactions through his/her brokerage. This requirement is appropriate for the consumers' protection when they are dealing with a licensee.

Any statutory amendment involving this issue should be very clear as to when the surety fund applies and when a licensee may assist another to buy/sell a mobile home without falling under the brokerage and surety fund (i.e., when can a licensee help a friend sell a mobile home—similar to any member of the public—and not have the transaction fall under the jurisdiction of the licensee's broker and ultimately the surety fund?). Disclosure would undoubtedly be a key in such legislation.

**Analysis Section regarding complaint processing:**

The department disagrees with the assessment that under the Director's Case Reduction Plan, cases involving allegations of fraud or misrepresentation may be dropped simply because they timed out. The nature of each complaint is reviewed and only those which are clearly without merit and have not progressed within a 12 month period are to be closed.

**Department Recommendations**

A. Amendment to AS 08.88.251 Requested

In accordance with AS 08.01.100, unless otherwise provided, licenses are subject to biennial renewal on a date set by the department. Real Estate licenses are subject to renewal February 1 of even numbered years (i.e., all Real Estate licenses expire 1/31/04). The Department seeks an amendment to AS 08.88.251, to allow issuance of an expiration date for an "inactive" license (whose inactive status is crossing a renewal biennium), to coincide with the date the licensee is eligible to reactivate under AS 08.88.251(c). The Commission currently has situations where an individual's license expiration date is 1/31/04, however, the licensee is no longer eligible to renew the license because their "24 months of inactive status" crossed a previous renewal cycle. In these situations, the licensee's two year period for being eligible to reinstate under .251(c) ended prior to the license expiration date printed on their license. An expiration date for reinstatement eligibility which differs from the expiration date on the printed license causes confusion and recently litigation was pursued to resolve which expiration date took precedence.

B. Sunset of the Commission and Continuation of Licensing Through the Department.

The Department recommends the legislature sunset of the Commission and continue the licensing function through assignment to the Department. This is not being suggested as a criticism against the current, or prior, Commission. Licensing could continue in a manner similar to past boards which have been eliminated (i.e., the Board of Mechanical Administrators, Board of Electrical Administrators and the Big Game Commercial Services Board). If this is an area the Legislature is interested in considering, my staff will be available to discuss the specific statutes which would need to be amended to give authority for licensing to the Department.

Again, thank you for the opportunity to comment.

Sincerely,

Edgar Blatchford  
Commissioner

cc: Rick Urion, Director,  
Division of Occupational Licensing

(Intentionally left blank.)

Jeannie Johnson  
1621 Second Street  
Douglas, Alaska 99824  
(907) 364-2121

November 10, 2003

Pat Davidson  
Alaska State Legislature  
Legislative Budget and Audit Committee  
Division of Legislative Audit  
P. O. Box 113300  
Juneau, Alaska 99811-3300

Re: *Preliminary Audit, Alaska Real Estate Commission Sunset Review, October 16, 2003*

Dear Ms. Davidson:

On behalf of the Alaska Real Estate Commission I would like to thank you and your department for the good work involved in the sunset review of the Real Estate Commission. We are pleased with its conclusion for the enactment of legislation to extend the sunset date to June 30, 2008. The Commission does have a concern with one of the recommendations contained therein.

With respect to the three recommendations:

After reading the back-up material and seeing the statistical reasoning, the Commission concurs that the limits of reimbursement of claims be increased to \$20,000 per transaction and the associated maximum payment per licensee increased to \$100,000. The Commission will assist with this change in any manner needed.

The Commission is aware of the right-of-appeal notification problem and would welcome the necessary changes to correct it. We certainly do support successful claimants receiving payment as quickly as possible. The particular case you are referring to has been a source of concern for the Commission as well. Again, the Commission will assist with this change in any manner needed.

With respect to the third recommendation, mobile home transactions being subject to the Real Estate Surety Fund, the Commission emphatically disagrees.

This change is fraught with problems. That this recommendation has been made points to perhaps a different issue that needs to be addressed within the real estate industry by the Commission. However, the Commission believes making all mobile home transactions eligible for surety fund reimbursement has the potential of becoming a huge burden borne solely by licensees who provide the money to maintain the surety fund.

A mobile home *by itself* is personal property; it is no different than an automobile. Even though through the years mobile homes have grown into larger and larger entities and cost more money, there is nonetheless no real property (land) included with their sale. They are mobile homes that are parked in a mobile home park. The title to a mobile home is just that, a title. Ownership is transferred through the Department of Motor Vehicles. No real estate license is required to sell mobile homes. There may be a motor vehicle dealer license required. The Commission is not familiar with licensing requirements for motor vehicle transactions (which may include the sale of mobile homes).

The only training an Alaska Real Estate licensee now receives about mobile homes is that they do not fall under the definition of real property. Therefore, licensees are not licensed to sell mobile homes, only real property. Some may have knowledge of mobile home facts and sales procedures just as some may have knowledge of how to sell an automobile. Such training is not included in that required to obtain an Alaska Real Estate License.

If a mobile home is placed on a piece of real property (land) and made a part of the land, there is a possibility one could construe this entire entity, the land and mobile home to be real property. In common practice this does sometimes occur. In such a case, if the owner were going to list that entity for sale, he/she would need to utilize the service of a real estate licensee. The trigger here is the real property (land) being sold. The Commission, at the present time, would have no problem considering a surety fund claim in this example, (mobile home on real property).

Where the problem seems to arise is when a real estate licensee lists for sale a mobile home in a mobile home park. This is not a real estate transaction and does not require a real estate license. The Commission can see where the confusion might arise in the mind of the public. The uninformed buyer sees a real estate sign on a mobile home in a park and could reasonably assume a subsequent transaction was protected through the surety fund. In reality, the Commission doubts uninformed buyers and sellers are aware of the existence of the surety fund.

There are companies in business for the express purpose of selling mobile homes. Those companies do not need a real estate license. The Commission

does not want the surety fund to be available to such transactions. Again, those transaction are concerned with personal property, not real property.

The Commission will take up the matter and make a recommendation to correct this perceived problem as soon as possible. One recommendation might be for those Real Estate Brokers choosing to allow their licensees to sell mobile homes in mobile home parks to establish a second business with different signage and a disclaimer provided to any prospective seller or buyer. Such a disclaimer should emphasize the difference between real and personal property and alert them the proposed transaction does not involve real property.

Another possibility would be to require anyone selling mobile homes to have a real estate license.

The Commission will be happy to work toward a better solution for the few cases that have come before us concerning mobile homes. At this point, the Real Estate Commission is reluctant to include those unlicensed persons selling mobile homes to have coverage of Real Estate Surety Fund.

Again, the Commission thanks you for your good work and looks forward to assisting with these matters in the near future.

Sincerely,

Jeannie Johnson  
Chair, Alaska Real Estate Commission  
Alaska Real Estate Broker since 1977

(Intentionally left blank)

November 24, 2003

Members of the Legislative Budget and  
Audit Committee:

We have reviewed the department's and the commission's response to our report. Comments made regarding our recommendation on the Real Estate Surety Fund (RESF) statutes and our observations about the policy related to administrative closure of investigations warrant further discussion and clarification. Accordingly, we offer the following information and clarifications:

1. Mobile home sales and the RESF statutes. Our suggestion that RESF statutes be amended to specify coverage of mobile home sales did not mean that such legislation be used to limit who can make such sales. Any person, whether or not they hold a REC license, could be involved in the sale of a mobile home. However, if an individual licensed by REC is involved in such a sale, they are expected to exercise due professional care and the transaction should be covered by RESF.
2. Administrative closure of complaint investigations. The department takes exception with our assessment that investigations of REC licensees, involving alleged fraud or misrepresentation, were dropped because they "timed out." Our comments stemmed from a review of various REC complaints that were administratively closed under the director's case reduction plan (DCRP). When we inquired with the Chief Investigator about these cases, he confirmed investigations of the complaints were stopped pursuant to the DCRP policy. This policy, as he understood it, required all investigations exceeding a year be dropped, unless the complaint presented a threat to public health.

The only written statement of DCRP policy is an electronic mail message (e-mail) composed by the Chief Investigator. This e-mail served to confirm the policy set out by the director's verbal directives. Closure of complaints, involving alleged fraud and misrepresentation by REC license holders, was consistent with the standards set out in the e-mail.

Accordingly, based on our review of the department and commission responses, and the clarifying comments we discussed above, we reaffirm the findings, conclusions, and analysis presented in our sunset review.

Pat Davidson  
Legislative Auditor

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# Alaska State Legislature

Rep. Tom Anderson, Chair  
Rep. Carl Gatto, Vice - Chair  
Rep. Norman Rokeberg, Member  
Rep. Nancy Dahlstrom, Member  
Rep. Bob Lynn, Member  
Rep. Harry Crawford, Member  
Rep. David Guttunberg, Member



State Capitol  
Juneau, Ak 99801-1182  
(907) 465-4954  
Fax: (907) 465-2418

## House Labor & Commerce Committee

### SECTIONAL ANALYSIS

#### CSHB 418 (FIN)

Prepared by Rep. Norman Rokeberg

- Section 1:** Extends the Real Estate Commission to June 2008.
- Section 2:** Deletes reference to "American Home Inspectors Training Institute"  
Amends subsection 18.18.022(a)(3) to indicate that an individual may register with the Division as a home inspector upon submitting a completed application within one year after passing the appropriate exam, or providing proof of completed continuing education requirements.
- Section 3:** Amends current law to provide that if an employee/registered home inspector is employed by a company that has liability and other insurance that the employee does not have to provide proof that the employee has an individual policy. Without this change the employee would have to carry his or her own individual coverage.
- Section 4:** Clarifies the law on inactive real estate licenses.
- Section 5:** Requires that a real estate license must keep the Commission advised of current contact information. Sets forth mailing procedures for notices.
- Section 6:** Amends the home inspector law to provide that one of the exams that may be used is the residential combination examination. Without this amendment, regulations recently promulgated would require that an applicant take four individual exams instead of this one combo exam.
- Section 7:** Adds language to the transitional licensing provision regarding the residential combination examination referred to in Section 6 above.
- Section 8:** As the (e) section referenced in the deleted language is repealed in Section 10, this is a conforming amendment.
- Section 9:** Provides that a transitional license may be renewed if continuing education documentation is provided.  
  
Permits charging for the home inspector transitional licenses.
- Section 10:** Repeals the section of law that indicates that transitional licenses may not be renewed.
- Section 11:** Immediate effective date.

## Sectional Analysis

# Alaska State Legislature

**Rep. Tom Anderson, Chair**  
Rep. Carl Gatto, Vice - Chair  
Rep. Norman Rokeberg, Member  
Rep. Nancy Dahlstrom, Member  
Rep. Bob Lynn, Member  
Rep. Harry Crawford, Member  
Rep. David Guttenberg, Member



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Juneau, Ak 99801-1182  
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## House Labor & Commerce Committee

### SPONSOR STATEMENT

#### CSHB 418 (FIN)

Prepared by Representative Norman Rokeberg

CSHB 418 accomplishes three things:

1. It extends the life of the Real Estate Commission to 2008.
2. It clarifies procedures with regard to inactive real estate licensees, contact information for licensees, and notice requirements.
3. It makes clarifying amendments to the home inspector legislation passed by the 2003 Legislature (HB 9).

The Legislative Budget and Audit Committee has indicated that the Real Estate Commission does serve a purpose and that it should be extended. The Real Estate Commission is the entity that licenses and oversees almost 2,000 Alaskans working in the real estate or property management industries.

At the request of the Division of Occupational Licensing, language was inserted in Sections 4 and 5 that clarify the operations of the Real Estate Commission concerning inactive real estate licenses and contact information for real estate licensees.

The remainder of the bills is clarifying language concerning the home inspector law that was passed last year. During the development of proposed regulations for the industry, some problems became apparent. These problems are addressed in CSHB 418 (FIN):

1. Current law would require each registered home inspector to have a policy of general public liability, even if that individual was employed by a company that has a company wide policy. Section 3 addresses this situation by stating that an individual covered by a employer's policy does not have to have an individual policy.
2. Current law and its interpretation by the Division of Occupational Licensing would require that an application take four individual examinations instead of the residential combination examination (one exam). This change in Sections 6 and 7 allows that exam to be used as a qualifying exam for home inspectors.
3. Current law states that a transitional home inspector registration may not be renewed. Sections 9 and 10 address that by repealing that language and requiring that a transitional license may be renewed by providing proof of continuing education.

Your support for this legislation would appreciated.

SPONSOR STATEMENT

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR \_\_\_\_\_

TO: CSHB (418) FIN

Page 2, line 7: Delete "one year"  
Insert "three years"

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
Bill Version: CSHB 418(L&C)  
(H) Publish Date: 2/26/04

Revision Date/Time (Note if correction):  
Title Extend Real Estate Commission  
Dept. Affected: DCED  
RDU Occupational Licensing (117)  
Component Occupational Licensing  
Sponsor House Labor and Commerce  
Requester House Labor and Commerce  
Component No. 2360

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	171.3	171.3	171.3	171.3	171.3	
Travel	21.2	21.2	21.2	21.2	21.2	
Contractual	79.3	79.3	79.3	79.3	79.3	
Supplies	1.6	1.6	1.6	1.6	1.6	
Equipment	0.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>273.4</b>	<b>273.4</b>	<b>273.4</b>	<b>273.4</b>	<b>273.4</b>	

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>273.4</b>	<b>273.4</b>	<b>273.4</b>	<b>273.4</b>	<b>273.4</b>	
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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-Receipt Supported Services	273.4	273.4	273.4	273.4	273.4	
<b>TOTAL</b>	<b>273.4</b>	<b>273.4</b>	<b>273.4</b>	<b>273.4</b>	<b>273.4</b>	

Estimate of any current year (FY2004) cost: 0.0  
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

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

**ANALYSIS:** (Attach a separate page if necessary)

This bill extends the Real Estate Commission to June 30, 2008. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the Commission to conclude its affairs. The information above identifies direct expenditure and revenue information included in the FY 2005 Operating Budget request. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144  
Division: Occupational Licensing Date/Time 2/4/04 8:30 AM  
Approved by: Edgar Blatchford, Commissioner Date 2/4/2004  
Agency: Department of Community and Economic Development

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: CSHB 418(FIN)  
 (H) Publish Date: 4/14/04

Revision Date/Time (Note if correction):  
 Title Extending the Real Estate Commission  
 Sponsor House Labor and Commerce  
 Requester House Finance  
 Dept. Affected: DCED  
 RDU Occupational Licensing (117)  
 Component Occupational Licensing  
 Component No. 2360

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	0.0	171.3	171.3	171.3	171.3	
Travel	0.0	21.2	21.2	21.2	21.2	
Contractual	0.0	79.3	79.3	79.3	79.3	
Supplies	0.0	1.6	1.6	1.6	1.6	
Equipment	0.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>273.4</b>	<b>273.4</b>	<b>273.4</b>	<b>273.4</b>	

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>273.4</b>	<b>273.4</b>	<b>273.4</b>	<b>273.4</b>	
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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-Receipt Supported Services	0.0	273.4	273.4	273.4	273.4	
<b>TOTAL</b>	<b>0.0</b>	<b>273.4</b>	<b>273.4</b>	<b>273.4</b>	<b>273.4</b>	

Estimate of any current year (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time	0	2	2	2	2	
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

The bill extends the Real Estate Commission to June 30, 2008. In accordance with AS 08.03.020, funding is extended one year following the termination date allowing the Commission to conclude its affairs. FY 2005 funding is included in the Operating Budget request. The costs shown for subsequent fiscal years reflect the direct costs included in the FY 2005 budget. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144  
 Division: Occupational Licensing Date/Time 3/25/04 6:26 PM  
 Approved by: Edgar Blatchford, Commissioner Date 3/25/2004  
 Agency: Department of Community and Economic Development

HB

419



Committee Assignments:

- Member:
- House Special Committee on Fisheries
- House Special Committee on Education
- House Transportation Committee
- House Judiciary Committee

Dan Ogg  
Representative

Session:  
Room 409  
Capitol Building  
Juneau, Alaska 99801  
Phone: 907-465-2487  
Toll Free: 800-865-2487  
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Interim:  
112 Mill Bay Road  
Kodiak, Alaska 99615  
Phone: 907-486-8872  
Fax: 907-486-5264

**SPONSOR STATEMENT**

House Bill 419  
2/18/04

**"An Act relating to regional seafood development associations and to regional seafood development taxes."**

HB 419, recommended by the Joint Legislative Salmon Industry Task Force, will allow fishermen to form regional seafood development associations to tax themselves, providing a stable funding source for marketing efforts.

Farmed salmon production has increased dramatically over the past decade, exceeding the wild salmon catch and causing prices to plummet. In order to compete in this new market, Alaska's salmon fishermen have sought creative ways to differentiate wild fish from their penned counterparts. One method that has proven effective in distinguishing the two is regional marketing. Copper River fishermen took the lead in establishing a brand for their catch, proving the enormous potential for niche markets. Now several other regional brands have been established in communities such as Kenai, the Aleutian Islands, and Kodiak.

Most branding organizations are currently dependent on a mix of state and federal grants to fund their marketing efforts. However, these grants are often unreliable, one-time revenue sources. This bill would allow regional seafood development associations to assess themselves between one-half and two percent to provide a steady stream of marketing dollars.

HB 419 creates 12 distinct seafood development regions based on commercial fishing management areas established by the Board of Fish. Under the bill, all the fishermen in a region may vote to participate in an association or it may be limited to a specific fishery or fisheries. Once a regional association is formed, other fisheries can vote themselves into or out of the association, but there can only be one association per region.

As the amount of imported and farmed seafood continues to rise, regional marketing associations will provide a valuable tool for Alaska's commercial fishermen. Regional associations are able to focus on the unique area where the fish is harvested, building on Alaska's reputation for pristine waters that yield superior fish.

## CS changes for HB 419

Please contact staff member Melissa Dover at x3820 if you have questions on any of the CS changes.

**1) Sec. 43.76.370(a)(1) - \$500 application fee**

In response to concerns expressed by the Department of Community and Economic Development (DCED), we have added a \$500 application fee for each fishery that decides to hold an election. The application fee will help cover the cost of the election.

**2) Sec. 43.76.370(e)-(g) – one tax rate per region**

This is clarifying language to ensure that all fisheries participating in a regional seafood development association are taxing themselves at the same rate. It addressed the Dept. of Revenue concern that they could be collecting different rates for fisheries within the same association. So, when a fishery opts into an association, they opt in at the current tax rate. Once in, all the members of the association can vote to raise or lower the tax rate to meet their current needs.

**3) Sec. 43.76.380(c) – closing the “purchaser loophole”**

This language closes what the Dept. of Revenue refers to as the “purchaser loophole.” In the event that a fisherman sells his product to someone who is not licensed fisheries business, the fisherman is then liable for payment of the tax. For example, a fisherman direct-marketing his product to consumers would be liable for paying the tax.

**4) Sec. 44.33.065(a)(3) – ensuring inclusion in an association**

This provision ensures that any fisherman or other persons or groups wanting to participate in the regional association can become members. This addressed the concern that an association could choose to exclude an individual or group.

**5) Sec. 44.33.0659(b) – first qualified will be designated association**

This clarifies that the first qualified organization to apply will be designated the regional seafood development association

**6) Sec. 44.33.065(b)(3) – removes the phrase “including seafood processors”**

Seafood processors can still be members of an association as provided for by the association’s bylaws, but it is not a requirement.

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 419(EDT)  
 (H) Publish Date: 2/26/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DCED  
 Title Regional Seafood Development RDU Executive Admin & Dev (119)  
Associations/Tax Component Office of Economic Development  
 Sponsor Ogg by Request Salmon Task Force  
 Requester House Econ Dev. Int'l. Trade & Tourism Component No. 2743

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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						
1175 Other Business License Receipts						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This legislation would require the department to approve regional seafood development associations and certify elections.

The bill provides for the formation of up to 12 associations. The department would be required to review the applications and approve the organization. Four associations are estimated to apply in the first year and two in the second year. The department would also be required to provide support for and certify election results conducted by the associations.

No new funds are required to implement the provisions of this legislation.

Prepared by: Albert H. Clough, Deputy Commissioner Phone (907) 465-2500  
 Division: Office of Economic Development Date/Time 2/19/04 4:20 PM  
 Approved by: Edgar Blatchford, Commissioner Date 2/19/2004  
 Agency: Department of Community & Economic Development

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2  
Bill Version: CSHB 419(EDT)  
(H) Publish Date: 2/26/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Revenue  
Title Regional Seafood Development RDU Revenue Programs & Services  
Assn's/Tax Component Tax Division  
Sponsor Rep. Ogg, JT Salmon Task Force  
Requester House Econ Dev, Trade & Tourism Component No. 2476

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>
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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)						
<b>TOTAL</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>	<b>**</b>

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full-time	**	**	**	**	**	**
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

\*\* See page 2

Prepared by: Chuck Harlamert  
Division: Tax Division  
Approved by: Steve Porter, Deputy Commissioner  
Agency: Department of Revenue

Phone 465-2320  
Date/Time 2/8/04 4:19 PM  
Date 2/8/2004

FISCAL NOTE #2

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

BILL NO. CSHB 419(EDT)

ANALYSIS CONTINUATION

Costs & Revenues

The bill authorizes, but does not immediately impose, an indeterminate number of unique seafood development taxes. The department therefore cannot project expected revenues under the bill. We are unable to independently provide estimates for hypothetical levies because, with the exception of dive fisheries, we do not collect data by gear type.

The bill allows a great deal of flexibility to establish individual seafood development taxes. Separate taxes can be established by species and gear type, or varied combinations within each region. Although the bill authorizes hundreds of distinct levies, we believe that relatively few will be established. We are unable to offer an estimate of program costs at this time. As a general guideline, we estimate that up to a half dozen levies can be administered with existing staff. This assumes that the number of buyers involved is moderate, there is no requirement to maintain separate records for individual fisheries or species within each levy, and that the levies remain stable.

Frequent changes in rates, changes to the fisheries included within levies, an increased number of distinct levies, detailed accounting requirements, or unpredictable creation and termination of levies will require additional resources and, at some point, appropriately sophisticated systems.



# UNITED FISHERMEN OF ALASKA

211 Fourth Street, Suite 110  
Juneau, Alaska 99801-1172  
(907) 586-2820  
(907) 463-2545 Fax  
E-Mail: [ufa@ufa-fish.org](mailto:ufa@ufa-fish.org)  
[www.ufa-fish.org](http://www.ufa-fish.org)

March 9, 2004

Representative Dan Ogg  
Alaska State Legislature  
State Capitol (Mail Stop 3100)  
Juneau, AK 99801-1182

Dear Representative Ogg,

United Fishermen of Alaska supports HB 419 relating to regional seafood development associations and to regional seafood development taxes. Many fishery groups and associations are currently engaged in regional branding or promotional programs to successfully increase the demand for salmon. As grants diminish, different fisheries seek the ability to administer a self-imposed tax in order to finance their promotional program agendas.

United Fishermen of Alaska represents 33 Alaska Commercial fishing organizations and hundreds of individual fishermen and fishing related businesses, altogether representing over 10,000 Alaska fishermen. We support HB 419 and thank you for your consideration on this matter.

Sincerely,

Mark Vinsel  
Executive Director

CC: Representative Ogg

#### MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Druggers Association • Alaska Longline Fishermen's Association • Alaska Trollers Association • Armstrong Keta • At-sea Processors Association  
Bristol Bay Reserve • Chignik Regional Aquaculture Association • Chignik Seiners Association • Concerned Area "M" Fishermen • Cordova District Fishermen United  
Crab Rationalization and Buyback Group • Douglas Island Pink and Chum • Groundfish Forum • Kenai Peninsula Fishermen's Association • Kodiak Regional Aquaculture Association  
Kodiak Seiners Association • North Pacific Fisheries Association • Northern Pacific Scallop Cooperative • Northern Southeast Regional Aquaculture Association  
Old Harbor Fisherman's Association • Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owners Association  
Seafood Producers Cooperative • Southeast Alaska Regional Dive Fisheries Association • Southeast Alaska Seiners Association • Southern Southeast Regional Aquaculture Association  
United Catcher Boats • United Salmon Association • United Southeast Alaska Gillnetters • Valdez Fisheries Development Association • Western Gull of Alaska Fishermen



[Click here to return to the original story](#)

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## Fishermen unite to create regional brands, revive sagging salmon sales

Monday, March 3, 2003

By **DAN JOLING**  
**THE ASSOCIATED PRESS**

ANCHORAGE - In the new world of Alaska regional seafood marketing, sockeye salmon will be on ice seconds after being plucked from the sea. They'll be coddled like newborns to prevent bruising.

And they'll have brand names that remind customers of where they come from: Aleutia. Kenai Wild. Copper River. Kodiak.

Desperate to revive sales that have tanked because of sluggish foreign economies and competition from farmed fish, some Alaska salmon fishermen are banding together to create regional brands for customers willing to pay a premium for fresh, wild fish.

"The whole idea of the project is to develop a situation where the fishermen in that region have a long-term relationship with a specific group of customers," said Marc Jones, executive director of the Alaska Fisheries Development Foundation, which helped launch the Aleutia brand with fishermen in the Aleutians East Borough.

Along with names that fishermen hope will catch on, the newest brands sport third-party inspection to ensure quality.

"Otherwise, you're just talking about a cute sticker," Jones said.

Alaska fishermen have not always had to market so hard.

In the early 1980s, Alaska supplied nearly half the world's salmon. Demand gave rise to fish farms in Norway, Canada and Chile. Owners of pen-reared Atlantic salmon began delivering fresh fish any time of year, in any size fillet desired by restaurant chefs or grocers. And consumers didn't seem to care whether their fish grew up eating pellets.

In 2000, Alaska supplied just 19 percent of world's salmon.

The state has been slow to react. Legislators now are talking about changes in a state-regulated fishing system designed to maximize the

number of people fishing, which include built-in inefficiencies such as limits on the size of fishing boats.

The state's official marketing arm, the Alaska Seafood Marketing Institute, is prohibited from promoting a particular region, company or fisherman's catch. Instead, it has made its research and quality standard resources available to regional marketers, said Ray Riutta, executive director.

The first region to push a brand was Cordova at the southeast end of Prince William Sound, a few miles from the salmon-rich Copper River.

The area established a niche market during the past 25 years by promoting itself as Alaska's first major salmon run. After the long winter, the first catch of Copper River kings and sockeye command premium prices as they're whisked off boats and jetted to Seattle and other markets.

Alaskans launched two other regional brands last year.

Cook Inlet fishermen caught salmon for the Kenai Wild label. With help from the Kenai Peninsula Borough, the Alaska Manufacturers Association and the state, Cook Inlet Salmon Brand Inc. is planning a five-year marketing program.

Farther west, fishermen at the tip of the Alaska Peninsula and the start of the Aleutian Islands launched Aleutia brand.

Aleutia fishermen want to take advantage of one of Alaska's latest runs of sockeye, delivering fresh fish in September when most other fishermen have hung up their nets.

To kick off the program, the Alaska Fisheries Development Foundation, backed by federal grants, last fall bought sockeye graded out as premium for 95 cents per pound, more than double the 45-cent going rate.

Kenai Wild and Aleutia promoters hired private third-party inspectors from Seattle to certify the quality of fish. Before any were caught, the inspectors trained fishermen to handle them to meet the industry's highest standards.

Trident Seafoods custom processed Aleutia fish at Sand Point in the Aleutians. To be graded premium, fish had to meet standards set by buyers: fish bled while they were still alive, immediate icing, gently handling to avoid bruising and scale loss. Salmon had to be of good, red color - the easiest requirement for wild Alaska sockeye. Fillets had to be free of cuts inflicted by nets or sea lions.

The foundation hoped to buy 100,000 pounds of sockeye. A small run resulted in the foundation purchasing just 15,000 pounds, Jones said.

The smaller amount may have been a blessing in disguise as logistics could be worked out without being overwhelmed by the higher volume of fish. Among the challenges: Everyone who touches the fish - fishermen,

processors, transporters, wholesalers and marketers - must be committed to maintaining the high standards for a highly perishable product. It doesn't help that each component is a separate business.

"Someone's got to keep them all in their traces," Jones said.

Another challenge is moving fresh fish quickly at a reasonable expense. It cost 92 cents per pound to transport salmon from Sand Point to Boston last year, Jones said. A whopping 60 cents of that involved moving the fish from Sand Point to Anchorage.

Mark Powell, president of Cook Inlet Salmon Branding, said the first year of the Kenal Wild project showed that many more fish than originally thought possible can qualify as premium grade if fishermen adhere to handling standards.

Webber of Cordova applauds the marketing efforts in other regions and expects it to be a growth area for Alaska fishermen.

"I'm glad to see the rest of the state wants to step up to the quality plate," Webber said.



## Office of Fisheries Development

### Alaska Regional Salmon Marketing Mini-Grant Program Recipients

[Back to  
Grants Page](#)

The Alaska Department of Community and Economic Development and the University of Alaska/Kodiak Fishery Industrial Technology Center received funding from the USDA-Cooperative State Research, Education and Extension Service (CSREES) in 2002 to begin a three-year mini-grant program to facilitate the regional marketing of Alaska salmon. In February 2002, five applicants received funds from the first grant cycle. In April 2003, six applicants received funds from the second cycle. A third cycle will begin in the winter of 2003/2004.

The Regional Salmon Marketing Mini-Grant Program is designed for fishing organizations or regional groups to develop programs for marketing salmon harvested from a defined region of Alaska. Applicants are asked to coordinate with other salmon organizations within the specified region to avoid redundancy and encourage regional support. Funds may be used for advertising, test product giveaways, marketing travel, label design, consultation and other marketing activities. Among the criteria for evaluating the applicants are: cooperation between groups within the region, ability to produce high quality salmon, strategy for regionally defining the area's salmon; and the quality and effectiveness of the marketing plan.

Following are summaries describing the achievements of the 2002 awardees and the goals of the 2003 awardees. [2003 Regional Salmon Marketing Mini-Grant Program Information and Application.](#)

[About regional marketing.](#)

### Alaska Peninsula - Aleutians East Borough



The Aleutians East Borough received \$54,500 from the program in 2002 to market "Area M" salmon from around the Alaska Peninsula and the eastern Aleutian Islands. A salmon marketing committee formed early in the year and included community members, fishermen and one processor; these committee members have since been in frequent contact to discuss the progress and direction of the project. Aleutians East Borough collaborated with several other local organizations as well as the Alaska Fisheries Development Foundation (AFDF) and intends to continue working with local processors and other interested parties. The program's marketing plan distinguishes Area M salmon from other salmon as "ocean-caught" in the wilds of the Aleutians, harvested by local Aleut families and as the last Alaska salmon of the season. The following goals were accomplished during the first year of the program:

- Rigorous quality standards that surpass ASMI's grade A were instituted and local processor Orca Bay began purchasing high quality sockeye

- salmon.
- Aleutians East developed the brand "Aleutia" for the region's salmon and produced an award-winning logo.
  - The Aleutia brand was advertised at the Boston Seafood Show and many buyers showed interest.
  - Quality handling workshops by Seafood Inspection Services and HACCP training took place.
  - A flyer and brochure were produced in early 2003.

After a successful first year, Aleutians East Borough applied for regional marketing funds under the 2003 Regional Salmon Marketing Mini-Grant Program and received \$20,000. With these funds, the program will continue to promote the Aleutia brand by printing brochures, quality seals and labels and meeting regularly. The Aleutia program will also form a non-profit corporation to carry on the regional marketing of the area's salmon independent of the Borough and AFDF.

Aleutians East Borough reported the following observations:

"It...[is] difficult and time consuming...[to] achieve consensus on "creative" and "artistic" decisions, i.e. logo and product name. What appeals to fishermen and community members is not necessarily what appeals to consumers and therefore marketing professionals should be consulted.

Buyers don't necessarily want seafood that meets some constructed quality standards. They know what they want in terms of quality and they are the best judges of that quality. So while they appreciate efforts to properly care for fish, their specs override any quality standards and make quality standards unnecessary."

### **Bristol Bay - Bristol Bay Economic Development Corporation**



all levels of the program.

One of six regional Community Development Quota (CDQ) groups, the Bristol Bay Economic Development Corporation used their 2002 grant of \$130,000 to begin building regional marketing efforts for Bristol Bay salmon. An initial consultative group was formed in Bristol Bay including BBEDC representatives and representatives from four major area processors. Representing 17 villages around Bristol Bay, BBEDC works to involve local fishermen at

In addition to setting apart Bristol Bay salmon, they encourage sub-regional marketing efforts for particular runs of salmon, (i.e. Naknek River reds). All local fishermen are allowed to take part in the marketing program and to use the Bristol Bay regional trademarks and promotional materials provided they adhere to rigorous quality standards which meet or exceed ASMI's grade A. BBEDC accomplished the following goals with their first year of grant funds:

- Consultants were hired to develop a quality assurance program.
- PR/program development consultants were hired.
- Promotional materials were developed and printed for the program.
- A promotional web site was created and launched.
- The Bristol Bay logo was advertised in Natural Products EXPO East show.

BBEDC received \$90,000 from the 2003 Regional Salmon Marketing Mini-Grant Program. With these funds, BBEDC will continue to develop and promote the Bristol Bay wild salmon brand through advertising, point of sale returns, quality assurance, test product giveaways and trade show follow-ups with potential buyers.

BBEDC had the following comments about regionally marketing seafood:

"Involving resident fishermen in the face-to-face marketing of their own salmon helps them understand the market demands, helps the customers appreciate the product better and builds the region's capacity for direct marketing of seafood products.

The need to educate the market about the differences between wild salmon from farmed salmon is critical to elevating the ex-vessel price. Through our presence at natural foods Trade Shows, we are confirming the basic premise of this direct, regional marketing effort: that buyers will pay more for the Authenticity of our Bristol Bay Watershed story; high quality, wild salmon purchased as directly as possible from resident harvesters of the Bristol Bay watershed will overcome the market saturation of farmed salmon. We will now see if we can translate this interest into increased returns to our resident fishermen."

### **Copper River - Cordova District Fishermen United**



The Cordova District Fishermen United (CDFU) received \$45,500 of funding in 2002 to support their regional marketing efforts for Copper River salmon. CDFU capitalizes on the natural qualities of Copper River salmon and markets them as wild, strong fish full of rich oils for the 300 mile journey up the clean, glacial Copper River. They also promote the sustainability of the resource and the rugged Alaskans who harvest the fish. CDFU completed the following goals during the first year of the program:

- Designed, produced and printed promotional banners and point-of-sales material for Copper River salmon.
- Program contact list was updated and flyers sent to notify participants of new materials.
- The Copper River Salmon web site was revised and updated.
- Outer Rim Publications was contracted to write a business plan with an emphasis on the eventual self-sufficiency of the program.

CDFU evaluated the effectiveness of their promotions in 2002 and received numerous requests for a video about the region's salmon for use in supermarkets and other marketing venues. With \$20,000 from the 2003 Regional Salmon

Marketing Mini-Grant Program, CDFU will produce a video loop as well as continue to advertise and publish promotional material.

CDFU gave the following insight into regionally marketing Copper River salmon:

"Being able to meet the needs of all the various niche marketers of Copper River salmon, as well as supporting the traditional users, is an important part of effective promotional support. This will be accomplished through increased diversification of materials and information available, including materials specific for wait-staff, smaller retail markets and wholesalers."

### **Chignik - Norquest**

Norquest was awarded \$50,000 in 2002 to market Chignik area salmon. The program was meant to emphasize quality handling for fishermen and processors with all participants required to meet certain standards to be eligible for marketing under the program. Funds were intended to create a label and graphic designs and to search out promising niche markets where wild salmon was already sold. Selling points specific to Chignik salmon: Included a rationalized fishery and the picturesque community with its unique location.

Norquest intended to assemble an advisory committee consisting of local fishermen, interested community members and processors. Participating members were meant to share their insight and lead the branding effort. Due in part to the often contentious relationships between fishermen and processors in the Chignik area, Norquest was unable to form the advisory committee and gain the support of local producers. It may be that an individual business, be it a harvester, processor or other, is not the appropriate organization to lead this kind of effort. Organizations that perform more economic development functions may be the most appropriate manner of entity to facilitate a regional marketing program. Norquest rescinded their request for funds.

### **Kenai Peninsula – Kenai Peninsula Borough**

With funding from several sources, including \$120,000 from the 2002 Regional Salmon Marketing Mini-Grant Program, the Kenai Peninsula Borough embarked on a multi-year program to market Cook Inlet sockeye salmon. Participating fishermen and processors must adhere to strict quality standards including mandatory icing, chilling, bleeding, handling procedures and grading. This program made the following progress during its first year:

- Developed the brand name "Kenai Wild" along with a logo and subheads and printed 5000 labels.
- Designed an illustrated fact sheet and printed 5,000 copies.
- Sent out 400 pounds of branded product to potential customers.
- Trained two locals in quality inspection and 40 fishermen and four processors through quality control training.
- Developed contacts and prepared labeled product for mid-winter promotions.
- Certified 23,000 lbs. of Kenai wild product.

- Tested Kenai wild product in 22 retail and food service markets.

The Kenai Peninsula Borough also hopes to influence salmon management in the area in order to spread out the fishery and increase salmon quality and service. The branding project will focus on the unique aspects of the local salmon and salmon industry for promotion to high-end niche markets.

Kenai Peninsula Borough discovered in the first year of their program that early winter advertising was difficult, as around the holiday season many buyers were too busy promoting seasonal specials to discuss new promotions. They did find a strong positive attitude toward wild salmon, however, and pointed out that all participating buyers emphasized the positive aspects of wild salmon without disparaging farmed salmon. They are contemplating instituting quality control beyond the processing plant, as much otherwise acceptable product was rejected due to poor workmanship.

The Kenai Wild program will continue in 2003 and beyond with assistance from other funding sources. [Cook Inlet Salmon Branding Project web site.](#)

### **Kodiak -- Kodiak Chamber of Commerce**

The Kodiak Chamber of Commerce received \$130,000 under the 2003 Regional Salmon Marketing Mini-Grant Program to brand and market Kodiak pink and chum salmon. They established the Kodiak Brand and Marketing Committee (KBMC) to lead the effort.

The KBMC's quality program will include training for fishermen, tenders and processors, creation of quality standards and the certification at least 20,000 lbs. of product in the first year. This program focuses on pink salmon fillets and will conduct product research to determine consumer preferences for packaging, format, pin-boning and other variables. With this information, the KBMC hopes that at least two retail chains will buy product regularly. Funds will also be used to create a brand, logo, labels, brochures, fact sheet and other promotional materials. KBMC hopes to become a stand-alone organization in the future to lead the regional marketing of all Kodiak's salmon.

### **Kuskokwim Bay -- Coastal Villages Region Fund**



One of six regional Community Development Quota (CDQ) groups, Coastal Villages Region Fund received \$120,000 from the 2003 Regional Salmon Marketing Mini-Grant Program to market Kuskokwim Bay salmon. In 2002, Coastal Villages developed the Kuskokwim Bay/Coastal Villages brand and logo and established relationships with Wildcatch and Indian Valley Meats to co-brand their fish. Wildcatch was

attracted to Kuskokwim product in part because the low volume fishery and mandatory slush ice for all harvesters has a high potential for producing quality fish. Wildcatch caters to the natural/organic foods market by partnering with major natural foods retailers. Coastal Villages and Wildcatch are also considering

partnering to produce innovative products such as salmon baby food.

Indian Valley Meats is an established value-added processor in Alaska and brings to the partnership training for processors, experience producing value-added products and a market for the Kuskokwim's lower value chum salmon. Salmon jerky, sticks and burgers are currently co-branded and more products are being developed. Coastal Villages intends to use their grant funds to attend trade shows, establish distributorships with natural food retailers, advertise, produce promotional material, meet with potential European buyers, earn the Alaska Manufacturers Association's "Alaska Quality Seal," bring buyers to the region and develop packaging for new Indian Valley Meats co-branding products.

### **Stikine River -- Wrangell Community Salmon Marketing Association**

With \$20,000 from the 2003 Regional Salmon Marketing Mini-Grant Program, the Wrangell Community Salmon Marketing Association intends to develop a marketing business plan for Stikine River salmon. Quality specification will be developed, fishermen and industry leaders surveyed for input, target markets identified, a logo developed and a plan formulated for the production of labels and promotional materials.

Promotion of the region's salmon will complement community projects designed to increase the quantity and diversity of local salmon products, including the construction of a value-added processing facility/cold storage. The committee will draw upon its unique fishing history, dating back to Native fishermen, to create a regional identity for its product. Recognizing the need for high quality salmon, the program will include strong quality control and grading procedures.

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PO Box 110809, Juneau, Alaska 99811-0809 Phone: (907) 465-2017 Fax: (907) 465-3767 TDD: (907) 465-5437 (All Locations)  
550 W. 7th Avenue, Suite 1770, Anchorage, Alaska 99501-3510 Phone: (907) 269-8110 Fax: (907) 269-8125

**HB**

**421**

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# SENATE COMMITTEE REPORT

DATE: 5/1/04

FURTHER: Judiciary

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 421(JUD)

HB 421 DEED OF TRUST RECONVEYANCE

An Act relating to reconveyances of deeds of trust."

and recommends:

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

**Senate Bill:**

- Same Title
- New Title

**House Bill:**

- Same Title
- Technical Title Change
- New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
<i>Geoff Seebin</i>	✓			
<i>Betty Davis</i>	X			
<i>[Signature]</i>			X	
<i>[Signature]</i>	X			
CHAIR: <i>[Signature]</i>	✓			

# FISCAL NOTE

**STATE OF ALASKA**  
**2004 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 421(L&C)  
 (H) Publish Date: 3/25/04

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Natural Resources  
 Title: Deed of Trust Reconveyance RDU: Resource Development  
 Component: Recorder's Office  
 Sponsor: Rep. Anderson  
 Requester: (H) L&C Component No.: 802

**Expenditures/Revenues** (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

There is no fiscal impact for the Recorder's Office associated with implementation of this legislation.

Prepared by: Vicky Backus  
 Division: Recorder's Office  
 Approved by: Thomas Irwin, Commissioner  
 Agency: Natural Resources

Phone 907-269-8882  
 Date/Time 3/9/04  
 Date 3/9/04

# Alaska State Legislature

## House of Representatives



Official Business

State Capitol  
Juneau, AK 99801-1182

### SPONSOR STATEMENT FOR CS HB 421(JUD) BY: Representative Tom Anderson

**TITLE:** An Act relating to reconveyances of deeds of trust.

CS HB 421(JUD) is legislation proposed and requested by the Alaska Land Title Association (ALTA). The legislation would help to clear land records of paid off mortgage liens. In other words, after a mortgage (or deed of trust) has been paid off, a title insurance company could, through the procedures established in CS HB 421(JUD), record the reconveyance.

A title insurance company, acting as trustee under a deed of trust, could release (by deed of reconveyance) a lien after notice to the lender, if the title company paid off the deed of trust through a closing. The lender would be given 60 days to object to the proposed release of the lien.

CS HB 421(JUD), based on a law from the State of Idaho, would be helpful in "cleaning up" many old liens left unreleased by lenders who may be from out-of-state, or have closed. In Alaska, it is very common for the company servicing a mortgage on a home to be located outside of state.

By having this sort of law in place, the net result is a quicker closing and fewer hassles for sellers, lenders and agents. For example, any previous liens on the deed could be cleared away before they become burdensome on any future transactions or sales of the property.

The intent of this bill is to provide a clear and clean process allowing liens to be cleared from deeds after satisfactory evidence of payment has been presented to the title company. This does not establish any additional risks or opportunities for fraud, and it is not intended to create any unnecessary burdens upon mortgage lenders in Alaska.